

**The report was submitted 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 Romanian Constitution**



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**Ombudsman  
Minister Office**

Address No. 853/January 29, 2008

*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 the **Report of activity for 2007**, with the request to be presented to the two Chambers of 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 29, 2008

**Mr. Nicolae VACAROIU,**  
**President of the Senate**



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**Mr. Bogdan OLTEANU,**  
**President of the Deputies Chamber**



**ROMANIA  
PEOPLE'S ADVOCATE**



**REPORT  
of activity for 2007**

**Bucharest  
2008**

***Mr. President of the Chamber of Deputies,  
Mr. President of the Chamber of 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 the People's Advocate Institution for 2007. 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 2007, the activity of the institution accomplished not only a quantitative, but also a qualitative progress. Thus, in figures, we can notice that in 2007, comparing to 2006, a number of **15517** citizens were heard, an **increase of 29.7 %**; a number of **6919** complains were registered, that is an **increase of 8 %**; the phone calls service was used by **5616** citizens with an **increase of 18.8 %**. Besides that, we can add 12 inquiries, 12 recommendations, 1635 points of view submitted to the Constitutional Court (an **increase of 18.9 %**), 4 exceptions of non-constitutionality by which we notified the Constitutional Court.*

*This development progress had been achieved because the staff of the institution responded with more professional responsibility, increasing the receptivity towards the requests of the individuals. The progress of the activity was also possible as in 2007 the Permanent Offices of the Chamber of Deputies and the Senate appointed the four deputies of the People's Advocate. Also in 2007 the establishment of the territorial offices all over the country was concluded. Moreover, the vacant positions were occupied by contest, under the limits of the budgetary provisions. We notice that from a structural point of view, the necessary and legal actions were concluded.*

*The present report details and explains the problems the institution was focused on, according to the specialization fields provided by the law. Complete information and assessment 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, assessments regarding the constitutional and legal relations with the public authorities are also revealed. We mention the particular support given by the Parliament, the very good relations with the Constitutional Court, the promptness in the collaboration with the police authorities and the prison authorities.*

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

*a) In 2007 also, the media ignored the development of the People's Advocate Institution, although its support provides strong news media promotion, this is a doubtful conduct as in 2007, People's Advocate Institution performed over **28082** of actions, and these actions express direct relations with the citizens of the country.*

*b) As in 2006 the main type of the People's Advocate Institution activity remained the **audience**, making possible the direct contact between institution and citizen and as the first step to media promotion.*

c) *At the same time, as in the previous years some complains fell outside the People's Advocate mandate, as they exceed the constitutional and legal competences, and not because the People's Advocate considered the complains ungrounded. It is a very important nuance.*

d) *We maintain our position also mentioned in the previous report regarding such phrases as "We do not know what the People's Advocate means" or the "People's Advocate is an inexistent institution". Certain authors of such statements have **public names** or **public functions** and they are important media exponents stating themselves as opinion promoters.*

*We should consider these individuals ascertaining in public and openly that they do not know the Constitution and neither the law, but natural question occurs: Can someone be a public worker or an opinion promoter without knowing the Constitution of its country? Or, without knowing the laws, or the realities in your country? Is this a European language?*

e) *As during the previous year, in 2007 our activity became more difficult due to the hostility showed by the Ministry of Economy and Finances, using the same procedures we noticed in 2006.*

*Therefore, we maintain our proposal concerning the act of the state budget, which should include a provision prohibiting the Government and Ministry of Economy and Finances to obstruct the financing of budgetary institutions by modifying the legal procedures. In its content, the report includes many other proposals of improving the legislative frame regarding the rights of the citizens in their relationship to the public authorities. We ensure all those interested that by the reading of this report they could make an actual assessment of the activity of the People's Advocate Institution.*

***Prof. Ioan MURARU, Ph. D.***

***People's Advocate***

***Bucharest, January 2008***

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

Founded by the Constitution of 1991, reviewed in 2003, as a novelty in the Romanian legal – state life, the People's Advocate Institution was actually established and began to work, after the enactment of its organic Law no. 35/1997, meant to defend the individuals' rights and liberties in relationship with the public administrative authorities.

In 2007, the People's Advocate Institution reached ten years of existence, a decade during which this institution, valuating the tradition and experience of the classical West – European ombudsman, asserted itself as a distinct entity in the system of the constitutional democracy.

Legal provisions regarding the organization and functioning of the People's Advocate can be found in:

- The Romanian Constitution, art. 58-60, art. 65 paragraph (2), art. 146 let. a) and let. d), republished in the Official Gazette of Romania, Part I, no. 767 of October 31, 2003;
- Law no. 35/1997 on the organization and functioning of the People's Advocate Institution, republished in the Official Gazette of Romania Part I, no. 844 of September 15, 2004, modified and completed by the Law no. 383/2007 published in the Official Gazette, Part I, no. 900 of December 28, 2007;
- Regulation on the organization and functioning of the People's Advocate Institution, republished in the Official Gazette of Romania, Part I, no. 619 of July 8, 2004;
- Law no. 554/2004 of the administrative contentious, published in the Official Gazette of Romania, Part I, no. 1154 of December 7, 2004, further modifications and completions included;
- Law no. 206/1998 for the approval of branching the People's Advocate Institution to the International Ombudsman Institute and European Ombudsman Institute, published in the Official Gazette of Romania, Part I, no. 445 of November 23, 1998;
- Law no. 170/1999 for the approval of branching the People's Advocate Institution to the Ombudsman Association and Francophone Mediators, published in the Official Gazette of Romania, Part I, no. 584 of November 30, 1999.

The People's Advocate is appointed in the joint session of the Deputies Chamber and the Senate, for a 5 years term period of, for the defending individuals' rights and liberties. During its mandate, the People's Advocate cannot fulfill any other public or private function, except for the didactic functions in higher education system.

The People's Advocate deputies are appointed by the Standing Bureaus of both Chambers of Parliament, being specialized on activity fields established by the Law no. 35/1997, republished:

- Human rights, equality of chances between men and women, religious cults and national minorities;
- The rights of the children, family, youth, pensioners, persons with disabilities;
- Army, Justice, Police, Penitentiaries;

- Property, labour, social security, taxes and duties.

Such a regulation generates the premises of raising efficiency of the People's Advocate Institution activity and complies with the regulations of other countries where the ombudsman is structured and operates.

People's Advocate exercises his duties *ex officio*, or upon request of the individuals injured in their rights and liberties under the limits established by the law. The Constitution compels the public authorities to provide to the People's Advocate the necessary support for the exercise of his assignments.

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

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

Therefore, the People's Advocate is an autonomous public authority, independent from any other public authority, it is not a substitute for any public authorities, it cannot be subjected to any obligatory or representative mandate, his activity having a public character; the institution has its own budget, part of the state budget; the People's Advocate and his deputies are not juridical liable for the expressed opinions or for the deeds to be accomplished, under observance of the law in the exercise of the assignments stipulated by law.

To achieve of his constitutional and legal role, the People's Advocate receives, examines and solves complying with the law, the complaints submitted by any individual, regardless to citizenship, age, sex, political affiliation or religious beliefs. The complains submitted to the People's Advocate must be stated in written form and sent by post, including e-mail, on the telephone, by fax, or directly by audiences, which represents the main mean of dialog with the citizens. The complainant must also prove the delay or the refusal of the public administration of legally solving his or her request. The complaints submitted to the People's Advocate are exempted from stamp tax.

For the solving of the problems, he is informed about, the People's Advocate is entitled to request to the public administration authorities in case, to take the appropriate measures for the defence of the individuals' rights and freedoms, as well as to inform the hierarchically superior authorities with respect to the lack of reaction of the summoned ones to dispose to be taken the proper measures. At the same time The People's Advocate can make inquires or can formulate recommendations.

Therefore, the People's Advocate is entitled to make his own inquiries, ask the authorities of the public administration for any information or documents necessary during the inquiry, to hear and to take declarations from the heads of the public administration authorities, as well as from any clerk who can give information necessary to the complaint solving. At the same time, in the exercise of his assignments, the People's Advocate issues recommendations, and this cannot be subject to the parliamentary or court control. By its recommendations, the People's Advocate informs the public administration authorities on the illegality of the administrative acts or deeds.

If during the performed inquiries People's Advocate, finds out gaps in legislation or serious corruption cases or failure to observe the national law he will submit a report

on the stated facts, to the presidents of the two Chambers of Parliament or, as the case may be to the Prime Minister.

In case the People's Advocate finds that the resolution of a complaint lodged with him is under judicial authority jurisdiction, he may notify, as the case may be, the Minister of Justice, the Public Ministry or the president of the court of law, who shall inform him or her on the measures that have been taken. This represents a legal way by which the People's Advocate can approach the bureaucratic situations generated by the failure of enforcement art. 21 paragraph (3) of the Constitution, which reevaluated the provisions of the art. 6 from the European Convention for the Protection of Human Rights and Fundamental Freedoms, regarding the parties' right to a fair trial, and the solving of the case in reasonable term.

The People's Advocate can also be involved, by its own procedures, in controlling the constitutionality of the laws and ordinances, achieved in Romania by the Constitutional Court. 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 submitted constitutional and legal regulations provide to the People's Advocate Institution, the specific means and procedures required by an efficient action with a view to the performance of the individuals' rights and freedoms protection.

## **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 the law:

- a) Human rights, equality of chances between men and women, religious cults and national minorities;
- b) The rights of the children, family, youth, pensioners, persons with disabilities;
- c) Army, Justice, Police, Penitentiaries;
- d) Property, labour, social security, taxes and fees.

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

The Consultative Council operates within the institution and includes the People's Advocate, his deputies and counselors, the general secretary, as well as other professionals appointed by the People's Advocate. The Council is met once a month, or whenever necessary.

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

People's Advocate Institution performed its activity in 2007 with a scheme of personnel diagram including a number of 100 positions.

Meanwhile the vacant positions in the territorial offices were occupied by contest, and the last two territorial offices were established, stipulated in the law of the People's Advocate institution structure and operating in Ploiesti and Timisoara. Overall, the territorial offices have 33 of positions, all covered.

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

In 2007, contests for the vacant positions were set up, by which experts and councillors were selected, as a rule those with law training.

The settlement of some limits regarding the elaboration of the institution budget for the year of 2007 by the Ministry of Economy and Finances generated a funds shortfall with personnel expenses that appeared in the month of July 2007, which was solved by supplementary funds in September and December 2007. Therefore, a period the vacant positions could not be occupied; hence we mention the existence of 4 vacant positions following to be occupied in 2008.

With a view to improving the specialty personnel professional training, within the institution, seminar and debates were set up on specialty themes, meetings with the experts of the territorial offices being also set up.

At the same time, during 2007, the councillors and experts of the institution attended different seminars and public debates in the country, as well as abroad, regarding the subject of protecting individuals' rights and freedoms.

## THE GENERAL VOLUME OF ACTIVITY

### **a) Activity carried out during the hearings**

In 2007, at the central headquarters and the territorial offices of the People's Advocate Institution, a number of **15517 hearings** were held, during which violations of individuals' rights were invoked (Annex no. 1).

### **b) Activity of solving the complaints**

In 2007, at the central headquarters and the territorial offices of the People's Advocate Institution, a number of **6919 complaints** were registered, **addressed** by individuals, in the country and abroad (Annex no. 1, Annex no. 3, Annex no. 4).

### **c) Activity of receiving telephone calls**

At the dispatcher of the People's Advocate, institution **2633 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 **2983 phone calls**. In total, we recorded **5616 phone calls** (Annex no. 1).

### **d) The 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 analyses was made in relation with the infringed rights and freedoms, in the context of the specialization fields of the People's Advocate Institution activity (Annex no. 2).

### **e) The comparative analysis on the quantity of complains on the specialization fields**

The total number of the complaints regarding the violation of some rights or freedoms was of **6919**. A percentage of **21,3%** from the total number of complains regards the property, labour, social security, taxes and fees. In the field regarding the rights of the children, family, youth, engineers and disabled individuals, a number of **17,2% complaints** was recorded. In the field of human rights, equality of chances between men and women religious cults and national minorities **12,9% complaints** were recorded, while in the field of army, justice, police and penitentiaries a number of **11,9% complaints** was registered. The percentage of **36,3% complaints** was registered in the territorial offices.

### **f) The activity of the People's Advocate Institution in the field of control of the constitutionality of laws and ordinances**

In 2007, upon the request of the Constitutional Court a number of **1635 points of view regarding the exceptions of unconstitutionality of laws and ordinances and 3 points of view regarding the unconstitutionality objections have been formulated.**

At the same time, the People's Advocate submitted directly to the Constitutional Court **4 exceptions of unconstitutionality:**

- The exception of unconstitutionality regarding art. I point. 228 and art. II paragraph (3) of the Law no. 356/2006 for the modification and completion of the Criminal Procedure Code, as well as the modification of other laws, **rejected** by the Constitutional Court by the Decision no. 588/2007;

- The exception of unconstitutionality regarding art. 57 paragraph (6) let. b) of the Law no. 448/2006 regarding the protection and promotion of the disabled individuals rights, further modifications and completions included, **rejected** by the Constitutional Court by Decision no. 605/2007;

- The exception of unconstitutionality regarding the provisions of the art. 11 paragraph (3) of the Law no. 3/2000 regarding the setting up and development of the referendum, **admitted** by the Constitutional Court by the Decision no. 392/2007;

- The exception of unconstitutionality regarding the provisions of the art. 12-22 on Chapter III „Criminal and Trial Prosecution Procedure” of the Law no. 115/1999 regarding the ministerial responsibility, republished, art. 23 and art. 24 of the same law, as well as art. I and art. II of the Governmental Urgency Ordinance no. 95/2007 for the modification of the Law no. 115/1999 regarding the ministerial responsibility, **admitted** by the Constitutional Court by Decision no. 1133/2007.

#### **g) The activity performed for informing the citizens on the defence of the individuals’ rights and freedoms and for the media promotion of the People’s Advocate Institution role**

The most important aspect of the People’s Advocate Institution activity is the information of the individuals regarding their rights and freedoms, including the right to complain to the People’s Advocate.

During 2007, the activity of informing the citizens and media promotion of the People’s Advocate Institution was continued, first by intensifying the contacts with the media interested in reflecting the legal topics and the problems in the field of human rights. It is proved by the great number of newspapers and magazines of the central media (“Actualitatea Romaneasca”, “Romania libera”, “Evenimentul Zilei”) and the local media (“Monitorul de Alba”, “Monitorul de Galati”, “Ziarul de Arges”, “Curierul de Valcea”, “Orizont Economic Argesean”, “Gazeta de Sud”, “Gazeta de Olt”, “Informatia Zilei”, “Gazeta de Nord”, “Cuget Liber”, “Replica”, “Observator”, “Cuget Liberal”, “Ziarul de Bacau”, “Prahova Libera”, “Ziarul de Roman”) which presented in a serious and competent manner, with critical spirit when appropriate the important aspects in the activity of the People’s Advocate Institution.

Quarterly, as well as under other circumstances, press releases were submitted to the press agencies and published on the official site of the People’s Advocate Institution.

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 People’s Advocate Institution, 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 free to individuals, but also to the central and local public administration authorities (ministries, prefectures, district councils and town halls).

Estimating the radio and TV as efficient media means of the People's Advocate, by the broadcasts of a large number of local radio stations (Radio Nova Brasov, Radio Gherila Cluj, Radio Tg. Mures, Radio Timisoara, Radio Prahova, Radio Oltenia, Radio Constanta, Radio Dada Focsani) the answers given by the experts and councillors of the institutions were given to the listeners questions. The TVR 2 and Prima TV stations invited Professor Ioan Muraru, Ph.D, the People's Advocate in a live transmission. The People's Advocate who dialogued with the TV directors, as well as the TV-viewers presenting the intervention possibilities of the People's Advocate Institution in solving the conflicts between the physical entities and the public administration authorities. At the same time, by the broadcasts of the local TV stations (Antena 1 Alba-Iulia, Antena 1 Satu Mare, Nova TV Brasov, MTV Piatra Neamt, Roman TV, Alpha TV Pitesti, Prahova TV, Alpha TV Ploiesti, Antena 1 Galati, Muscel TV Campulung, TV Beius) a dialog was initiated with the tele-viewers interested in the solving of the problems under the competence of the People's Advocate Institution.

In support of the citizens, the institution concluded a Cooperation Protocol with the National Authority for the Restitution of Property.

At the same time, in order to support the children facing special problems, out of the fund made available by the People's Advocate social aids were granted for the students of the Primary School of Balteni commune, Vaslui County, for 50 children from Dolhestii Mici and Valea Bourii Primary School, Dolhesti commune, Suceava County, for the students of the grades I-VIII of Murgesti Primary School Buzau County, and for the students of the grades I-IV Primary School no. 3 Ciocanesti commune, Calarasi County.

We should also mention the cooperation of the People's Advocate Institution with the Law Faculty of Bucharest University, in the student's training in the frame of ELSA Program (in the months of March, April, May, June and august 2007) and the National Magistrate Institute of, in the performance of a training stage for 10 justice auditors (during February 19-March 2, 2007 and March 5-16, 2007).

## **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 2007, namely **15517, 3556** more than in 2006, we assert as relevant for this aspect.

For the People's Advocate Institution, it is important that the citizens should be informed and familiarized with the rights and freedoms granted by the law and it should be created the necessary conditions to know and exercise them. A good knowledge of these rights and liberties provides their optimum achievement. Therefore, when being heard the complainers receive information in the problems invoked and enjoying specialty guiding regarding the possible ways to be followed for their problems solving, as well as the competent institutions or authorities.

In 2007, a number of **18 inquiries** were performed (Annex no. 7). By means of the performed inquiries the statements were taken and there were heard the leaders of the public administration authorities or the officers who violated the individuals' rights and freedoms. Thus, there were carried out:

### **7 inquiries regarding the observance of the private property right in:**

- Bucharest Municipality Board for the enforcement of the provisions of the Law no. 290/2003 with respect to the grant of damages and compensations to the Romanian citizens for their property assets, which were sequestered, retained or remained in Basarabia, Northern Bucovina and Herta Limit, following the state of war and the enforcement of the Peace Treaty between Romania and the Allied and Associated Powers, signed in Paris on the 10<sup>th</sup> of February 1947;
- The Local Board of Chiajna Landed Fund, Ilfov County;
- Juridical Directorate, Legal Department and Legislation within Bucharest City Hall;
- City Hall of Bacau Municipality;
- City Hall of Bistret commune, Dolj County;
- Prefecture of Bucharest Municipality;
- National Authority for the Restitution of Property.

**1 inquiry was made regarding the observance of the Disabled Person's right** at the Higher Commission of the Disabled Person Assessment.

**6 inquiries regarding the observance of the right to a decent living standard in the Pensions Local Houses in Sectors 1, 3 and 6 of Bucharest.**

**3 inquiries, following the notification of the institution ex officio, for the verification of the way in which the public administration authorities observe the right of protection of the disabled person, the right to education, equal rights, the right to healthcare performed in:** The Special School no. 4 of Bucharest; the National Inspectorate for the Individuals Records; the Centre of Neuro-psychiatric Recovery and Rehabilitation - Bolintin Vale - Giurgiu County and General Directorate of Social Security Children Protection of Giurgiu.

**1 inquiry regarding the observance of the right of a person aggrieved by a public authority and the right of petition in the City Hall of Odorheiu Secuiesc Municipality.**

In 2007 were also issued **12** recommendations (Annex no. 8). By these recommendations, the People's Advocate informed the public administration authorities on the illegality of the administrative acts or deeds. The following recommendations were issued:

- **3 recommendations** submitted to the Pensions Local House of Sector 1, Bucharest and the Pensions Local House of Sector 3, Bucharest regarding the violation of the right to a decent living standard and the right of petition;
- **3 recommendations** submitted to the Bacau County Prefect, Bacau Municipality Mayor and Bucharest Municipality Mayor for the failure in observing the property right and the right of a person aggrieved by a public authority;
- **2 recommendations** submitted to Giurgiu County Council and the National Authority for Disabled People for the violation of the special protection right of the disabled people as well as the right to health care;
- **2 recommendations** submitted to the National Authority for the Disabled People and the National Administration of the Penitentiaries for the failure to observe the rights of the disabled people and the right of a person aggrieved by a public authority;
- **1 recommendation** submitted to the National Authority for the Disabled People for the violation of the equal principles and special protection of the disabled people;
- **1 recommendation** submitted to the Ministry of Education, research and Youth for the restriction of some rights or freedoms.

## **THE AREA OF HUMAN RIGHTS, EQUALITY OF CHANGES BETWEEN MEN AND WOMEN, RELIGIOUS CULTS AND NATIONAL MINORITIES**

The People's Advocate Institution showed a special attention in 2007 to the protection of human rights, equality of chances between men and women, religious cults, as well as the national minorities' rights.

The activity in this field included the clarification of the facts mentioned in the complaints received from the complainers, notifications, inquiries, as well as issuing some recommendations. At the same time, we cannot omit when referring to the protection of human rights in general, but especially, the promotion and protection of the national minorities rights, the cooperation the institution developed in 2007 with various authorities implied in this field, the meetings with the representatives of some Non-Governmental Organizations, participation in seminars and TV broadcasts in the subject, articles which were published in the national and international press. The competence sphere of the field of human rights, equal chances between man and woman, religious creeds and national minorities is a vast one, including a large number of fundamental rights and liberties stipulated in the fundamental Law.

In 2007, the area of Human Rights, equality of chances between men and women, religious cults and national minorities received a number of **893 complaints** by which the People's Advocate Institution was notified by individuals regarding the violation of the following fundamental rights and freedoms: equality among citizens (art. 4 and 16); the right to life and to physical and physical 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 health care (art. 34); right to vote (art. 36); right to be elected (art. 37); right to be elected in the European Parliament (art. 38); liberty of meetings (art. 39); right to association (art. 40); right of petition (art. 51); the right of a person aggrieved by a public authority (art. 52). For **86** of them approaches were made for the clarifying of the notified problems and **1 inquiry**. Following the information offered by media, the People's Advocate Institution proceeded ex officio and performed other **2 inquires** followed by issuing of **3 recommendations**.

The complaints regarding the violation of the right to information and the complaining rights, took the first place, representing over **60,5%** of the solved complaints by the field team.

The second place over **10%** of the solved complaints number is held by the complaints notifying of rights by public authorities and institutions regarding the right of the individual injured by a public authority, stipulated in the art. 52 of the Romanian Constitution.

The fact that in 2007 too, the complaints of the individuals had in a quite high percentage the subject of possible violations of the right to information, petition right, as well as the right of a person aggrieved by the public authority, shows that for the moment the capacity of the Romanian administration to meet the individuals' exigencies is one rather reactive than proactive, existing also cases when public officers of the local and central public administration institutions are uncertain and the managerial capacity of implementing the decentralised responsibilities is not strong enough

Although progress was made, considerable efforts are necessary to increase the quality of the services provided for individuals.

Although on a reduced level, that is **4,1%**, in relation to the above mentioned ones, but however having an important place in the activity of the field, was held by the complains in the subject of citizens equal rights violation, stipulated by Article 16 of the Constitution. The rest of it represents complaints of other rights violation in the area of specialization.

An analysis of the solved complaints will be presented below according to the order of the alleged violated rights.

#### ***A. EQUALITY OF RIGHTS (ART. 16 OF THE CONSTITUTION)***

During 2007, **133 complaints** were registered having as subject a possible violation of equality in rights of the citizens, among which **42** in the central headquarters of the institutions and the rest of **91** in the territorial offices. Compared to the previous year, we registered a growth of the complaints number (from 78 to 133).

The number, however reduced of these complaints, from the total number of the received complaints by the People's Advocate Institution in 2007, can be a relative assessment, the number of complaints when the People's Advocate was notified in cases of discrimination, being influenced by the growth of the citizens addressability towards the National Council for Combating Discrimination, as the state authority in the field of discrimination, autonomous authority, juridical entity, under parliamentary control and the guarantor for the compliance and enforcement of the non-discrimination principle, as per the internal legislation in force and the international documents inn which Romania is a party.

Without keeping numeric record of the complainers according to their national minorities, but only according to the violated rights among the individuals who notified the People's Advocate Institution regarding the alleged violation of the provisions of the Romania Constitution's art. 16, the Rrom ethnic group held the 1st place. The subject of the complaints submitted by them does not cover quite a wide social range of themes, it is focused on the discrimination in employment and profession, the failure to grant or the adjourning of the social security, the abusive interpretation of the social security granting criteria, violation of the right to petition, indifference, failure in answering or the hostility of the authorities with respect to their problems, maltreatment in penitentiaries, damages for being deported in Transnistria and referred to city halls, various employers, County school boards, governmental agencies, police stations, penitentiaries, low court authorities. Most of the complaints were clarified, as for the rest, the procedures to be followed or the competent institutions were indicated offering guiding and explanations. The aspects notified by the complaints were not confirmed. Besides, when proceeding ex officio, following several articles, in newspaper signalling the existence of a number of 3000 Roma ethnic group unregistered in the Civil Registration Records, the conclusion was the same.

#### **CASE FILES**

**File no. 6860/2007.** Apostol (fictive name) from Buzau County has notified the People's Advocate Institution regarding a possible violation of the rights of serious and severe

disabled people, stating that he could not benefit from gratuity for transportation by tube when he had been in Bucharest, although the Law no. 448/2006 on the protection and promotion of the rights of disabled people, with further modifications and addenda at art. 21 paragraph (1), stipulates this right.

The facts stated by the complainant have been analysed in the context of the violation of art. 50 of the Romanian Constitution related to the right for special protection of disabled people and of the principle of equality of rights, stipulated by art. 16 Constitution of Romania.

After several measures taken by the People's Advocate at the National Authority for the Disabled People and at the General Directorates for Social Security and Child Protection of the Sectors of Bucharest, there was determined that there is an incongruity between the provisions of paragraph (1) and paragraph (3) of art. 21 of the Law no. 448/2006 related to the protection and promotion of rights of disabled people, with following modifications and addenda. Thus, paragraph (1) stipulates that individuals with serious and severe handicap benefit from gratuity by all urban transportation lines on roads and for transportation by tube, and paragraph (3) sets the validity of the transportation card only for common road transportation. In this particular case, by discriminatorily assuring the gratuitous transportation by tube only for individuals with serious and accentuated handicap and only in one locality of the country, there has been violated the principle of equal rights, foreseen by art. 16 of the Constitution of Romania.

Therefore, the People's Advocate issued a **recommendation** by means of which the National Authority for Disabled People was required to issue urgently a normative document, which should uniformly establish the conditions for granting gratuity for transportation, by tube to the disabled people foreseen by the Law no. 448/2006, with further modifications and addenda. After receiving the **recommendation**, the National Authority for Disabled People sent a letter to the Local County Councils, in which was stated their obligation to establish a modality for the compensation of urban transportation by tube for the disabled people who require and benefit from this right.

Regarding the above-mentioned incongruity, we hereby emphasize the necessity for the Romanian Parliament to set an agreement between the two paragraphs of art. 21 of the Law no. 448/2006, with its further modifications and addenda, in respect of extension the validity of the transportation card also for the transportation by tube.

**File no. 8413/2007.** Steluta (fictive name) notified the People's Advocate in the context of the right of a person aggrieved by a public authority and of a possible breach of the principle of the equality of rights of the Local Council of the Locality of Babana – County of Arges, through a resolution, has exonerated from paying the taxation local rates, with life right, the wage earners of the City Hall, local councillors, the mayor, vice-mayor. The complainant considered herself injured by a public authority in a legal interest, in a discriminatory way the regime of the local taxation.

Whereas, following the steps made by the institution of the People's Advocate, the local public authorities found that the issued resolution is legal, but without a judicial grounding, the People's Advocate Institution addressed to the Institution of the Prefect of Arges County, requesting to take the legal measures imposed and to inform the People's Attorney about it (the case is in progress).

***B. RIGHT TO LIFE, PHYSICAL AND MENTAL INTEGRITY (ART. 22 OF THE CONSTITUTION)***

In 2007, a number of **12 complaints** were registered, smaller than in 2006, when a number of **16** complaints were registered. Out of the **12** complaints, **6** were registered at the central headquarters of the institution and **6** in the territorial offices.

The People's Advocate Institution received a series of complaints from the individuals, executing some punishments involving depriving the freedom, who accused the application of some maltreatment in some of the Romania's penitentiaries and requested that under the limits of the competences granted by the Law no. 35/1997, republished, the People's Advocate should get involved in the solving some problems in the field of the execution of punishments in penitentiaries.

For the solving of these complaints, the People's Advocate informed the complainants on his competencies established by the law of organization and functioning and notified the National Administration of the Penitentiaries, which communicated the taken measures.

***C. RIGHT TO FREE MOVEMENT (ART. 25 OF THE CONSTITUTION)***

During 2007 the People's Advocate Institution registered a number of **11 complaints** regarding the violation of the right to free movement, that is a decrease compared to the year of 2006.

As it was estimated at the end of the passed year, following our country adherence to the European Union, in 2007 we noted a sensitive modification of the problems included in the physical entities complaints submitted to the People's Advocate Institution.

If, in 2006 the complaints were made especially by individuals under illegal terms on the territory of other states, by violating the legal provisions regulating the state border regime, either following the violation of the provisions of the readmission agreements concluded by the Romanian Government with various states, in 2007 they reveal especially the difficulties the former Romanian citizens had in their actions of obtaining the passports abroad.

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.

***D. RIGHT TO INTIMATE, FAMILY AND PRIVATE LIFE, (ART. 26 OF THE CONSTITUTION)***

The violation of this right represented the object of **8 complaints** that were submitted to the People's Advocate Institution, a higher number, comparing to 2006, Among them, 5 complaints were recorded at the central headquarters of the institution and 3 at the territorial offices and referred mainly: the failure to reply of the police authorities to the repeated complaints of citizens about violation by third parties of the right to personal and private life, some restrictions of the convicted individuals regarding the art. 26 of the Constitution, or the faulty way in which the preliminary investigation was made by the competent authorities with respect to the infringement of the public order and quietness.

### ***E. RIGHT TO INFORMATION (ART. 31 OF THE CONSTITUTION)***

In 2007, the complaints having as an object the possible violation of the right to information were in a number of **706**, which represents a percentage of about 10% from the total of complaints received by the People's Advocate Institution. Among them, **575** complaints were recorded at the central headquarters and **131**, at the territorial offices. Even though from the quantity point of view this type of complaints were numerous, as during the previous years, not all the complainers addressed firstly or brought the evidence 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 be followed.

In 2007 the main aspects notified in these complaints refer to: the requirement of information concerning the activity and the funds of some institutions, information regarding the way to develop some bidding procedures, or information connected to the activity, address and audience program of the People's Advocate Institution.

After examining these complaints, we can underline the fact that there are still some authorities and public institutions that do not observe their constitutional obligation of offering the complainers the requested information under the terms imposed by the Law no. 544/2001 regarding the free access to the public interest information.

The People's Advocate Institution reacted promptly, informing the town halls, prefectures, National Archives, the Territorial Pensions Houses that had not observed their obligation to answer the complainers' demands concerning the public matters and problems of personal interest.

### **CASE FILE**

**File no. 5852/2007.** Bujor (fictive name) complained to the People's Advocate Institution about the fact that, although he sent a request by registered mail to the Dorohoi Municipal Hospital, in Botosani County, asking for a copy of his hospital release ticket necessary for another medical examination, he received no answer by the date he contacted our institution.

His complaint was assessed in the context of a possible violation of his right to information (art. 31 of the Romanian Constitution) and his right to petition (art. 51 of the Romanian Constitution)

The People's Advocate Institution contacted the Dorohoi Municipal Hospital and as a result of its intervention, the hospital's manager replied saying that the claimant's letter had not been received. Moreover, he sent a preliminary answer to the claimant, asking for his identity and contact information.

**File no. 9235/2007.** Gyuri (fictive name) complained to the People's Advocate Institution in relation to a possible violation of art. 31 of the Romanian Constitution regarding the right to information. Therefore, the complainant referred to the People's Advocate Institution, complaining that he received no answer by the date he contacted our institution, although he contacted the Finances Department of the Ministry of Economy and Finances requesting clarifications about the implementation status of art. 3, paragraph (2) of the Law no. 146/2007 regarding compensating the natural persons who held deposits at the National Savings House CEC S.A. in order to purchase Dacia cars.

After recording the complaint, the People's Advocate contacted the Ministry of Economy and Finances. As a result, the latter communicated that an emergency ordinance project was proposed to modify Law no. 146/2007, given that it did not contain all the specific elements of a special law. The ordinance would enter into force after its approval in a Government meeting and after its submittal to the Parliament, at which time the claimant could receive the deed.

#### ***F. RIGHT TO PROTECTION OF HEALTH (ART. 34 OF THE CONSTITUTION)***

In 2007, the People's Advocate Institution was notified with **24 complaints (18 complaints at the central headquarters and 6 at the territorial offices)**, in the subject of health care. When the complaints exceeded the competence of the institution, the complainants got the necessary guiding in support to the elucidation of their state.

The complaints referred to: granting of compensated medicines, some alleged violated rights of the disabled individuals, cases of lack of fitness to practice when the injured Individuals did not receive compensations; failure to observe the national health care programs. Following the notification ex officio, it was also performed an inquiry in the Centre of Neuro-psychiatric Recovery and Rehabilitation of Bolintin Vale, Giurgiu County and General Directorate of Social Security and Children Protection, Giurgiu, in the subject of health care right. The inquiry was followed by the issuance of **2 recommendations** by which the People's Advocate notified the public administration authorities about the illegality of some administrative acts and deeds

#### **CASE FILES**

**File no. 5466/2007.** Following several articles broadcasted in the mass-media and analysed during June 22–25, 2007, which signalled the fact that the Neuro-psychiatric Recovery and Rehabilitation Centre in Bolintin Vale provided improper patient care and did not ensure adequate nourishment and hygiene conditions, the People's Advocate Institution took initiative and formulated an official information request submitted to the National Authority for Disabled People.

Although having confirmed the existence of shortages in the financing and the administration of the Neuro-psychiatric Recovery and Rehabilitation Centre in Bolintin Vale, the National Authority for Disabled People did not make sure the necessary measures were taken for the remediation of the situation. Therefore, the People's Advocate carried out an investigation at the Neuro-psychiatric Recovery and Rehabilitation Centre in Bolintin Vale and the General Directorate for Social Assistance and Child Protection Giurgiu.

The investigation confirmed the violation of the right to special protection of persons with disabilities and the right to health care set down by art. 50 and 34, respectively, of the Romanian Constitution. The violation was a result of both the defective management of public authorities and institutions at the County level, and of the ineffective intervention of the National Authority for Disabled People, in its quality of appropriate body of the central public administration.

Consequently, the People's Advocate issued **two** recommendations. The former asked that the National Authority for Disabled People urgently take all the necessary measures to supervise and coordinate the implementation of minimum quality standards for adults

with disabilities, at the level of the Neuro-psychiatric Recovery and Rehabilitation Centre in Bolintin Vale. The latter was addressed to the Giurgiu County Council. It requested taking all legal measures to make sure the General Directorate for Social Assistance and Child Protection Giurgiu, subordinated to the County Council, ensures the permanency of specialised medical care and the proper fund distribution necessary to ensure adequate social services for adults with disabilities, at the minimum standards set by applicable legislation, at the Neuro-psychiatric Recovery and Rehabilitation Centre Bolintin Vale.

The recommendations issued by the People's Advocate were taken over by the public authorities to whom they were submitted. Thus, the necessary measures were prescribed in order to observe the order of the National Authority for Disabled People regarding the approval of minimum quality standards for the residential centres intended for adults with disabilities. A psychiatrist was hired, contracts were signed with specialised medical centres, new programs focused on integration through occupational therapy were implemented, and the necessary pressure was put on the appropriate ministries to allocate additional funds from the Government budget reserve for 2007 and to modify the budget project for 2008 accordingly.

#### ***G. RIGHT TO A HEALTHY ENVIRONMENT (ART. 35 OF THE CONSTITUTION)***

In 2007, the People's Advocate institution was notified with **11 complaints** (3 complaints at the central headquarters and **8** at the territorial offices). Comparing to the previous year, the complaints submitted to the People's Advocate Institution mentioning the violation of the right to a healthy environment decreased in number. This decrease can be also explained by the fact that the competent authorities in solving such cases, particularly the National Guard of Environment, the National Agency for the Environmental Protection, the Administration of the "Delta Dunarii" Biosphere Reservation, the National Agency for Dangerous Chemical Substances within the Ministry of Environment and Long Term Development, due to the means of intervention and sanctioning provided by the law, were more visible, so that the individuals had the possibility to notify directly these institutions. The aspects presented in these complaints referred particularly to the observing of the legal provisions concerning a healthy environment ecologically balanced.

#### ***H. RIGHT TO PETITION (ART. 51 OF THE CONSTITUTION)***

Examining the content of the complaints submitted to the People's Advocate, it was found that in 2007 the violation of the complaining right was invoked in a number of **1324** cases.

Taking into account the fact that the right to complaint belongs to the category of warranty rights, its violation is associated in most cases with the violation of one or more rights, such as the right of the injured individual, guaranteed by the art. 52 of the Romanian Constitution, the right to private property, guaranteed by the art. 44 of the Constitution, the right to a decent living standard guaranteed by the art. 47 of the Romanian Constitution, the right to information, stipulated in art. 31 of the Fundamental Law.

Thus, the individuals informed the People's Advocate Institution about the fact that they approached some public authority by complains, notifications, suggestions for

solving some personal problems, such as the pensions, the property, social security, details concerning the stage of solving the submitted notifications presented by entitled individuals, as per Law no. 10/2001, regarding the legal status of some real estates abusively taken over between March 6, 1945 and December 22, 1989, further modifications and completions included, or the solving stage of the files concerning the compensations granted according to Law no. 9/1998, regarding the granting of compensations to the Romanian citizens for their assets transferred to the propriety of the Bulgarian state, following the enforcement of the Treaty between Romania and Bulgaria, signed in Craiova on September 7, 1940, republished, the change of the revolutionist certificates and the grant of rights stipulated in the Law no. 341/2004 of the thankfulness toward the heroes, martyrs and fighters who contributed to the victory of the Romanian revolution in December 1989, but encountered hardships from the public authorities notified regarding the stage in which the submitted file is, as well as the date and the nature in which the claimers can receive what is granted by the law.

At the same time there were notified situations when some authorities refused to register complaints. Some other times, when the complaint were registered, the notified public authorities either failed to send the complainer the answer in due time, either delayed the signalled aspects.

In this category it is included most of the times the National Authority for the Restitution of Property and the State Secretariat for the Revolutionists' Problems, for which most of the complaints were received concerning the violation of the above mentioned right. More over the said authorities of the public administration hardly answered even to our institution requests, or answered only after approaching the higher hierarchic authority. Relatively close to this position, ignoring the legal provisions, with respect to the claiming right, it is placed the Ministry of Education, Research and Youth, the Prefecture Institution of Bucharest Municipality, the Pensions Houses of Bucharest Municipality, or the National House of Pensions, and lately the Board for the Ascertaining of the Fighter Quality in the Anticommunist resistance within the Ministry of Justice.

The People's Advocate Institution promptly and every time came in support of the complainants and their claims, notifying all the legal levels for the receiving the requested answer.

With a view to surveying the observance of the constitutional provisions regarding the claiming right and the right of a person aggrieved by a public authority, **the People's Advocate Institution performed an inquiry in the City Hall of Odorheiu Secuiesc Municipality following the complaint of Gabriel** (fictive name) – file number 9340/2007, unsatisfied with its contradictory answers. According to the art. 22 paragraph (1) of the Law no. 35/1997, it was found that in several complaints submitted to the said town hall, the complainant requested some measure to be taken regulating the traffic of the over weight lorries, damaging the street he lives in. The received answers could not clarify the problem. From the documents submitted for the inquiry, the held discussions, as well as the findings in the place, the following was revealed:

- The 'no left turn' indicator for cargo vehicles, though placed in a visible spot, is quite often ignored by vehicle drivers, such persons disregarding the riding routes stated by the administrator of the public road;

- Street asphalt veneering is thought not to be a priority by the local administration, presently existing more than 200 streets that are in a advanced state of degradation;

- The solution of erecting a barrier is not viable, since this would block the access for ambulances or intervention fire engines;

- There are no financial resources for the assembly of surveillance video cameras for traffic monitoring.

**Pursuing the performed investigation, the representatives of Odorheiu Secuiesc City Hall together with the City Police took the following measures:**

- The control activities for the mentioned street have been intensified;
- The representatives of the four trade companies running in the areas were invited to the City Police Headquarters where they were acknowledged and signed for it, that should they not comply with the riding routes established by the administrator of the public road, they shall be enforced the law upon;

- The workers of the road police were given an instruction to the stated area.

### ***I. THE RIGHT OF A PERSON AGGRIEVED BY A PUBLIC AUTHORITY (ART. 52 OF THE CONSTITUTION)***

In 2007, the right of a person aggrieved by a public authority was invoked in a number of **716 complaints** (327 recorded at the central headquarters and the rest of them at the territorial offices), 86 more than in 2006.

As for the rights invoked by the individuals in relation to the public authorities, the complaints refer to the violation of some legitimate rights and interests, by failure to observe some legal rights, such as the pension right, the right to a social security stipulated in Law no. 416/2001, regarding the minimum guaranteed income, the failure to issue some property deeds, as per the Law no. 18/1991 regarding the land fund or the Law no. 10/2001 regarding the juridical status of some real estates abusively undertaken between March 6, 1945 and December 22, 1989, modified and completed.

A large part of the complainants were aggrieved in their rights by the public administration institutions and authorities due to the refusal or delay in the answer various complaints discouraged or frustrated the enforcement of their rights on the term stipulated by the law, or on its terms. Therefore, most of the times the violation of the aggrieved person was correlatively made with the violation of the right to petition.

### **CASE FILES**

**File no. 8672/2007.** A case which was assessed by us as typical for the infringement of the mentioned right is represented by Ionela (fictive name). This person informed the People's Advocate about the denial of the Faculty of Veterinary Medicine from the University of the Agronomic Sciences and Veterinary Medicine Bucharest to issue the original document of the graduation diploma of the Law Faculty, previously graduated faculty. From the request submitted to our institution the following resulted:

- the complainant decided to abandon the classes of the Faculty of Veterinary Medicine, because she appreciated that the exams were not passed according to objective criteria;

- when she made the consideration that too many professors are relatives, she was threatened she would not be passed the year;

- the reason for which the complainant was not issued the required diploma was the failure to observe a procedure which, in the opinion of the competent authorities, was alleged ungrounded and it had not been made public.

Under the circumstances, the People's Advocate Institution notified the management of the Faculty of the Veterinary Medicine and the required document was given back to the complainant.

Unfortunately, because of the way it proceeded, the Faculty of Veterinary Medicine delayed the intention of the complainant to enrol to another faculty in the academic year 2007-2008.

Complaints showing to the way in which the staff of this faculty carries out their assignments were also received by our institution on the occasion of the matriculation examination, when the secretary of the faculty, assisted by the Dean, decided that the individuals who candidate for this faculty on the budgetary positions, should submit at the matriculation only the original of the high school diploma. The rest of the candidates, who had not got yet a high school diploma, but only a graduation record ( it is the case of the diplomas which were not issued in due time) were forced, contrary to the regulation and the existing methodology, to candidate on the positions on payment.

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

In 2007 the People's Advocate Institution was notified in **1396 complaints** concerning the field of rights of children, family, youth, pensioners, persons with disabilities, representing **17.2%** of the total recorded complaints. The percentage of elucidated complaints as a result of the intervention of the People's Advocate Institution, in the field of rights of children, family, youth, pensioners, persons with disabilities, was of **31.88%**, and among them a percentage of **66.75%** were solved favourably for the complainants.

### *A. Children, youth and family*

The People's Advocate Institution granted also in 2007 a special attention to the protection of children's and youth's rights. Thus, its activity consisted in self-informing, inquiries, recommendations issuing, clarifications of complaints received from complainants, collaborations and meetings with Romanian and foreign legal entities in view of promoting and protecting the children's rights, the mediatization of the children's rights.

Also, the People's Advocate Institution considered the Decision no. 779/2007/CE of the European Parliament and of the European Council of June 20, 2007 to establish, for the period 2007-2013, a special program for preventing and fighting violence against children, youth and women, as well as for the protection of victims and risk-exposed groups (the Daphne III program), as part of the general Program "Fundamental rights and the justice". For this purpose, the People's Advocate issued a message to condemn physical, sexual and psychological violence against children, youth and women, message that states that even threats of such acts, restraint or arbitrary privation of freedom, whether they occur in public or private life, represent an violation of the rights to life, safety, freedom, dignity and physical and emotional integrity. The activities of the People's Advocate Institution, during the year 2007, to fight violence against children and women were initiated in the spirit of the provisions of the Universal Human Rights Statement and of the Chart of the Fundamental Rights of the European Union, that acknowledge the severe, immediate and long term consequences of the violence against children and youth for their physical and mental health, and for their psychological and social development.

Major international personalities expressed their interest for the strategy this institution has promoted in the support of the rights of children, youth and family in Romania. Thus, during the visit paid to the People's Advocate, the European Commissioner for Human Rights, **Thomas Hammarberg** appreciated the systemic approach of the issues regarding children, youth and family within a single specialized department of the institution, considering it to be effective and original among the institutional system in Europe. Also, **Paulo Sergio Pinheiro**, the independent expert of the General Secretary of the United Nations for the study of violence against children, during a visit paid to the People's Advocate Institution, has documented himself about the structure of this department within the institution, as well as about the procedures for

resolving the intimations filed by children and youth, and about the collaboration relations with the state authorities.

According to the provisions of the art. 49 of the Romanian Constitution, re-published, children and youth enjoy a special regime of protection and assistance in achieving their rights. Law no. 272/2004 on the protection and promotion of children's rights, includes some specifications concerning the children's rights to enjoy the respect of their personality and individuality, the best health, education to allow their development, under non-discriminatory circumstances, of their skills and personality, to be protected against any form of violence, abuse, bad treatment or negligence, to be protected against any form of exploitation.

In spite of all this, during the year 2007, the People's Advocate was notified about some anomalies recorded about the violation of the rights of children, youth and family by state institutions. The restitution of the lawfulness was performed both by direct and precise involvement of the People's Advocate, by self-appraisals, investigations, recommendations, and by the receptivity proven by the state institutions entitled to resolve different violations of the rights of children, youth or family pursuing the appraisals coming from the People's Advocate.

Before presenting some case charts, from where the actual way the People's Advocate entailed the resolving of the intimates received from the citizens comes out, we shall synthetically present certain test cases where the state institutions resolved the main types of violation of the rights of children, youth or family.

Some parents notified the People's Advocate Institution about the assessment of the situation of a child entrusted by court order to the other parent. The displeased parent claimed the shallowness shown by the General Board for Social Support and Child Protection in analyzing the child's situation, without taking into account the prevailing interest of the child. As an outcome of the intercessions performed by the People's Advocate Institution, the notified General Boards for Social Support and Child Protection performed new assessment of children's situations, deciding either the permanent monitoring of the training status, or the notification of the parent to whom the child was trusted regarding the short issues found in raising and educating the under-aged.

The People's Advocate was also notified about the fact that some Special School Centres did not allot the writing materials and the daily food allowance, according to the Government Decision no. 1251/2005 regarding some measures for the improvement of teaching, training, compensating, recovery and special support activities for children/pupils/youth within the special and integrated special teaching system. The reported issues were analyzed in the context of an alleged violation of the right to education and of the rights regarding children and youth protection.

Cases were also reported, where some parents claimed about not being provided with the free medications that children with severe health issues ought to benefit of by law, or about not receiving the powder milk, according to the Law no. 321/2001 regarding the free assignment of powder milk for children of ages between 0 and 12 months. The reported issues were analyzed in the context of an alleged violation of the rights for child and youth and of the rights regarding health care. As a result of the intercessions performed by the People's Advocate Institution, the claimants received the medication or the demanded products, according to the medical prescriptions, free of charge.

Violations of the children's right to education were also reported. For example, in some Special School Centres one easily resorted to expulsions without compliance with the provisions of the Structure and Working Regulations for pre-academic Teaching Facilities, and without analyzing thoroughly the adverse effects of such expulsions on the institutionalized young from the Social-Professional Integration Services for Youth over 18 within the General Boards for Social Support and Children Protection (D.G.A.S.P.C). As a result of the intercessions performed by the People's Advocate Institution, some young people got the right to re-enlist to the teaching facilities and maintained their rights to benefit from the social support measures provided by the Law no. 272/2004.

Another type of issues regards the non-payment of the heir allowance for some children after parental demise, even though they were still attending education. The interventions of the People's Advocate to the Local Pension House determined the issuance of the decisions for granting the rights of the heir allowance.

The People's Advocate was also challenged by situations where some town halls groundlessly refused to grant the rights provided by the Government Emergency Ordinance no. 148/2005 regarding familial support for raising children. After the intervention of the People's Advocate Institution, the notified public local administrative institution resolved the petitions, meaning they granted the financial rights for raising the children.

Along the entire year of 2007, the People's Advocate Institution established good collaboration relationships aiming to the protection of the children's rights with several authorities involved in the protection of the rights of children, youth and family, the counsellors and experts of the department took part in lots of meetings with some NGOs representatives, as well as in seminars and workshops on the rights of children, youth and family.

The debates regarding the necessity of establishing a specialized court for judging the under-aged causes continued during 2007. Even though specialized sections were established at the level of the Court of Appeal, in the lower instances (courts of law) there are no specialized teams to judge the causes with under-aged. During the debates, the express requirement for information exchange between courts was emphasized, along with the one for establishing a unitary judgement practice and an institutional partnership. The proposals for establishing the specialized courts continue to strike against the lack of financial resources. The Court for under-aged and family in Brasov remains the sole instance in the country that is specialized in under-aged causes.

## **CASE FILES**

**File no. 61/2007.** Elisabeta (fictive name) submitted a complaint to the People's Advocate with regard to the fact she addressed to the General Department for Social Security and Child Protection in Maramures, by registered letter with notice of receipt, in October and November 2006, requesting the placement of the child Alexandra (fictive name), but she received no answer.

The notified issues were analysed within the context of an alleged violation of the child and youth's protection and complaining right, provided for by the art. 49 and art. 51 of the Romanian Constitution. The People's Advocate informed thereof the General Department for Social Security and Child Protection in Maramures.

Following the People's Advocate action, the application was favourably resolved, meaning that the General Department for Social Security and Child Protection in Maramures answered to the complaint, informing that, after the file of the child Alexandra (fictive name) was received, it made all the proceedings in order to solve the case (it issued an address to the administration of Remeti, Maramures County, where the child's mother place of residence is, requesting to them to initiate a social investigation and draw up a plan of services). The People's Advocate also explained that, due to the fact the administration of Remeti carried out only the social investigation and not the plan of services as well, the case of the child Alexandra (fictive name) would come to an end after the plan of services was received.

**File no. 6930/2007.** Ionut (fictive name) submitted a complaint to the People's Advocate with regard to the fact he addressed to the Ministry of Labour, Family and Equal Rights, requesting explanations as regards the state allowance for his under age children, Sonalika and Kesav (fictive names) who attend the school in India, but he received no answer.

The notified issues were analysed within the context of an alleged violation of the child and youth's protection and complaining right, provided for by the art. 49 and art. 51 of the Romanian Constitution. The People's Advocate informed thereof the Ministry of Labour, Family and Equal Opportunities.

Following the People's Advocate action, the application was favourably resolved; the Ministry of Labour, Family and Equal Opportunities opinion being that the Romanian child who attends school in India is the beneficiary of the state allowance, as well.

### ***B. Pensioners***

The Constitution of Romania, in art. 47 states that the state is obliged to take measures of economic development and social security to provide the citizens a decent standard of life. The citizens have the right to pension, paid maternity leave, medical assistance in the state health care establishments, unemployed allowance and other forms of public or private social insurances, specified by the law. The citizens have the right to other measures of social security as well, according to the Law no. 19/2000 on 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, Law no. 276/2004 to supplement the art. 169 from the Law no. 19/2000 introduced after paragraph (1) of the art. 169, paragraph (1<sup>1</sup>) with the following content: re-calculation, upon demand, by adding the seniority of subscription assimilated, specified at art. 38 paragraph (1) let. 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 re-calculation 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 assessed in view of re-calculation according to the principles of 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 re-calculation 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 re-calculated 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.

The People’s Advocate, during 2007 received a lot of notifications from the pensioners regarding the manner in which some institutions enforce the legal provisions. The main notifications refer to the followings:

- the pensioner’s discontentment concerning the way some territorial houses of pensions made the calculation or re-calculation of the pensions or concerning the fact that the pensions were not re-calculated;
- Impossibility of the pensioners to obtain certificates to prove the amount of salaries and bonuses with permanent character necessary for the re-calculation 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 and the House of Pensions of Bucharest Municipality) to process the complainers’ requests;
- Pensioners’ discontentment regarding the score resulted after the re-calculation 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 re-calculated, according to the date of pensioning of the entitled to the rights;
- Delay in paying the news money rights to pension established after the re-calculation of the pensions;
- Refusal of the houses of pensions to execute the final 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 complainers in view of re-calculating the pensions;

- Difficulties faced by the pensioners regarding the re-calculation 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 Individuals who developed their activity in special conditions of work;
- Illegal suspension of pension payment etc.

We cannot deny the fact that the process of re-calculating 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 during this re-calculation process, as well as the attitude of some employees of the houses of pensions in the relations with the pensioners.

The received complaints show the fact that the pensioners trust more and more the People's Advocate and appeal to him in view of solving the problems they face, but on the other hand shows the numerous problems still existing in the relations between the pensioners and the houses of pensions.

We also noticed 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: there are more and more rare the cases when the Pensions Houses do not respond to the requests made by the People's Advocate in the answer due legal term. There are still problems, but only in the quality of the answers, as sometimes they are superficial, being necessary the re-notification of the said public institutions, or the notification of the higher hierarchic institutions.

As about the pensions legislation in the public system a series of problems are still identified regarding the followings:

- The pensioners' impossibility to obtain certificates certifying the amount of salaries and bonuses with permanent character, necessary for the re-calculation 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 re-calculation because score determined according to the new legislation was smaller than the one previously determined. 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 score is determined by dividing the score 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 generates 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 Individuals entitled to pension before 1 July 1977, the date of enforcement of Law no. 3/1977 on the pensions of social state insurances and social security, the complete seniority of subscription used to determine the annual average score for all the categories of pensions is 20 years for women and 25 years for men. For the individuals entitled to pension were between 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 Individuals 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 score is the number of years of work necessary to entitle them to pension specified by these normative documents. Consequently, for individuals in identical cases, at establishing according to the provisions of Law no. 19/2000, namely the re-calculation 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 score 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 Individuals, 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 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 enforcing a system to establish and re-calculate the pensions in relation with two items: 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 inheritor etc.

Besides the problems claimed by the pensioners, the People's Advocate approved the performance of some inquiries in the Local Pensions Houses and issued recommendations by which he requested to be taken the measures for the information in due term of the answers to the claimers, the speeding of issuance of pensioning decisions

and the payment of the pensions pursuant to the pensioning decisions issued after the pensions recalculation.

### **CASE FILES**

**File no. 1248/2007.** Ilie (fictive name) submitted a complaint to the People's Advocate Institution as regards his dissatisfaction with the way the Local House of Pensions, Sector 3, Bucharest calculated his retirement benefits rights following the recalculation process. Therefore, the bearer of the retirement benefits file, claimed that his retirement benefits was recalculated with a delay of one year. Therewith, the complainant asserted he received neither the resolution of retirement benefits recalculation nor the related calculation bulletins.

Under the circumstances, the People's Advocate submitted thereof to the Local House of Pensions, Sector 3, Bucharest. By the reply address of the aforesaid institution, we were informed that complainants' retirement benefits were recalculated according to the applicable legislation and the resolution of recalculation for the retirement benefits of the public system of pensions was issued.

The quantum of the complainant's retirement benefits was determined in amount of 589 RON, compared with 481 RON as the complainant had prior to recalculation. Therewith, we were informed that the amount resulted as a difference between the pension received and the pension due to the complainant following the recalculation, in quantum of 984 RON, was paid to the complainant (but with no evidence in this respect).

By another complaint the complainant notified again to the People's Advocate, claiming that he received no amount from the Local House of Pensions, Sector 3, Bucharest and the said institution informed us erroneously.

To throw light upon the issues, the People's Advocate initiated an **inquiry**. Its goal aimed at getting the document by which the Local House of Pensions, Sector 3, Bucharest assertions are evidenced, meaning that the outstanding amount, in quantum of 984 RON, was paid to the complainant.

Upon the discussions, remittance voucher and following the checking made at the Accountancy Service, it came out that the amount, in quantum of 984 RON, assigned to the payment of complainants' outstanding pension rights was sent back in the account of the Local House of Pensions, Sector 3, Bucharest, because the complainant was not found at his residence in Bucharest.

From the People's Advocate data acquisition, following the actions initiated in this case, it came out obviously the superficiality of the Local House of Pensions, Sector 3, Bucharest, in dealing with the problems faced by complainants. Therefore, when the representatives of the Local House of Pensions, Sector 3, Bucharest contradicted both in writing and verbally the complainants' assertions, claiming that the institution paid to him the outstanding pension rights, one found out on the investigation occasion that all the statements and assurances offered by the Local House of Pensions, Sector 3 were wrong because, in fact, the complainant did not receive any due royalties. We mention that, when the complainant was not found at his residence, subsequently, the aforesaid public institution did not forwarded to payment the said amount, even if the complainant received monthly his retirement benefits and made many efforts in order to get the outstanding pension rights. At the same time, during the investigation progress, the staff

within the Evaluation Service showed a total lack of interest against the duty they should carry out.

Analysing the results of the investigation, the People's Advocate issued a **recommendation** by which the Local House of Pensions, Sector 3, Bucharest was to examine the situation brought about by the failure to comply with the constitutional and legal provisions on the retirement benefits right and take all legal measures in order to make the payment of the outstanding royalties to the complainant.

Within the contents of the recommendation made to the Local House of Pensions, Sector 3, Bucharest, one also mentioned the necessity to take all the action in order to communicate, within the legal term, the answers to complainants and speed up the payment of the retirement benefits rights according to the resolutions of retirement issued following the pensions recalculation and under the legislation in force.

**File no. 5835/2007.** Another **inquiry** was disposed at the Local House of Pensions, Sector 6, Bucharest, following the application submitted by Isidor (fictive name).

The specific objectives of the investigation disposed in this case aimed requesting the information required for the investigation from the public authority in question and examining the evidences on the complainants' recalculated retirement benefits.

Obtaining of the information within the investigation was realised by hearing the Office Leader of the Local House of Pensions, Sector 6, Bucharest. The authorised agents of the People's Advocate brought the issues submitted by the complainant to his knowledge, namely that, upon the recalculation of his retirement benefits, one did not take into consideration all the period of works, neither the wages income written down in the workman's book nor those evidenced by the certificates issued by former employers, what led to significant diminution of the pension quantum. At the same time, the documents existing in the complainer's pension file were compared with those submitted by him to the People's Advocate Institution. Following the checking carried out, one found out that the complaint was well-grounded.

In the presence of the authorised agents of the People's Advocate, the Office Leader of the Local House of Pensions, Sector 6, Bucharest instructed the pension in question to be the revised, and following the review, a new resolution of retirement benefits and afferent calculation bulletin were issued.

Through the review of complainants' retirement benefits rights, an annual average score of 2.60085 compared with 1.65105 existing in course of payment on the date of retirement benefits recalculation and a pension quantum of 769 RON compared with 488 RON resulted. The due differences, amounting to 9.807 RON were paid on grey order. Moreover, the head of the institution mentioned that the complainant would benefit from the provisions of the Government Emergency Ordinance no. 19/2007 and the recalculation of his retirement benefits would be done also for the period of time worked after retirement (1982-1987), as soon as the complainant would submit an application in this respect, according to Article 95 of the Law no. 19/2000. Following the People's Advocate intervention, the application was favourably resolved.

**Files no. 2700/2007 and no. 5510/2007.** Another **inquiry** was directed at the Local House of Pensions, Sector 1, Bucharest, following the applications submitted by Natalia (fictive name) and Bradu (fictive name) on the violation of the right regarding the

standard of living, stipulated by the art. 47 and the complaining right stipulated by the art. 51 of the Romanian Constitution.

The complainants claimed they submitted to the Local House of Pensions, Sector 1, Bucharest, with a view to solving some issues as regards the great delay in the recalculation of the retirement benefits, review of the pensions recalculation and failure to take into consideration the certificates submitted in order the retirement benefits to be recalculated.

As for the submitted complaints, according to art. 23 of the Law no. 35/1997 on the organization and functioning of the People's Advocate Institution, republished, the examination of the existing situation was brought forward the attention of the Local House of Pensions, Sector 1, Bucharest.

Since the Local House of Pensions, Sector 1, Bucharest did not comply with the request submitted by the People's Advocate Institution, on the grounds of art. 59, paragraph (2) of the Romanian Constitution, republished, in conjunction with art. 4 and art. 24 of the Law no. 35/1997, the People's Advocate Institution submitted to the Municipal House of Pensions in Bucharest, which gave no reply.

Following the actions initiated, in both complainants' cases, unclear answers were received from the Local House of Pensions, Sector 1, Bucharest. As for Natalia's case, an obvious unconcern in solving the claimant's application but also in answering concretely to the People's Advocate intimations was noticed and in Bradu's case, one determined errors in the calculation bulletin forwarded by the Local House of Pensions, Sector 1, Bucharest.

On the grounds of art. 22 of the Law no. 35/1997, the People's Advocate ordered an inquiry to the Local House of Pensions, Sector 1, Bucharest.

Following the investigation, one found out that the complainants' intimations were well-grounded and although the representative of the Local House of Pensions, Sector 1, Bucharest committed herself to solve the two complainants' applications, this did not happened.

Within this context, on the grounds of the provisions of the Article 59 of the Romanian Constitution and art. 13, point c), art. 21 and art. 23 of the Law no. 35/1997, in order to accomplish the constitutional and legal scope of the People's Advocate, in defence of the individuals' rights and freedoms as regards their relation with the public administration authorities with a view to obviating the illegalities that were found, recovering the damages and eliminating the causes that gave birth to the violation of the pensioners' rights, the People's Advocate issued a **recommendation** in order the Office Leader of the Local House of Pensions, Sector 1, Bucharest to dispose all the necessary actions to be taken for speeding up the settlement of the situation faced by the two complainants and inform, according to the law, the People's Advocate Institution about the actions that were taken.

**File no. 8380/2007.** Paul (fictive name) submitted a complaint to the People's Advocate with regard to the fact he gets his retirement benefits with much difficulty and delay, because, up to the present, there is no other legal framework for remitting the royalties abroad than by money order with special power of attorney.

In the written statement submitted to our institution, the complainant referred to the free of charge system for the transfer of money named IBAN-BIC, which operates only in the

European Union but not also in Romania although our country has become EU member since January 1<sup>st</sup>, 2007.

The notified issues were analysed within the context of an alleged violation of the right regarding the standard of living, provided for by the Article 47 of the Romanian Constitution, republished.

The People's Advocate, acting as liaison body of the Romanian State by which one assures enforcement of the bilateral agreements and communitarian legislation in social services matters, informed thereof the National House of Pensions and Other Social Insurance Rights requesting to communicate the People's Advocate institution which are the actions initiated so far and which are the actions for the times to come, with a view to adjusting the existing institutional and legislative framework to the requirements reflected within the contents of the Regulation (EEC) No. 1408/71 and Regulation (EEC) No. 574/72 regarding the enforcement of the Regulation 1408, with express reference to the issue of practical solutions in order the retirement benefits to be remitted rapidly abroad.

As a result of the actions initiated by the People's Advocate, the National House of Pensions and Other Social Insurance Rights offered us accurate explanations on the claimed situation. In this respect, we were informed that legal procedures were initiated in order the situation brought forward to be solved and that, with a view to exporting the retirement benefits to the pensioners' state of residence, following the engaged tender, the partner banking institution appointed to carry out such service was City Bank. The date when the payment of the retirement benefits to the pensioners with the residence in other states is made, will be declared publicly after the conclusion of the agreement.

**File no. 7734/2007.** Gheorghe (fictive name), addressing to the People's Advocate Institution, asserted and proved he submitted a complaint to the Local House of Pensions, Sector 3, Bucharest by which he contested the resolution of recalculation for his retirement benefits. Therewith, the complainant was discontented with the fact that although he benefited by the provision of the Government Decision no. 407/1990, the Local House of Pensions, Sector 3, did not consider it upon the recalculation of his retirement benefits. Thus, neither the period between 1965 and 2000, as a period of work under special conditions – zone I and II of exposure to radiations, nor the fact that the Government Decision no. 407/1990 provided for the necessary years of service upon the opening of the pension rights to be of 15 years, were taken into consideration.

Following the People's Advocate intervention to the Local House of Pensions, Sector 3, Bucharest, the aforesaid institution informed the People's Advocate that Gheorghe's complaint was settled by issuing a new resolution.

As far as this reply address did not comply with the intimations submitted by the People's Advocate institution, this time, a new address was forwarded to the Municipal House of Pensions in Bucharest.

Neither the Local House of Pensions, Sector 3, Bucharest nor the Municipal House of Pensions in Bucharest complied with the request submitted by the People's Advocate Institution, forwarding the same answer as the initial one, to which we requested clarifications.

As the two authorities gave no reply, the People's Advocate institution submitted to the National House of Pensions and Other Social Insurance Rights.

As a result of these further actions, the Methodological Guidance Department within the National House of Pensions and Other Social Insurance Rights informed us that following a careful analyze of the complainant's file one found out that when opening the right of retirement for the labour performed and limit of age the said complainant met both the conditions imposed by the Law no. 3/1977 on the social insurances pensions and Social Security pensions and the conditions imposed by the Governmental Decision no. 407/1990 on establishing certain rights to be granted to the employees from the enterprises of nuclear research, operation and raw materials processing.

Therefore, one considered that, in this case, the law must be construed within the most advantageous meaning for the pensioner.

Therewith, in the address issued by the Methodological Guidance Department, one mentioned that, considering those set forth, the Municipal House of Pensions in Bucharest would reanalyse Gheorghe's pension file and take all necessary actions, by observing the legal provisions.

The Local House of Pensions, Sector 3, Bucharest forwarded to the People's Advocate Institution a new resolution of recalculation for the claimant's pension together with the afferent calculation bulletin.

### *C. Disabled people*

In the field of protections of the disabled individuals, the People's Advocate Institution was informed with requests having as an object problems concerning the non-classification in a category of disabilities, non-granting the rights due for disabled individuals, re-evaluation 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 private assistants for Individuals 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 achieving the accessibilities for the access of the disabled individuals, the lack of funds for the payment of private assistants.

According to the art. 50 of the Romanian Constitution, the disabled individuals enjoy special protection; the state is obliged to ensure the enforcement of a national policy of equality of chances, so that the disabled individuals should actually participate in 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 disabled individuals, was recently replaced by Law no. 448/2006 on the protection and promotion of the rights of the disabled individuals, thus giving a new dimension to the protection of the rights of the disabled individuals.

The People's Advocate Institution showed a constant interest in the problems that the Individuals 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 disabled individuals, the meetings with the representatives of the NGOs involved in the protection of the rights of the disabled individuals.

## **CASE FILES**

**File no. 5666/2007.** Based upon an article published in May 19, 2007, issue of “Adevarul” newspaper, entitled “Children with Special Needs are Using Old Textbooks for Learning”, the People’s Advocate Institution ex-officio took notice and handled an inquiry at no. 4 Special School in Bucharest. In the article, there were described aspects regarding the indifference and indiscipline of some teaching staff members showed to the children with special needs, the lack of educational stuff, as well as the advanced wear degree and out of use state of the school state. Following the audience granted by school master talks with the pedagogue-teacher, methodologist, the person in charge with continuous improving of training, as well as with the trade union leader, in relation with the teaching-learning activities, speech disorders therapy, psycho-diagnosis, counselling and professionalize activity. The head master admitted that a teaching staff member had an unsuitable conduct and consequently a written warning was issued, in compliance with the interior regulations.

They were asked to produce the schoolbooks in use in the educational process and it was concluded that the wear and years in use is like the newspaper author has mentioned. In this respect, the representatives of the People’s Advocate Institution were assured that the School Inspectorate should be informed, as well as the Ministry of Education and Research, that considered to reissue the school books in compliance with the personalized curricular planning, depending on the disability degree and type, responding to the curricular needs of disabled school students within groups or classes depending on the developing strategies and programs worked out by team of psychological educators.

In order to check the developing conditions of the curricular process it was visited the material basis of the education unit for physical and intellectual disabled children, consisting of the following rooms: Social Security office; counselling office; speech disorder therapy office; methodical-scientific office; sport’s hall; computer room; bio-ecological room; occupational activities workshop; playing areas.

The institution representatives were shown the stuff used in the education process, methodical-scientific documentation, methodical-scientific activity guidebook, methodical guidebook for specific therapies, educational offers depending on school years, optional programs for certain classes, depending on the disability degree, the community actions within the “Cultural actions” project, developed in France, Sweden, Poland, actions to prevent juvenile delinquency, cultural-artistic actions and programs and ecological education.

As a result of investigations carried out and of findings, and considering the legal measure to restore the state and to remove the causes of constitutional right violation, it was concluded the background the inquiry was based on is no longer valid and consequently, under the provision of art. 20 of the Regulations of organization and functioning of the People’s Advocate Institution, republished, the initiated procedure was closed.

**File no. 468/2007.** The People’s Advocate was informed on the way the Medical Evaluation Commission for Disabled Adult Individuals of Botosani County and the High Medical Evaluation Commission for Disabled Adult Individuals worked out the case of

Marin (fictive name), suffering of severe paranoid schizophrenia, severe involution senile dementia, deprived of self-conduction and self-serving.

Definitely, last year, the Medical Evaluation Commission for Disabled Adult Individuals of Botosani rejected rendering Marin into the disability degree, and the High Commission gave him only a second degree of disability.

The pointed out aspects were investigated in the context of an alleged violation of the right concerning the disabled person's protection provided by art. 50 of Romanian Constitution, republished. The People's Advocate informed the National Authority for People with Disabilities and the High Medical Evaluation Commission for Disabled Adult Individuals were informed.

As a result of the action took on the initiative of People's Advocate, the request was favourable solved. The National Authority for Disabled People informed us about the position of the High Medical Evaluation Commission for Disabled Adult Individuals regarding the matters pointed out and the results of the appeal in the present case, the complaint was admitted and the grant of first handicap degree for the person with disabilities.

## THE AREA OF ARMY, JUSTICE, POLICE, PENITENTIARIES

In the area of army, justice, police, penitentiaries, there were registered **822 complaints**, in 2007, representing 11, 9% of 6919 complaints registered at the People's Advocate Institution. The percentage of the complaints registered in the area of army, justice, police, penitentiaries, the People's Advocate has made notifications for, was of **2.4 %**, **65%** of the complaints been solved, **25%** having been clarified as a consequence of the interference of the People's Advocate Institution, the rest of the complaints being under progress of solving.

### ***I. ARMY***

The People's Advocate Institution was notified in 2007 about the granting of military titles and paltering of application resolving for obtaining some statements about the data included in the documents held in the archive of the Military Unit no. 02405 Pitesti in the suborder of the Ministry of Defence.

Thus, a complainant expressed his displeasure about the refusal of the Ministry of Defence to grant him the Military Virtue Medal. By analyzing the petition and the appended documents it did not come out that the notified public administrative authorities responded to the claimant's demand outside the present legal scope, since he was not active at the date of writing the application for granting the Military Virtue Medal.

In this context, the complainant was informed that the Law no. 459/2002 regarding the Military Virtue Order and Military Virtue Medal regulates the procedure for granting the Military Virtue medal and restrictedly enlist the categories of people to whom it may be granted. Thus, according to the provisions of art. 6, paragraph (2)-(3) of this regulating law, the Military Virtue medal with peace sign may be granted to:

a) Active, reserve or withdrawing military foremen and sub-officers, recruits under arms, hired militaries and civil staff without university degree that work in ministries and in the central autonomous institutions with titles in the scope of defence, public order and national security, and belong to the land forces, including anti-aerial defence and radio-location;

b) Military foremen, sub-officers, troop and civil staff, belonging to the land forces of the states with whom Romania has cooperation relationships in the scope of defence, public order and national security.

The Military Virtue medal with war sign may be granted to the persons stated in the paragraph (2), regardless of the category of armed forces or the institution they belong to (complaint no. 1231/2007).

### **CASE FILES**

**File no. 107/2007.** Valeriu (fictive name) informed Brasov Territorial Office of the People's Advocate in relation to the fact that he asked, several times, Pitesti Military Unit no. 02405 to issue a certificate confirming his remuneration rights he benefited while he was employed as an officer of the Defence Ministry during 1941-1947. The complainant mentioned that the certificate he asked for was necessary for recalculation of his age limit pension and that the military unit informed him, in his attempts to find out the stage of sorting out his complains, that he was to wait till the response should be formulated.

Following the investigations carried out by Brasov Territorial Office of the People's Advocate Institution, Pitesti Military Unit no. 02405 communicated that the complainant received the answer he asked for regarding the payment for the said period with the reference of pay and its accessories during the period he was employed as an officer of the units of National Defence Ministry.

**File no. 53/2007.** Margareta (fictive name) informed Constanta Territorial Office of People's Advocate Institution on the fact that she requested from Pitesti Military Unit no. 02405 to issue a pay certificate for her husband who worked at Constanta Military Commandment. The complainant mentioned that the said certificate is necessary to get a recalculation of her husband pension and in seven months time since the request was applied, she did not receive any answer. Following the initiative of the Constanta Territorial Office of the People's Advocate Institution, Pitesti Military Unit no. 02405 submitted the certificate asked for.

**File no. 103/2007.** Marian (fictive name) informed Brasov Territorial Office of People's Advocate institution on the applications he submitted to Pitesti Military Unit no. 02405 and to Brasov Area Military Centre, in order to get a certificate to specify the seniority pay he benefited while he was employed at Brasov Military Unit no. 01615. Pitesti Military Unit no. 02405 did not submit any answer to the claimant, and the Brasov Area Military Centre informed him that, following the investigation carried out by Pitesti Military Unit no. 02405, they mentioned that the term for sorting out the claimant request was extended because of the large number of applications and shortage of staff. Following the intervention of Brasov Territorial Office of People's Advocate Institution, Pitesti Military Unit no. 02405 communicated the answer to the claimant, referring to the pay received by the claimant between February 1987 and November 2000, while was employed as civil servant in the military units of the National Defence Ministry.

## ***II. JUSTICE***

Regarding the provisions of the art. 21 of the Constitution, with respect to the free access to justice, during 2007 the People's Advocate Institution was notified with applications regarding: contesting the solutions ordered by the Public Ministry, contesting the prosecution files, failure to inform the interested persons by the criminal investigation authorities, the resolving status of certain files or criminal complaints, and the solutions decreed for them; contesting of some court orders issued both in criminal and civil trials; complaints about the activities of certain magistrates; complaints against some court officers and technical experts, about the impossibility of enforcing some enforceable titles stating payment obligations in charge of public institutions.

At the same time, a series of complainants notified the People's Advocate Institution about private right litigation and lawyer disputes about the amount of their fees.

### ***a) The Public Ministry***

Regarding the activity of the prosecuting authorities, we state that the object of some requests filed to the People's Advocate Institution was the resolving term for the

complaints against the failure to begin the criminal procedure solutions, given by the prosecutor, filed to the hierarchically superior attorneys.

Thus, from the complaints registered to the People's Advocate Institution with no. 126/2007 and no. 342/2007, Andrei (fictive name) notified the People's Advocate Institution stating his free access to justice was infringed, in the matter of resolving the criminal file within a reasonable term and by an even trial. Therefore, the claimant stated that the Prosecutor's Office by the Brasov Court of Law notified him with the solution of failure to begin the criminal procedure, ordered by the prosecutor, and then he filed a complaint to the attorney-in-chief of the Prosecutor's Office by the Brasov Court of Law. At the same time, the claimant states that, in the time elapsed from the date of filing the complaint to the attorney-in-chief, one could very well resolve his complaint, so that should he be discontent with the solution he could notify the court directly, as per art. 278<sup>1</sup>, of the Criminal Procedure Code.

Regarding the reported, the complainant was notified that, if the attorney-in-chief of the Prosecutor's Office by the Brasov Court of Law did not answer him within 20 days, about the filed complaint against the solution ordered by the prosecutor, he could notify the Court within 20 days of the expiry of the initial 20 days term.

Thus, according to art. 278<sup>1</sup> paragraph (1), of the Criminal Procedure Code: "After the rejection of the complaint filed according to art. 275-278, against the resolution of non-beginning the criminal pursuit or ordinance or, should this be the case, the classification resolution, the removal from criminal pursuit resolution or the ceasing the criminal pursuit resolution, given by the prosecutor, the injured part, or any other person whose legit interests are injured may file a complaint in 20 days term from the notification of the resolution mean by the prosecutor, according to art. 277 and 278, to the judge of whose court the competence to judge the case as first instance may belong, by law ".

According to art. 278<sup>1</sup> paragraph (2), of the Criminal Procedure Code: "If the attorney-in-chief of the Prosecutor's Office, or if the case may be the general attorney of the Prosecutor's Office by the appeal court, the prosecutor head of department of the Prosecutor's Office by the Supreme Court of Justice or the hierarchically superior prosecutor did not resolve the petition within the 20 days term stated under art. 277, the 20 days term stated in paragraph (1) runs from the expiry date of the initial 20 days term". For this purpose, the Constitutional Court stated that the provisions of paragraph (2) of art. 278, of the Criminal Procedure Code regulate the right of the injured person to file a complaint directly to the court, should the prosecutor fail to comply with the provisions of art. 277, of the Criminal Procedure Code, according to which "the prosecutor is urged to resolve the complaint in 20 days term from receiving and to immediately notify the person who filed the complaint the way it has been resolved", as well as the term for complaint filing in such situations. Thus, the Constitutional Court retains that "these legal provisions represent an embodiment of the constitutional norms that consecrate the right to a fair trial, being established precisely for the purpose of keeping the exigency of the reasonable term, enforced by art. 21, paragraph (3) of the Constitution (Decision of the Constitutional Court no. 598/2005) – complaints no. 126/2007 and no. 342/2007.

## **CASE FILES**

**File no. 138/2007.** Gina (fictive name) informed Alba-Iulia Territorial Office of People's Advocate Institution regarding the fact that she got no answer to an application submitted to Prosecutor Office of Aiud Court of Law.

Following the approach carried out by Alba-Iulia Territorial Office of People's Advocate Institution, the Prosecutor Office of Aiud Court of Law communicated that the claimant received a copy of the prosecutor's solution in the said case.

### ***b) Ministry of Justice***

Several complaints submitted to the People's Advocate Institution were in the subject of the complainant's discontentment of the solving term of the citizenship granting or re-obtaining, formulated by virtue of the Law no. 21/1991 of the Romanian citizenship, republished, further modifications and completions included.

**File no. 2818/2007.** Anastasia (fictive name) informed the People's Advocate Institution regarding not solving the request of regaining Romanian citizenship, submitted in 2004 at Citizenship Office of the Ministry of Justice. At the same time, the complainant mentioned that her request was published in the Official Gazette in 2006, after 2 years and 5 months since she handed the documents.

Following the approach carried out by the People's Advocate Institution, the Citizenship Directorate of the Ministry of Justice communicated the fact that, in the directorate records there is a large number of applications of regaining Romanian citizenship, submitted as per the provisions of art. 10 of Law no. 21/1991 (approximately 30.000), that's the reason why their publication in the Part III of the Official Gazette, as well as their sorting out by the Commission of ascertaining the conditions of granting Romanian citizenship (made up of 5 judges) needs more time.

The provided provision by the in force norms, e.g. Law no. 21/1991 of Romanian citizenship, republished, with latest modifications and additions, and Government Decision no. 50/2005 for approving the Regulations regarding the procedures, at governmental level, for project working out, checking and presentation of norms to be adopted, republished, stipulate involvement in sorting out the applications of granting/regaining the Romanian citizenship, of activities of many institutions, thus determining the complexity and the duration of passing through all stages.

At the same time, the Citizenship Directorate of the Ministry of Justice made clear that, in case of humanitarian and public interest situations that cannot be postponed, an analyzing application can be handed with priority, motivated by the above-mentioned situation, accompanied by proving documents of the application. In this respect, as the claimant should produce the proof of existence of a humanitarian or public interest, she would have the possibility to address the Ministry of Justice and to personally ask to analyze her request with priority for regaining Romanian citizenship.

**File no. 5576/2007.** Vlad (fictive name) informed the People's Advocate Institution on not solving in legal terms of 30 days of the registered application at Ministry of Justice in May 2007.

Following the approach initiated by the People's Advocate Institution, the Public Relations Department of the Ministry of Justice informed us that the response to the

claimant's application was mailed in July 2007, thus, a real delay was recorded in carrying out this operations. At the same time, it was specified that the delay was mainly due to the fact that during the mentioned period took place a public relation activity reorganization as a consequence of dividing the former Directorate for Public Relations and Evidence of Non-governmental Organizations and subsequent forming of Public Relation Service as well as the shortage of staff at the level of register office of the Ministry of Justice, having in charge the mailing of postal sending of the institution.

We have to make clear that Romanian Citizenship Law no. 21/1991 was modified in September 2007 by the Government Emergency Ordinance no. 87/2007 by the including to the mentioned normative act results that its adoption had in view the provision of celerity in processing the large number of applications of granting, respectively of regaining Romanian citizenship and the need to reorganize aiming at rendering efficient the activity of the Commission of Ascertaining the Conditions of Granting Citizenship.

Thus, as a consequence of the modifications made by the Government Emergency Ordinance no. 87/2007, the applications of granting or regaining the citizenship are not approved by Government decision anymore, but by order of the Minister of Justice, published in the Official Gazette.

***c) The Superior Council of Magistracy***

Taking into account the provisions of the art. 133 of the Constitution, according to which the Higher Council of Magistracy is the guarantor of the justice independence, the People's Advocate Institution submitted the complaints formulated by the complainants to the competent solving of this authority. Under the circumstances, we reiterate the proposal of introducing in a future revising of the Law no. 35/1997, of a text regarding the possibility of notifying the Higher Council of Magistracy by the People's Advocate Institution.

**File no. 9161/2007.** George (fictive name) informed the People's Advocate Institution regarding the approach initiated by the Superior Council of Magistracy stating he has got no answer.

According to the notice submitted to the claimant by the public, registry, secretariat and archive relation department of the Superior Council of Magistracy, his complain was forwarded for competent solution, to Judicial Inspection Office of Council Plenum, where from he would receive an answer.

Regarding the object of the complain submitted to Superior Council of Magistracy, it was referring to legal provisions, according to which the Judicial Inspection Office of the Superior Council of Magistracy, by its liabilities, cannot approach the solutions passed by law court decisions, cannot refute the solutions adopted by the prosecutor and cannot examine them from a legality and solidity point of view.

In this respect, the claimant was mentioning the provisions of art. 42 paragraph (1) of the Regulations of organization and functioning of the Superior Council of Magistracy, modified and completed, according to which the Judicial Inspection Office fulfil, according to law, analysis, checking and control liabilities in the specific fields of activities, under Plenum coordination and control and of art. 64, paragraph (2) of Law no. 304/2004 regarding the judicial organization, republished, with latest modifications and

additions, according to which, in the disposed solutions, the prosecutor is independent under the conditions provided by the law. The prosecutor can complain to the Superior Council of Magistracy, within the checking procedure of the conduct of judges and prosecutors, the intervention of a higher ranked prosecutor, in any form, in carrying out the crime prosecution or in adopting the solution.

Considering the above-mentioned aspects, the People's Advocate Institution submitted the claimant's application to competent solution to the Superior Council of Magistracy.

#### *d) Law Court Authorities*

The complaints submitted to the People's Advocate Institution regarding the Law Court authority referred mainly at discontentment of the complainers with the solutions pronounced in Law Court. The complainants were acknowledged with the provisions of the art. 15 of the Law no. 35/1997, republished, according to which the complains regarding the acts and deeds of the Law Court authorities make not the subject of this institution activity. In addition, the complainants were informed regarding the provisions of the art. 17 of the Law no. 304/2004 regarding the judicial structure, republished, further modifications and completions included according to which the Law Court decrease can be invalidated or modified only by the attack means stipulated by law and exercised according to the legal provisions.

In the context of art. 21 of the Constitution regarding the free access to justice, the People's Advocate was notified in relation to the failure to enforce some final and absolute law court decrees by the public administration authorities.

**File no. 180/2007.** Andreea (fictive name) informed the People's Advocate Institution regarding the refusal of the Local House of Pensions of Sector 4 of Bucharest to execute a law court sentence, empowered with executory form. The complainant was sustaining that the Bucharest Law Court – Section VIII Labour disputes, social insurances, contentious administrative and fiscal, cancelled the pension decision of Local House of Pensions of Sector 4 Bucharest, setting its liability to issue an age limit pension decision, considering certain working time by the claimant in the group II of labour. However, Andreea mentioned that, in spite of the fact that she asked in written form the Local House of Pensions of Sector 4 Bucharest to issue another pension decision, he did not receive any answer.

Following the approach initiated by the People's Advocate Institution, the Local House of Pensions of Sector 4 Bucharest sent to us a copy of the answer submitted to the claimant, according to which her request was solved, by issuing another pension decision.

**File no. 4347/2007.** Ana and Mihai (fictive names) informed the People's Advocate Institution, stating that, despite the numerous approaches carried out in order to apply the decision delivered by the law court, the local Commission of land resources of Tiganasi commune, Iasi County, did not considered their application. According to documents enclosed by the claimants, Iasi Law Court found out the absolute nullity of the title of propriety, compelling the accused County Commission of Land Resources of Iasi and the Local Commission of Land Resources of Tiganasi commune to issue another propriety title for a surface of 7 hectares, but on the old location.

Following the approach initiated by People's Advocate Institution, the Local Commission of Land Resources of Tiganasi Commune proceeded to give another location available to the commission, but the complainants did not accept this variant. In view of the fact that the restitution on the indicated location was not possible, the Local Commission of Land Resources of Tiganasi requested a land area from the neighbouring local commissions, but these on their turn were facing with shortage of land. In this way, after exhausting the legal solutions for sentence execution and of the decision of the County Commission of Land Resources Iasi, the Local Commission of Land Resources of Tiganasi handed over the application made up by the claimants for granting compensation corresponding to the surface of 7 hectares of land, to the Prefecture Institution, following that after the analysis, the adopted solution to be communicated.

Regarding the execution of the law court decisions consisting of liability fulfilling of payment set up by executory titles in the charge of public administration authority, the year 2007 was marked by the modification brought to Government Ordinance no. 22/2002 regarding the execution of pay liabilities of the public institutions, set up by executory titles, according to Law no. 110 of April 25, 2007.

In this way, art. 2 of Law no. 110/2007, sets up liabilities of debtor so that, in 6 months term, to make the necessary arrangements in order to carry out its pay liabilities. This term runs from the time the debtor received the notice to pay submitted by the competent execution body, at the creditor's request. At the same time, in case the public institutions fail to carry out its payment duties in the term provided by art. 2 of Government Ordinance no. 22/2002, modified and completed, the creditor should ask an enforced execution according the civil procedure code and/or according to other legal provisions and enforceable in the field. Moreover, the creditor and debtor can set fort another term different to that provided on art. 2 as well as they can agree also on other terms of carrying out any liabilities set by writ of execution.

### ***III. POLICE***

The main aspect signalled by the complainants in 2007 was the police activity as criminal inquiry authority. Under these circumstances, the complainers were notified that the supervision of the criminal inquiry authorities' activity complies with the provisions of the art. 209 of the Criminal Procedure Code in charge of the **prosecutor**. In the exercise of this assignment, the prosecutors administrate and control at first hand the criminal inquiry activity of the judicial police and other special inquiry authorities.

**File no. 202/2007.** Veronica (fictive name) informed the People's Advocate Institution regarding not finalizing the investigations in the criminal file, presently working out at Police Inspectorate of Constanta County – Criminal Investigation Service, aiming to sort out the Veronica's complaint regarding the offence of murder attempt committed on her in 2001.

Following the approaches initiated by People's Advocate Institution, the Criminal Investigation Service of Police Inspectorate of Constanta County informed us that, in the criminal file many specific investigation activities were carried out aiming at identifying and capture of the authors. At the same time, we were informed that the criminal final was investigated by a team of officers of the Criminal Investigation Directorate and of

Control Board of the Ministry of Administration and Administrative Reform, as well as by the prosecutors of the Prosecutor's Office of Constanta Law Court, so that specific activities for author's identification are further on carrying out. Finally, the Criminal Investigation Service of the Police Inspectorate of Constanta County, mentioned that the file is not abandoned but is further on in the attention of the Criminal Investigation Service.

**File no. 176/2007.** Ilie (fictive name) informed the Alba-Iulia Territorial Office of People's Advocate Institution regarding the fact that, in January 2007, he registered an application at Deva Municipal Police, to which he did not receive any answer, though the legal term of solution was greatly exceeded.

Following the approach initiated by Alba-Iulia Territorial Office, the Deva Municipal Police informed us that the claimant has been heard in order complete the initial application and because the aspects observed were leading to the possibility of committing offences by the employers of the County House of Pensions Hunedoara, a criminal file was worked out, carrying out investigations under the supervision and control of the Prosecutor's Office of Deva Law Court. Moreover, the prosecutor supervising the criminal investigation activity mentioned that the file is not yet finalized.

**File no. 3792/2007.** Mihai (fictive name) informed us regarding the approaches initiated for solving a criminal complaint, submitted to Police Section 4 Bucharest by the Prosecutor's Office of the Sector 1 Law Court Bucharest. At the same time, the claimant is dissatisfied regarding the fact that he did not receive any answer to his complains submitted to Police Section 4 Bucharest. Moreover, for one of the complain, the registry service of the police section informed him that the answer was mailed, the postal office denied this aspect.

Following the approach initiated by the People's Advocate Institution, Police Section 4 Bucharest informed us that the claimant's complain is in the investigation stage, following that when it would be finished, should be submitted with the suitable suggestion to the Prosecutor's Office of the Sector 1 Law Court Bucharest. As for the claimant information, Mihai would receive answer to the domicile address, while for the other complains the claimant allegedly claims that he submitted, was mentioning that they were not registered at Police Section 4 Bucharest.

**File no. 2576/2007.** Damian (fictive name) informed the People's Advocate Institution regarding some orders and instructions issued in the public order field by the Ministry of Interior and Administrative Reform, that do not take follow the mode provided by the law to be enforced. In this way, according to provisions of art. 10 and art. 11 of the Law no. 24/2000 regarding the norms of legislative technique for working out normative documents, republished with latest modifications and additions, orders, instructions and other norms issued by the specialized central public administration body heads, are published in the Official Gazette of Romania, Part I, after they were signed by the issuing authority and are coming into force on publishing day, if otherwise not provided a later date.

The claimant's application was submitted to proper solving to the Ministry of Interior and Administrative Reform, under the circumstances the approached aspects were part of a trial on the role of a contentious instance.

#### ***IV. PENITENTIARIES***

The complaints submitted in 2007 to the People's Advocate Institution by individuals deprived of liberty referred to: discontentment regarding the punishment amount; granting of juridical counselling, imprisonment conditions, medical care; the right to complaining; the protection of the disabled individuals; objection of the conclusion of the delegated judges for the execution of the freedom deprived punishment, the solving of the complaints formulated by the imprisoned individuals against the measures taken by the penitentiary administration; the right of the freedom deprived individuals to be visited.

**File no. 2584/2007.** Ionica (fictive name) convict detained in Maximum Security Penitentiary Bucharest-Jilava, informed the People's Advocate Institution regarding the conditions of detention of the convicts of the room he was living, namely:

- 23 beds for 28 convicts, so that some of them did not benefit of an individual bed;
- The windows of the room have no pane, which determined the convicts during the night to use blankets for covering the window. Although the penitentiary staff was informed about this issue, the convicts have been told that "they have no pane windows";
- House water stop during the day, without establishing a strict program for supplying water, which generated violent conflicts and arguments between the convicts; the drinking water quality was inadequate so that for drinking water they had to filter it through gauzes.

Following the approach initiated by the People's Advocate Institution, the National Administration of Penitentiaries informed us that, the convict was transferred in Oradea Penitentiary. By analyzing and checking the pointed out aspects regarding the imprisonment conditions in the room where the convict was living in the Bucharest-Jilava Penitentiary, resulted that the overcrowding in the said room was for a short period of time, only during the destination changing.

According to the mentioned notice, regarding the absence of pane at the room windows, following the checking carried out resulted that this case occurred. Because of the air draft by opening the access door, one of the windows was broken, but this situation was fixed next day. Also, there were not differences at the penitentiary level in providing the pane for the windows.

As for the drinking water supply for the penitentiary, the National Administration of Penitentiary pointed out that because of the advanced degree of wear of the distribution networks, frequent damages took place. To cope the situation, plastic drums and a tank of drinking water were provided for the convicts, and during network interventions, in the case of planned repairs, they were previously informed in order to have enough time to store water. At the date submitting the answer, the National Administration of Penitentiary pointed out that the capital repair of the water network is on the run and the possibility to connect the water system of the penitentiary to a

commercial company in the area in order to provide an additional water flow for consumption.

**File no. 2707/2007.** Cosmin (fictive name) convicted in Arad Penitentiary, informed the People's Advocate Institution regarding the refusal in solving his complaint, submitted to the penitentiary management, asking the extension granting right to have an attendant, as well as his examination by a neurologist physician. The claimant was sustaining that in April 2006 had a cerebral accident, followed by a semi-paresis on the left side, being unable to use his arm and leg. According to his statement, the National Administration of Penitentiaries approved for an attendant, in the person of another convict, that he benefited from the day he suffered the accident till March 2007, when the chief doctor of the penitentiary decided that this measure was no longer necessary.

Following the approach initiated at Arad Penitentiary and at National Administration of Penitentiaries, People's Advocate Institution was informed that, related to standard provisions set by Order no. 2432/2000 of the former director of General Directorate of Penitentiaries regarding the granting the right to have an attendant for convicts with invaliding disorders, the current health state of the convict did not necessitate an attendant, not being a case of severe movement deficiency or/and a severe speech disorder. Moreover, Arad Penitentiary informed us that according to the exit note from hospital, the said convict had a movement disorder but not so severe and did not have any speech disorder, so that he was not rendered within the standard of the above mentioned order, but, from humanitarian considerations, he was granted the right to have an attendant for a period of time. At the same time, the convict permanently received the treatment prescribed by the specialist doctor, from the unit's pharmacy or based on compensation prescriptions and was presented for neurological consultation (May 18, 2007) as well as for a cardiologic investigation (May 22, 2007).

The convict, also, informed us that he was presented for medical investigation in front of specialists and that he received the corresponding medicine treatment.

**File no. 8251/2007.** Grigore (fictive name), convict in Poarta Alba Penitentiary, Constanta County (transferred from Vaslui Penitentiary), informed us that he submitted to Vaslui City Hall with two complains, in which he asserted that he got no answer. According to complainant statement, in the requests submitted to Vaslui City Hall he requested a social inquiry, the result of which he wanted to enclose to the application he wanted to submit to the Romania's Presidency.

Following the approaches initiated by the People's Advocate Institution, Vaslui City Hall informed us that the claimant received an answer to both applications, but maybe he failed to receive them because of his transfer from Vaslui Penitentiary to Craiova Penitentiary and later on to Poarta Alba Penitentiary. At the same time, it was mentioned that the claimant did not receive an affirmative answer because in his applications he did not provide full information in order to solve the complaints (no PNC/date of birth, no last address of the domicile/address of the parents).

As for the claimant request, Vaslui City Hall informed us that they submitted to the convict the social inquiry report.

**File no. 6175/2007.** The Ombudsman of the Principality of Andorra informed us in the provisions of art. 17 of the Constitution, regarding the Romanian citizens aboard, in connection with two Romanian convicts being held in the Penitentiary Centre of the Principality of Andorra.

In this way, according to the letter submitted by the Ombudsman of Andorra Principality, after a visit to the Penitentiary Centre, one of the convicts mentioned the difficulties faced in order to contact the diplomatic representative office of Romania in Spain (where he was a resident) or France. He was mentioning also that the Penitentiary Centre services carried out initiatives in order to help the two convicts to contact the embassy, but they did not receive any result.

Following the approaches initiated by People's Advocate Institution, Romanian Embassy in Paris informed us that, before receiving our notice, had two telephone conversations with the representative of Penitentiary Centre of Andorra and informed, in written form, the Romanian Embassy in Madrid and Romanian General Consulate in Barcelona and it was agreed that the problem of the two Romanian citizens, detained in Penitentiary Centre of Andorra, to be sorted out by the General Consulate of Romania in Barcelona.

Following the approaches initiated by this person resulted that in the penitentiary centre there were, a total number of 6 Romanian citizens detained under the charge of credit card forgery. They were living in Spain (some of them having a residence permit) and they claimed they were in Andorra in vacation, for skiing and shopping. The convicts asserted that, at the time of their retention, their cars, money (over 10.000 Euro) and jewels were confiscated. The goods, except the money, were handed back. At the same time, some of the convicts "gave the impression" that, some of them really have "problems" similar to that mentioned by Andorra's authorities, but "unfairly" the authorities wanted to accuse all of them of ownership to the same gang of "offenders". Also, the Romanian citizens referred to the "extremely tough attitude" of the penitentiary authorities submitted to them and to foreigners generally, to the conduct of a judge and the lack of interest of the lawyer which represented them in front of the authorities.

Mentioning that, the investigations in the case of retention of Romanian citizens "were closed" in July 2007, the trial to be held in October 2007, the General Consulate of Romania in Barcelona informed us that they requested to the competent authorities of Andorra to submit information regarding the reasons of retention of the Romanian citizens and about their current state, respectively the state of investigations in the case. At the same time, the claimants were asked to inform, in written form, their version regarding what happened, in order to be submitted to the competent Romanian authorities.

**File no. 8453/2006 and no. 2704/2007.** Matei (fictive name), convict in Bucharest-Rahova Penitentiary informed us regarding the difficulties encountered at the Bucharest-Rahova Penitentiary and from the Evaluation Commission for Disabled Adult Individuals of Sector 5 Bucharest, regarding the making of medical documentation necessary to investigate and to render him in a category of disabled people. In sustaining his affirmations, the claimant annexed to the application the medical documents, as well as a copy of the letter of 2005 of the National Authority for Disabled Individuals, by

which he was directed to make up an application to the Evaluation Commission for Disabled Adult Individuals of the sector where the penitentiary is located.

Referring to the above facts, the People's Advocate Institution approached the public administration authorities involved in solving the aspects regarding the claimant, receiving the following information:

- ***The National Administration of Penitentiaries*** informed us that the National Authority for Disabled Individuals made clear to him that in 2005 which is the presentation methodology of the convicts, asking his rendering in a disability degree, at the evaluation commissions, according to which individuals executing a freedom privative punishment have the permanent residence in the respective penitentiary and should be presented to the Medical Investigation Commission of the adult disabled people of the County where the penitentiary is.

Regarding the convict's complain, according to the letter of National Administration of Penitentiaries, he was presented, on December 4, 2006, together with other convicts of Bucharest-Rahova Penitentiary to the Evaluation Commission for Disabled Adult Individuals Sector 5 Bucharest, but the doctor within the evaluating commission refused to carry out the investigation for convicts that haven't a permanent domicile mentioned on the identity card, in sector 5 of Bucharest Municipality.

At the same time, referring to the coming in force provisions of art. 57 paragraph (6) letter b) of Law no. 448/2006 regarding the protection and promotion of disabled people rights, with the subsequent modifications and additions, according to which the disabled individuals cannot benefit of monthly allowance and complementary personal budget, that are detained, arrested or definitely convicted to a freedom privative punishment, during the detention, arresting and imprisonment period, the National Administration of Penitentiary informed us that "they asked the National Authority for Disabled Individuals to make clear if there is necessary the presentation of convicts to the commissions of the disability degree evaluation".

At the same time, motivated by the fact that it is not the only case in which a disability degree evaluation commission refuses to investigate the convicts because they have not a domicile mentioned in the identity card on the territory range of the commission, the National Administration of Penitentiaries informed us that "they will make approaches" in order to set, together with representatives of the Ministry of Labour, the Family and Equal Opportunities of a methodology to be applied by the evaluation commissions for disabled people in the country.

- ***The General Directorate of Social Security and Child Protection of Local Council of Sector 5 Bucharest*** informed us that the file of the convict "was presented to the Commission for rendering in a disability degree of Sector 5 Bucharest, on December 4, 2006 and it was rejected because it had not the domicile address in the area of this sector". At the same time, according to the same letter, for rendering in a category of disabled people, which needs special protection, the convict should address to the commission in the area where he has the domicile.

- ***The National Authority for Disabled People*** informed us that, considering the fact that the convict has not the domicile in Sector 5 of Bucharest municipality, where he is detained (Bucharest-Rahova Penitentiary), he cannot be investigated by the Evaluation Commission for Disabled Adult Individuals of Sector 5 Bucharest. In this way, "the convict can be investigated by specialty doctors of the Bucharest-Rahova Penitentiary

that have to make a report that will be submitted to the Evaluation Commission for Disabled Adult Individuals of the County or sector where he has a permanent residence”.

At the same time, the National Authority for Disabled People pointed out that, beginning with January 1, 2007, the Individuals rendered in the disability degree benefit of the provisions of Law no. 448/2006, with subsequent modification and additions, but according to art. 57 paragraph (6) letter b) of the above mentioned normative act, the disabled individuals detained, arrested or definitely convicted to a freedom privative punishment, during their detention, arrest or imprisonment do not benefit of social facilities.

Considering the above-mentioned facts, the People’s Advocate Institution informed again the National Administration of Penitentiaries, because:

- a) According to information submitted by the National Authority for Disabled People, the competence regarding the rendering of the freedom-deprived individuals in a disability degree is the task of the Evaluation Commission for Disabled Adult Individuals of the county or sector where he has a permanent residence.
- b) The National Administration of Penitentiaries sustains that “asked” the National Authority for Disabled People to make clear if it is still necessary the presentation of convicts to the evaluation commissions of disability degree and “should make new approaches” in order to set, together with the representatives of Ministry of Labour, the Family and Equal Opportunities of a methodology to be applied by the evaluation commission of disability degree of the country.

Following the letter of the People’s Advocate Institution, the *National Administration of Penitentiaries* informed us that:

- they presented to the National Authority for Disabled People, to analyze and work out a solution, the difficulties encountered by the National Administration of Penitentiaries in evaluating the freedom deprived individuals in order to obtain certificates for rendering in the category of disabled individuals, the difficulty consisting of the refusal of the commission to evaluate freedom deprives Individuals or to assess only the ones which have domicile in the respective county.

According to the letter submitted by the National Administration of Penitentiaries, the National Authority for Disabled People stated that, considering the principle of preventing and fighting discrimination, which is the basis of disabled people rights protection and promotion, the freedom deprived individuals, which meet the conditions provided by Law no. 448/2006 with subsequent modifications and additions, have the right to ask the rendering in a category of Individuals with disabilities and the adult Individuals are evaluated by the evaluation commissions of the County or sector where the claimant has his domicile.

- The National Administration of Penitentiaries asked the National Population Record Office to specify which is the domicile of freedom deprived Individuals during the execution of the sentence

At the same time, the National Administration of Penitentiaries informed us that “depending on the answer of the National Population Record Office”, the National Administration of Penitentiaries should make new approaches in order to clarify the state

of convicts presentation to the evaluating commissions of disabled people, and the results should be submitted to the penitentiaries and to People's Advocate Institution.

Given the above-mentioned aspects based on art. 21 of Law no. 35/1997 regarding the organization and functioning of People's Advocate Institution, republished, considering: art. 16 and art. 50 of the Constitution, regarding equality of rights and disabled people protection; art. 2 paragraph (2) of Law no. 448/2006, with the subsequent modifications and additions, according to which of the present act benefit disabled children and adults, Romanian citizens, citizens of other states or stateless individuals, during the time they have, according to law, a domicile or residence in Romania; art. 3 letter b) of Law no. 448/2006, with subsequent modifications and additions, providing that the, protection and promotion of disabled Individuals rights are based on the principle of preventing and fighting discrimination; art. 84 paragraph (3) and (4) of Law no. 448/2006, with subsequent modifications and additions according to which, rendering in disabled degree and type of disabled adults it is made by the evaluation commission of disabled adult Individuals, in the position of specialty boards of the county councils, as it is the case, of the local councils or sectors of Bucharest municipality.

The People's Advocate Institution formulated the **Recommendations no. 7/2007 and no. 8/2007** submitted to the National Administration of Penitentiaries and to the National Authority for Disabled People. By the above-mentioned recommendations, the People's Advocate Institution asked:

- the National Administration of Penitentiaries to investigate the situations created by delaying in solving the case of the convict in order to present him to the competent evaluation commission of disabled adult individuals, respectively undertaking the necessary approaches and to take the necessary measures in order to settle the presentation of disabled freedom deprived individuals to competent evaluation commissions of disabled adult individuals, having in view that the mentioned aspect it is not the only case in which a evaluation commission of disability degree refuses investigation of the convicts because of the fact that they do not have the same domicile as the one mentioned in the identity card on the territorial area of the commission.
- The National Authority for Disabled People, measures to identify the competent evaluation commissions of disabled adult individuals to carry out the convict evaluation, respectively working out of a methodology regarding presentation of disabled freedom deprived Individuals to the competent evaluation commissions, avoiding the delaying of the convict presentation at the evaluation commissions by the penitentiaries.

Following the approach initiated by People's Advocate Institution, the National Authority for Disabled People informed us that the convict evaluation is the competence of the Evaluation Commission of Disabled Individuals of Sector 3 Bucharest. With a view to evaluation, the representative of the penitentiary is addressing to the Commission with the medical documentation, the commissions checks it and if it is the case requests completion of the file, and then the person is brought for investigation of the planned date.

Moreover, the National Authority for Disabled People informed us that worked out a draft Decision regarding the methodology of operation of the evaluation commissions of disabled adult Individuals, on the course of notification.

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

The complaints submitted to the People's Advocate Institution that were analyzed in the field of property, work and social security, taxes and fees were in 2007 in number of **1471**, representing a percentage of **21.3%** from the total of **6919** 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 security of the work., the right of setting up fiscal charges, the right to inheritance, the right of the prejudiced person by a public authority. In **252** complaints analyzed within the field of activity, that is in a percentage of **17.1%**, the People's Advocate Institution has proceeded to notifications submitted to the authorities of the public administration that were related to the violation of the citizens' rights and liberties. Among them, the problems showed by the complainers were clarified in a percentage of **65.9%**. The rest of **1219** complaints that is a percentage of **82.9%**, that were examined within the field of activity had in view problems that exceeded the legal competence of the People's Advocate Institution to be solved. In these cases, the complainers were informed about the legal remedies they have in solving the problems.

In some cases, due to the fact that the answers got from the authorities that were in charge with, weren't relevant, the People's Advocate Institution approved **7 inquiries** to be made to the City Hall of Bucharest related to the enforcement of the Law no. 290/2003, the Local Board of Chiajna Land Fund, Ilfov County, the Juridical Legal Directorate and Legislation within the City Hall of Bucharest Municipality. The City Hall of Bistret commune, Dolj County, the Prefecture of Bucharest municipality and the National Authority for the Proprieties Restitution, regarding the observing of the private propriety right. At the same time, **three** recommendations were issued.

The complainants have also required the People's Advocate Institution information about the solutions that were found to litigations occurred between physical entities related to the right to property, the right to inheritance, the amiable solving of the conflicts occurred between physical entities and employer related to wages.

### **I. PROPERTY**

In 2007, in the area of property, labour, social protection, duties and taxes a number of **1000 complaints** related to the observance by the public administration authorities of the private property right guaranteed by art. 44 of the Constitution were registered. During 2007 also, the People's Advocate Institution was notified about the delay in elaborating the documentation necessary to reconstitute the property right on lands with their entering in possession and the issuance of the property deeds.

The main aspects notified in their complaints submitted to the People's Advocate institution were the way of enforcing the following **normative acts**: 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 enforcement 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 fields and some adjacent measures, as well.

As for the enforcement of the **Law no. 18/1991, republished**, the complainers 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 refusal to analyze or elaborate the documentation necessary to the right of property reconstruction; the delay of drawing up and issuance of the property deed; 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 county committees of setting up the right of private property on lands, related to the aspects mentioned by the complainers, requesting the legal measures to be taken for the solving of their problems and the informing of the People's Advocate.

Related the way of enforcement of the **Law no. 247/2005**, regarding the reform in the field of Propriety and Justice, as well as some additional measures, the complainers notified with respect to the difficulties in their property right reconstruction.

Following their notifications, the People's Advocate found out that although more than two years had passed since the Act had been enforced, some local committees had not finalized the elaboration of the necessary documentation and the submitting to the County committees for the issuance of the property deeds. So, the main problems that occurred were related to the following aspects: the failure in solving the applications submitted as per the Law no. 247/2005, the failure to transmit the contestations of the proposal of validation / invalidation of the reconstruction of the property right to the county committees for their competent solving; the failure in solving by the county 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

Regarding the enforcement way of the **Law no. 10/2001, republished**, the complainers notified the People's Advocate mainly the authorities and the competent public institutions' failure to observe the term provided by the law for solving the notifications laid down by the entitled Individuals.

In these cases, the People's Advocate Institution required information from the 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. Under these circumstances, the failure to solve on the due term of the files drawn up as per the Law no. 10/2001, republished represents a delay in establishing the compensations that should have been granted to the entitled Individuals, in case the restitution of the real estate in kind had not been possible.

At the same time, following the answers received from the notified authorities, regarding the expiry of the legal solving term of the notifications, it was stated that a scarce functionality on the level of the public institutions and authorities exist because of the big amount of notifications submitted by virtue of the Law no. **10/2001, republished**. At the same time, most of the times the complainers submit incomplete evidences

regarding the quality of an entitled person or regarding their property right and do not use the legal department for solving their instruments, requesting the administrative solving, grounding the lack of financial means for a Court decision. In a lot of cases there are still wrong functionalities in the cooperation relation among various competent departments and services implied in solving of the notification. This is the explanation for the fact that following the intercessions made by the People's Advocate related to the clarifying of the complainers problems, the competent authorities informed us that in some cases for the solving of the notification it is necessary that the complainers should complete the files elaborated by virtue of the Law no. **10/2001, republished**.

The complainants also complained about problems related to the failure to enforce the 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.

Taking into account 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 although they are liable to exercise their legal competences, to ensure the observance of the law and the order by right, they fail to provide it

As for the enforcement 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 by virtue of the law mainly.

In 2007, a large number of physical entities requested to the National Authority for Restitution of Property in charge with the application of the Law no. 9/1998, claiming problems related to: the analyses of the decisions received from the county committees and from Bucharest; the submission of the proposals of validation/invalidation of the decisions of county committees and by those from Bucharest to the Chief of the Prime Minister Chancellery, who will decree by order; their discontentment for the Decision no. 2/2006 of the Central Commission for the establishment of the compensations, according to which it was established that solving order of the recorded files in the Secretariat of the Central Commission for the establishment of compensations is aleatory, using in this respect a computer soft.

As the memoirs submitted to the National Authority for Restitution of Property got no answer, the individuals who considered being prejudiced in their rights, complained to the People's Advocate Institution. Under the circumstances, the People's Advocate Institution informed the National Authority for Properties Retrocession with a view to the clarification of the generated situation. Out of the received answers from the National Authority for Restitution of Property there was revealed the fact that the delayed files had not been selected by the computer soft. At the same time we were notified that a great number of files were resent to be reanalyzed and completed to City Halls or Prefectures.

**File no. 2433/2007.** Ioan (fictive name) informed the People's Advocate Institution in the context of an alleged violation of the private propriety right and of the harmed person right by a public authority, provided by art. 44 and art. 52 of Constitution of Romania, by the local Commission of land resources Chiajna, Ilfov County.

By the content of the submitted documents by the complainant results that in 1995, the County Commission for setting the private propriety rights on the lands of Bucharest Municipality – Agricultural Sector Ilfov (actually Ilfov County), has issued propriety Title No. 17196 on his name by which it was reconstituted the propriety right for a land area.

At the moment of approaching by the claimant for registering the propriety right (working out of cadastral documentation, measurements etc) it was found out that dimensions of the attributed land were substantially diminished, and there were some inadvertences between the registered surface in the propriety title and the cadastral plan issued by the Chiajna commune village hall. In this respect, the claimant made some approaches in order to sort the problem he is facing with, both to the Chiajna commune village hall and National Agency of Cadastre and Real Estate Publicity of the Ministry of Interior and Administrative Reform.

During the investigation carried out on the site by Cadastral Office and Real Estate Publicity Ilfov of the National Agency of Cadastre and Real Estate Publicity together with the representatives of Chiajna commune village hall, it was found out that the inadvertence between the registered surface in the propriety title and the cadastral plan issued by the Chiajna commune village hall was generated by the existence of various parcel out plan variants approved by the local Commission of land resources Chiajna.

Since, until informing the People's Advocate Institution by the claimant, he did not show availability to sort out the situation generated by the approval of several parcel out plans for the respective zone, and taking into consideration the provisions of art. 22 paragraph (1) of Law no. 35/1997 regarding the organization and operation of People's Advocate Institution, republished, an investigation was carried out at the local Commission of land resources Chiajna level, Ilfov County, in order to ask information regarding the aspects mentioned by the claimant. Considering the obtained information we considered that for the situation created at Chiajna commune village hall, Ilfov County, has an exclusive guilt, since it did not make any approach to make clear the found out aspects. Consequently, we considered that it is an imperative to make approaches to the Ilfov County prefecture and to the National Authority for Restitution of Property which, in exercising the attribution conferred by the in force legislation, to dispose the taking all the legal measures for clarifying the created situation.

Following the last initiated approaches, we received answers both from the National Authority for Restitution of Property and from the Ilfov County Prefecture, which informed us that the cadastral documentation was worked out for the land surface in the propriety of the claimant, land that was sold by him.

**File no. 7617/2007.** Adrian (fictive name) informed the People's Advocate Institution regarding to an alleged violation of private propriety rights and of complaining right provided at art. 44 and art. 51 of the Romanian Constitution. In this way, the claimant claimed to the Sector 1 City Hall of Bucharest the fact that his neighbours arranged an one room flat on the attic of a house declared historical monument, without having a building license and without the agreement of the other owners but till the date of making the complaint, the People's Advocate Institution did not receive any answer.

Following the approaches initiated we were informed by the Bucharest City Hall – Directorate of General Control Inspection that, after the investigations carried out on the site by the representative of the Service of Claim Solving, it came out that what the claimant mentioned are true, so that, based on the provisions of Law no. 50/1991 regarding the authorization of building works execution, republished, the Directorate of General Control Inspection informed the Prosecutor’s Office of Law Court of Sector 1 Bucharest.

**File no. 8956/2007.** Eugenia (fictive name) informed us on not solving the application submitted to Calarasi Cadastral and Real Publicity Office regarding the modification of the propriety title no. 9365/1994, in the respect of correcting the wrong number of a land parcel.

As a result of approaches initiated by People’s Advocate Institution, the Calarasi Cadastral and Real Publicity Office informed us the fact that the propriety title no. 9365/1994 was corrected and submitted to the Local Commission in order to establish the private propriety rights of the lands Belciugatele, from where the claimant can take it.

## ***II. LABOUR AND THE SOCIAL PROTECTION OF THE LABOUR***

In 2007, **53 complaints** in the field of propriety, work, social security, taxes and fees, related to the failure of the authorities of the public administration to observe the right to work and the right to work social security provided by art. 44 of the Constitution were analyzed.

In most cases intimated by complainers, alleged abuses related to employment granting of the financial rights and the overwork, without granting of the compensations they were entitled to by the employers, legal entities, the refusal to issue the record of the professional experience at the termination of the labour contract, granting of the legal annual leave.

As the People’s Advocate Institution, in exercising the assignments conferred by the Law no. 35/1997, republished, may interfere only in the cases when the individuals are prejudiced by the public administration authorities in their citizenship rights and liberties, the complainers were guided to address in legal terms either to the territorial inspectorate of work or to the competent courts of justice in the due term.

**File no. 6552/2007.** Sebastian (fictive name) informed the People’s Advocate Institution in the context of an alleged violation of the labour rights and labour social protection and the right of claiming, provided by art. 41 and art. 51 of the Romanian Constitution, by the Labour Territorial Inspectorate of Bucharest Municipality.

In this way, of the content of the claim submitted to People’s Advocate Institution shows that the claimant introduced an application at the Labour Territorial Inspectorate of Bucharest Municipality but till the date of making the claim, the People’s Advocate institution did not receive any answer.

Following the approaches initiated, we found that, by the application submitted to the Labour Territorial Inspectorate of Bucharest Municipality, the claimant requested the issuing of the labour record book. On his presentation at the Labour Record Service of the Labour Territorial Inspectorate of Bucharest Municipality, he was informed that the

request document is not in the record of the institution; his individual labour contract was not submitted by the employer at the time of registering. At the intervention of People's Advocate Institution, the representative of company stated that they lost the respective labour record book and admitted their guilt, promised to make the necessary approaches in order to issue a duplicate.

### ***III. SOCIAL PROTECTION***

Numerous complaints submitted to the People's Advocate Institution in the field of the social protection were in the subject of the distribution of social houses and the conferring of the minimum guaranteed income, as well as granting of supports consisting of food and medicines. 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.

**File no. 3055/2007.** Dumitru (fictive name) informed the People's Advocate Institution in the context of an alleged violation of the right of health protection and the right of claiming, provided by art. 34 and art. 51 of the Romanian Constitution, by the Local Council – Sector 5 City Hall Bucharest Municipality. By the context of the complain submitted to People's Advocate Institution shows that the claimant has submitted an application to the Local Council – Sector 5 City Hall Bucharest municipality, but till the date of producing the claim the People's Advocate Institution did not receive any answer.

Following the approaches initiated by People's Advocate Institution to the General Directorate of Social Security and Child Protection, the Local Council – Sector 5 City Hall Bucharest municipality informed us that the claimant was informed on the necessary documents for making up a file in order to get an emergency allowance. The informed institution pointed out also the fact that, after the completion of the file, it was checked by the Economical Directorate, being proposed to payment.

**File no. 3869/2007.** Sabina (fictive name) informed the People's Advocate Institution expressing her dissatisfaction regarding the delay of solving her applications submitted to Sector 5 City Hall - General Directorate of Social Security and Child Protection, asking the granting of a social allowance consisting of medicine and food.

Following the approaches initiated by the People's Advocate Institution, Sector 5 City Hall - General Directorate of Social Security and Child Protection informed us that the claimant benefited by the requested financial allowance, amounting to 500 RON, in compliance with the provisions of Law no. 416/2001 regarding the minimum guaranteed income, modified and completed.

### ***IV. DUTIES AND TAXES***

In 2007, the complaints related to the failure of the public authorities to observe the **right settlement of the fiscal charges**, provided by art. 56 paragraph. (2) of the Romanian Constitution were also registered at the People's Advocate Institution.

The complainers notified the faulty way of calculating the taxes of any kind that are levied by the central and local public administration authorities, the ungrounded

refusal to register and issue some instruments or the delay of their issuance, the delay of issuance taxing decisions, the compensation of some debits.

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

**File no. 771/2006.** Ana (fictive name) informed the People's Advocate Institution about the fact that she did not receive any reply from Nuci Commune City Hall, Ilfov County, to her application asking the issuing of a fiscal certificate necessary for succession debate of her father.

Following the approach initiated by People's Advocate Institution to the Nuci Commune City Hall, Ilfov County we were informed that the claimant should be invited to be present at the head office of the institution in order to pay the taxes and fees for the land she posses and to get the requested fiscal certificate.

**File no. 18531/2006.** Marian (fictive name) sustains that he submitted two registered letters with acknowledgement confirmation to the National Agency of Fiscal Administration, pointing out the negligence of the Public Finance Administration sector 6 Bucharest in sending some pay notification with supporting documents and the incurred amounts. Also, he was claiming the way of some debits compensation that was not totally carried out.

Considering the above mentioned facts, the People's Advocate Institution initiated approaches to the National Agency of Fiscal Administration and following the intervention of People's Advocate institution we were informed that checking were made and it was carried out some debits compensation of the claimant, and he was invited to the authority head office to take the amounts of money paid in addition.

In 2007, in the area of activity, of propriety, of labour, social protection, duties and taxes a **special report** was worked out regarding the budgetary execution of the health social insurance unique national fund, submitted to Romanian Parliament in compliance with the provisions of art. 60 of the Constitution of art. 50 of Law no. 35/1997, republished.

This report proposed some measures of improving legislation in the field of making use of the Health Social Insurance Unique National Fund (HSIUNF) in order to guarantee the observing of the constitutional provisions of art. 139 paragraph (3) according to which "The amounts representing the contribution of funds are used, according to law, only according to their destination", as well as to improve the efficiency of collecting incomes for the Health Social Insurance Unique National Fund:

1. Legislative modifications in grounding the Health Social Insurance Unique National Fund, so that the Ministry of Economics and Finances to observe the budget projects proposed by the chairman of the National House of Health Insurance (CNAS), stipulated in art. 266 paragraph (1) corroborated with art. 279 paragraph (1) letter j) and art. 281 paragraph (1) letter a) of Law no. 95/2006;
2. Legislation alignment in the field, as the National House of Health Insurance, according to the law, administrate and manage the fund, but in fact, is carrying out only the use of allotted amounts, the Ministry of Economics and Finances estimates the fund budget without taking into account its proposals, and the collection of incomes is carried

out mostly by the Ministry of Economics and Finances – National Agency for Finance Administration (MEF – NAFA);

**3.** Introduction of special legislative norms to provide the use of reserve funds as well as of budget surplus in compliance with the legal provisions (art. 262 and the following of Law no. 95/2006, with the subsequent modifications and additions);

**4.** Introduction the ban to use the fund revenue for erection of any building type, even for any capital expenses (included in Title 70 of expenses of the economical classification indicator regarding the public finance);

**5.** Taking legislative measures in order make efficient the record, execution and collecting of debts to the Health Social Insurance Unique National Fund, regarding the large number of tax payers with overdue budgetary liabilities, registered by the National Agency for Finance Administration;

**6.** Provision of budgetary execution transparency of the Health Social Insurance Unique National Fund budget;

**7.** A permanent problem is the insufficiency of budget amounts allotted for medicine compensation with or without personal contribution;

**8.** Introduction of some legislation taxes covering clear, express provisions regarding the necessary amounts to be allotted.

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

The territorial offices of the People's Advocate Institution were set up to ensure a direct dialogue of the People's Advocate with the citizens, which would allow for a permanent acknowledgement of the difficulties met by the citizens in their reports with the public administrative authorities.

The territorial offices meet therefore a fundamental demand, that is to provide availability to the citizens by decentralization, both in urban and rural areas, for them to benefit of the provisions of the Law no. 35/1997 regarding the structure and functioning of the People's Advocate Institution.

The activity of the territorial offices not only resides in mediating conflicts between citizens and the public administrative authorities, but also in their contribution to depicting and fighting local phenomena that generate violations of the civil rights and freedom, and in the continuous improvement of the activity of the public administration, in guiding and informing citizens in view of resolving the issues they are challenged with.

The establishment of the territorial offices began in 2003, by the establishment of the Alba-Iulia territorial office and Bacau territorial office, and ended during 2007 by the establishment of the Ploiesti territorial office (which began its activity in April 2007) and Timisoara territorial office (which began its activity in October 2007). Thus, presently, all the 14 territorial offices provided in the Law no. 35/1997, republished, are established and functional, endowed with a 33 people staff, among which 7 counselors and 26 experts, which carry out their activity under the supervision of the territorial office coordinators and deputy People's Advocates, under the careful supervision of the People's Advocate.

The effectiveness of the territorial offices objectified during the year of 2007 by the resolution of a total amount of **2510 petitions**, performing of **2 investigations**, granting **11423 audiences**, recording of **2983 telephone calls to the dispatch service**, as follows:

**Alba-Iulia:** 717 audiences, 159 petitions, leading to 89 files, 184 telephone calls, and 15 informative activities.

**Bacau:** 765 audiences, 192 petitions, leading to 89 files, 180 telephone calls, and 40 informative activities.

**Brasov:** 879 audiences, 97 petitions, leading to 50 files, 173 telephone calls, and 10 informative activities.

**Constanta:** 843 audiences, 214 petitions, leading to 113 files, 123 telephone calls, and 30 informative activities.

**Cluj-Napoca:** 929 audiences, 169 petitions, leading to 144 files, 334 telephone calls, and 9 informative activities.

**Craiova:** 1467 audiences, 122 petitions, leading to 51 files, 601 telephone calls, and 71 informative activities.

**Galati:** 319 audiences, 80 petitions, leading to 31 files, 101 telephone calls, and 125 informative activities.

**Iasi:** 676 audiences, 229 petitions, leading to 147 files, 407 telephone calls, and 29 informative activities.

**Oradea:** 534 audiences, 186 petitions, leading to 144 files, 182 telephone calls, and 29 informative activities.

**Pitesti:** 989 audiences, 352 petitions, leading to 191 files, 110 telephone calls, and 116 informative activities.

**Ploiesti:** 971 audiences, 301 petitions, leading to 233 files, 60 telephone calls, and 19 informative activities.

**Suceava:** 720 audiences, 67 petitions, leading to 39 files, 226 telephone calls, and 3 informative activities.

**Targu-Mures:** 1375 audiences, 226 petitions, leading to 95 files, 180 telephone calls, and 25 informative activities.

**Timisoara:** 239 audiences, 116 petitions, leading to 58 files, 82 telephone calls, and 15 informative activities.

During 2007, the territorial offices carried out **536 informative activities**, consisting in a broad public release of the attributions of the People's Advocate Institution. As an example, we remind the structure, by the Bacau Territorial Office, at the premises of the Bacau Prefect institution, of a press conference on the theme "The People's Advocate in the service of citizens".

In view of quick resolving the issues notified to the People's Advocate Institution by the citizens, the territorial offices underwent a permanent collaboration with the public administrative institutions. In this respect, we quote: the meeting between the representatives of the Targu-Mures Territorial Office and the Prefect of the Mures County, occasion on which some aspects regarding the application of the land law were presented.

The People's Advocate continued during 2007 the consolidation of the activities of the territorial offices by logistic actions of endowing the territorial offices, and also by the extension of the territorial offices' attributions viewed as an enlargement of the range of public administrative authorities they may apprise. One of the main objectives of the People's Advocate was also to guarantee the quality of services provided to the citizens by the staff of the territorial offices. For this reason, an important emphasis was laid on the training of the coordinators of the territorial offices of the People's Advocate institution. Thus, between May 15 and 17, 2007, in Alba Iulia – the "1 Decembrie 1918" University, a Seminar took place, attended by prof. Ioan Muraru Ph.D., People's Advocate Ionel Oprea, Deputy People's Advocate Cristian Cristea, General Secretary Andreea Baicoianu and Magda Stănescu, counsellors and 13 territorial office coordinators of the People's Advocate Institution. On the occasion of this training, the following issues were debated: resolving the requests coming from people under freedom deprivation sentences, modification proposals to the Law no. 35/1997 regarding the structure and functioning of the People's Advocate Institution, the reports of the territorial offices of the People's Advocate Institution with the local public administrative authorities.

During November 12-15 2007, a staff training program was carried out for the territorial offices of the People's Advocate Institution, for taking audiences, a program set up by the National Dutch Ombudsman, at the Zutphen Police Academy, the Netherlands, attended by representatives of the territorial offices in Alba-Iulia, Cluj-Napoca, Constanta, Craiova, Oradea, Pitesti and Targu-Mures. On the occasion of the training program, theoretical aspects were presented regarding the communication skills, establishing of an interview plan, ways of interviewing an official and a claimant.

We also remind the participation of the staff in the territorial offices to scientific workshops set up internally, as follows: attendance of the representatives of the Bacau territorial offices to the workshop "Chance equality between men and women", set up by the Bacau Prefecture; attendance of the representatives of the Brasov territorial office to the International conference on 'Human rights' set up at the "1 Decembrie 1918" University; attendance of the representatives of the Constanța territorial office to the workshop regarding "Mediation of the conflicts between citizens and public authorities", set up by Constanta Court House.

Internationally, during September 17-18, 2007, Mihaela Stanciulescu, an expert of the Pitesti Territorial Office, attended the workshop set up in Sofia, Bulgaria on the theme of "Intervention of the Ombudsman between the principles of lawfulness and a good administration"; during April 19-20, 2007, Ion Ganfalean, counsellor and coordinator of the Alba-Iulia Territorial Office, attended the official visit paid to the Local Ombudsman of Amsterdam; on June 28, 2007 a meeting took place between the representatives of the Pitesti Territorial Office and the delegation of the National Ombudsman of the Netherlands, at the premises of the Pitesti Territorial Office, and on June 8, 2007 the representatives of the Iași Territorial Office attended the meeting with the Ambassador of the Netherlands, H.E. Jaap Werner.

Regarding other performed activities, it is proper to remind that on April 16 and June 13, 2007, the representatives of Iași Territorial Office and Suceava Territorial Office attended the action of granting social support from the fund made available to the People's Advocate, for the children in the Balteni Deal Kindergarten and School, Vaslui County, in the Dolhestii Mici School and Valea Bourii School, both of them belonging to the Dolhesti Commune, Suceava County. Also, on October 25, 2007, the representatives of the Ploiesti Territorial Office attended an action set up by the People's Advocate Institution, for granting social support for 60 children in Murgesti School, Buzau County. Also, the Pitesti Territorial Office has set up, in partnership with the Arges County School Inspectorate and Arges County Museum, an action devoted to children occasioned by the 1<sup>st</sup> of June, called "Children visiting the People's Advocate Institution".

As an overview, during 2007 the activity of the territorial offices showed improvement, their co-working with the Prefect institution and County councils who made room for the effectiveness of the audience program recording in this time significant progress.

By these intercessions, the institution was promoted locally and the population's access to the People's Advocate Institution was increased. With all this progress recorded, not all citizens are yet cleared about the way they can defend their freedom and rights, by mean of this institution.

## **THE PEOPLE'S ADVOCATE ACTIVITY IN THE FIELD OF CONSTITUTIONALITY CONTROL OF LAWS AND ORDINANCES**

In 2007, the involvement of the People's Advocate Institution in the field of constitutional justice, ensured in Romania by the Constitutional Court, materialised in formulating **1638 points of view** and in the direct notification of the constitutional contentious court, with **4 exceptions** of unconstitutionality.

### **I. Points of view**

a) According to art. 19 of Law no. 35/1997, republished, in case of a notification regarding the exception of unconstitutionality of laws and ordinances dealing with citizens' rights and freedoms, the Constitutional Court will also request the point of view of the People's Advocate Institution. The People's Advocate Institution formulated a number of **1635 of points of view** regarding exceptions of unconstitutionality, which is a progress compared to 180 in 2002, 386 in 2003, 621 in 2004, 1005 in 2005, and 1375 in 2006.

The cases in which the point of view of the People's Advocate was requested during 2007, focused mainly on the possible contrariety of some legal provisions with: free access to justice, including the right to a fair trial (456), the right to private property (279), equality of rights (268), the right to defence (65), restrictions in the exercise of some rights and freedoms (55) (Annex no. 6).

Out of all points of view submitted, approximately 28% refer to the principle of free access to justice.

The lowest percentage (under 1%) recorded in the considered period, is encountered in the case of viewpoints concerning the right to a healthy environment (art. 35 of the Constitution), freedom of opinion (art. 29, art. 30, art. 40 of the Constitution), public authorities (art. 61-art. 72 of the Constitution).

In short, by using the exception of unconstitutionality argument, the following were criticised: the provisions of art. 278 of the Criminal Procedure Code, art. 48 of Law no.18/1991 regarding the land fund, some stipulations of Law no. 19/2000 regarding the public pension system and other social insurance rights, with all subsequent modifications and additions, provisions of Law no. 146/1997 regarding judicial stamp duties, with all subsequent modifications and additions, provisions of Law no. 122/2006 regarding asylum in Romania, provisions of Law no. 10/2001 regarding the legal status of properties confiscated by the state during March 6, 1945 - December 22, 1989, republished, provisions of Law no. 554/2004 of the administrative contentious, with all subsequent modifications and additions, art. 10, paragraph (1) of Law no. 241/2005 regarding the prevention and control of tax evasion.

By examining the exceptions of unconstitutionality for which the Constitutional Court requested the point of view of the People's Advocate, it was concluded in some cases that the notification ruling of the Constitutional Court did not contain the opinion of the court regarding the exception raised by the author. In other cases, in arguing the unconstitutionality of some legal provisions, the author of the exception did not indicate the supposedly violated provisions of the Constitution by the text under criticism. According to the binding provisions of art. 29, paragraph (4) of Law no. 47/1992

regarding the organisation and functioning of the Constitutional Court, republished: “The notification of the Constitutional Court is ordered by the court before which the exception of unconstitutionality 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”. According to art. 10, paragraph (2) of Law no. 47/1992, republished, the notifications addressed to the Constitutional Court are submitted in written form and must be supported by arguments.

Moreover, in the notification ruling of the Constitutional Court, the court a mentioned that in some previous cases the author’s purpose by raising the exception of unconstitutionality was only to delay the ruling.

As an example, we mention a case in which the Constitutional Court requested the viewpoint of the People’s Advocate concerning the exception of unconstitutionality of provisions set by art. 95, paragraph (1) of Law no. 19/2000 regarding the public pension system and other social insurance rights. The legal provisions criticised conditioned the pension recalculation on the acceptance of a length of service of minimum 12 months after retirement. The People’s Advocate expressed its opinion arguing that this legal provision is discriminatory, because it instituted a different legal treatment between people in identical situations. By means of this conditioning, the person who paid dues after retirement to the state social insurance budget for less than 12 months was arbitrarily excluded from the right to pension recalculation. By the Decision no. 264/2007, published in the Romanian Official Gazette, Part I, no. 283 of April 27, 2007, the Constitutional Court ruled that the indicated legal provisions were unconstitutional.

In a different case, in which the Constitutional Court requested a point of view on the exception of unconstitutionality of art. 612, paragraph (6) of the Civil Procedure Code, the People’s Advocate appreciated that the legal provisions under criticism conflict with the provisions of art. 21, paragraph (3) of the Constitution, since the party who cannot use the evidence obtained through cross-examination in divorce proceedings, does not benefit the right to a trial carried out observing the principle of contradictory proceedings. By the Decision no. 969/2007, published in the Romanian Official Gazette, Part I, No. 816 of November 29, 2007, the Constitutional Court ruled that the provisions of art. 612, paragraph (6) of the Civil Procedure Code were unconstitutional.

Moreover, the People’s Advocate expressed his viewpoint regarding the exception of unconstitutionality of Art. 172, paragraph (1) of the Criminal Procedure Code in the sense that the mentioned provisions violate art. 24 of the Constitution. Therefore, the parties to the criminal trial have the right to be assisted by a defence attorney in all situations involving criminal charges and not only when carrying out investigations implying the interview or presence of involved party. By the Decision no. 1086/2007, published in the Romanian Official Gazette, Part I, No. 866 of December 18, 2007, the Constitutional Court ruled that the provisions of art. 172, paragraph (1) of the Criminal Procedure Code are unconstitutional.

In a case in which the exception of unconstitutionality was raised for the provisions of art. 121 of Law no. 122/2006 regarding asylum in Romania, modified, the People’s Advocate expressed his viewpoint about the text under investigation, according to which the appeal against the denial of access to the asylum granting procedure in

Romania must be submitted personally at the National Immigration Office accompanied by a copy of the denial ruling. The appeal is then forwarded to the court under whose jurisdiction is recorded the appropriate body subordinated to the National Immigration Office that issued the ruling. The opinion expressed by the People's Advocate was that this provision restricts the direct access to justice, as long as it does not mention as a viable alternative that the appeal can also be submitted directly to the appropriate court.

A decision on the exception of unconstitutionality of art. 121 of Law no. 122/2006 is still to be made by the Constitutional Court.

b) According to art. 16, paragraph (3) and art. 17, paragraph (1) of Law no. 47/1992 on the organisation and functioning of the Constitutional Court, republished, in case the claim of unconstitutionality of a law, before promulgation by the President of Romania, was made by the president of one of the two Chambers of Parliament, the Constitutional Court will communicate it to the president of the other Chamber, to the Government, and to the People's Advocate. In case the notification was submitted by the Government, the Court will communicate it to the presidents of the two Chambers of Parliament, and to the People's Advocate. By the date of the debates, the presidents of the two Chambers of Parliament, the Government and the People's Advocate can submit their position statement in writing.

On this issue, the People's Advocate presented to the Constitutional Court **3 points of view** about the unconstitutionality claims formulated by the Government regarding the Law for the modification and supplementation of Law no. 128/1997 regarding the statute of teaching staff, of the Law rejecting the Government Emergency Ordinance no. 25/2007 establishing measures meant to reorganize the working structure of the Government, of the Law rejecting the Government Emergency Ordinance no. 24/2007 establishing measures to reorganize the central public administration.

## **II. Exceptions of unconstitutionality**

In exercising his constitutional and legal competences, the People's Advocate directly brought to the Constitutional Court **4 exceptions of unconstitutionality**:

- The exception of unconstitutionality of provisions of art. I, point 228 and art. II, paragraph (3) of Law no.356/2006 for the modification and supplementation of the Criminal Procedure Code, as well as for the modification of other laws;
- The exception of unconstitutionality of provisions of art.11, paragraph (3) of Law no.3/2000 regarding the organisation and running of the referendum;
- The exception of unconstitutionality of provisions of art. 57, paragraph (6), letter b) of Law no.448/2006 regarding the protection and promotion of the rights of persons with disabilities;
- The exception of unconstitutionality of provisions of art. 12-22 in Chapter III "Procedure for pressing criminal charges and trial" of Law no.115/1999 regarding ministers' liability, republished, of those set by art. 23 and art. 24 of the same law, as well as those of art. I and art. II of the Government Emergency Ordinance no.95/2007 for the modification of Law no.115/1999 regarding ministers' liability. Decision no. 1133/2007.

a) In justifying the exception of unconstitutionality regarding art. I, point 228 and art. II, paragraph (3) of Law no.356/2006 for the modification and supplementation of the

Criminal Procedure Code, as well as for the modification of other laws, the People's Advocate argued that the provisions of art. I, point 228 of Law no. 356/2006 infringe the constitutional provisions of art. 52, paragraph (3) concerning the state pecuniary liability for damages caused by judicial errors. In the opinion of the People's Advocate, art. I, point 228 of Law no. 356/2006 do not provide the lawsuit guarantees necessary in order to make use of the ministers' liability principle, coming in contradiction with the principle of the independence of judges, and their obligation to observe only the law.

Also, the People's Advocate appreciated that the provisions of art. II, paragraph (3) of Law no. 356/2006, which modified art. 99, letter h) of Law no. 303/2004 regarding the status of judges and prosecutors, which institutes the disciplinary liability of judges and prosecutors in case the standard procedures are violated due to bad faith or grave negligence, contradict the constitutional provisions of art. 124, paragraph (3) on judges' independence, as well as those set by art. 126, paragraph (1) on justice making by the High Court of Cassation and Justice and the other courts established by law, and of art. 129 on using attack strategies.

By the Decision no. 588/2007, published in the Romanian Official Gazette, Part I, no. 581 of August 23, 2007, the Constitutional Court has dismissed the exception of unconstitutionality of the provisions of art. I, pct. 228 and art. II, paragraph (3) of Law no. 356/2006.

b) Regarding the provisions of art. 11, paragraph (3) of Law no. 3/2000, the People's Advocate pointed out that these contained a technical error, which could lead to violations of the Constitution. According to the legal stipulations mentioned before, the point of view of the Parliament on the referendum initiated by the President of Romania, on issues of national interest, was to be expressed by a decision adopted in a common meeting of the two Chambers, with the majority vote of deputies and senators. The requirement that the majority of deputy and senator votes were necessary to adopt the decision is visibly conflicting with the text of the Constitution as stated in art. 76, paragraph (2), according to which the decisions of the Parliament are adopted with a majority of votes of the members of each Chamber present at the time of the vote. The exception of unconstitutionality was admitted by the Constitutional Court, according to Decision no. 392/2007, published in the Romanian Official Gazette, Part I, no. 325 of May 15, 2007.

c) The People's Advocate notified the Constitutional Court regarding the exception of unconstitutionality of the provisions set down by art. 57, paragraph (6), letter b) of Law no. 448/2006 regarding the protection and promotion of rights of persons with disabilities. These provisions exclude persons with disabilities who are in detention, arrest or freedom deprived by means of a final sentence, from the benefit of the monthly allowance for the period of detention, arrest or deprivation of freedom in any other way. The People's Advocate demonstrated that during the detention, arrest or deprivation of freedom in any other way, the state does not cover all living expenses to persons with disabilities on the grounds that, for example, these persons must personally cover all expenses for the right to place phone calls.

Due to not receiving the monthly allowance, the persons with disabilities who are detained, arrested or deprived of freedom in any way cannot exercise their right to equality of chances and do not have the possibility to enjoy an autonomous life.

Moreover, their social inclusion cannot be facilitated in terms of social assistance, mobility, security and justice. The previous legal provision did not exclude persons with disabilities deprived of freedom from the payment of the legal monthly allowance.

For these reasons, the People's Advocate considered that the constitutional provisions establishing the principle of equality of chances for all citizens, with no favours or discrimination, and the provisions ensuring the right of persons with disabilities to special protection were violated. As per Decision no. 605/2007, published in the Romanian Official Gazette, Part I, no. 593 of August 28, 2007, which dismissed the exception of unconstitutionality, the Constitutional Court pointed out that regulating a differentiated legal approach to the rights of persons with disabilities according to their behaviour does not come in conflict with the constitutional provisions that establish that persons with disabilities benefit from special protection. The Constitutional stipulation does not differentiate among the various categories of persons with disabilities who can be in objectively different situations.

d) In formulating the argument of unconstitutionality of provisions of art. 12-22 in Chapter III "Criminal investigation and trial procedure" of Law no.115/1999 regarding ministers' liability, republished, of art. 23 and art. 24 of the same law, as well as of articles I and II of the Government Emergency Ordinance no.95/2007 for the modification of Law no.115/1999 regarding ministers' liability, the People's Advocate pleaded that according to art. 109, paragraph (3) of the Constitution, a law establishing ministers' liability can only regulate liability cases and the applicable sanctions of Government members. Contrary to this constitutional provisions, the legal stipulations representing the object of the exception of unconstitutionality established procedural rules concerning pressing criminal charges against Government members. Government Emergency Ordinance no. 95/2007 also conflicted with the constitutional provisions of art. 115, paragraph (4), because it was issued in the lack of an extraordinary situation whose regulation could not be delayed any further. Also, in the People's Advocate's opinion, its provisions exceeded those of art. 134, paragraph (4) of the Fundamental Law, since they added new tasks for the Superior Council of Magistrates, which extended beyond the scope of its constitutional role of guarantor of judicial independence. The People's Advocate argued that art. I of Government Emergency Ordinance no. 95/2007 modifying art 16, paragraph (4) of Law no. 115/1999 also conflicted with provisions of art. 115, paragraph (6) of the Constitution, since it affected the status of fundamental institutions of the state, e.g. the autonomy of the Chambers of Parliament, the exclusive responsibilities of the President implied by his electoral legitimacy, as well the constitutional responsibilities and status of the Superior Council of Magistrates. The legal provisions under criticism also conflicted with those of art. 124, paragraph (2) of the Constitution, regarding judges' prerogatives, because the special commission assembled through Government Emergency Ordinance no. 95/2007, including 5 judges, appeared as a jurisdictional authority that led to the conclusion that Government members were subject to different rules than those resulting from the mentioned text of the Constitution. The same provisions also contradicted art. 125, paragraph (3) of the Constitution, since: "The magistrate position is incompatible with any other public or private position, except for higher education teaching positions".

By the Decision no. 1133/2007, published in the Romanian Official Gazette, Part I, no. 851 of December 12, 2007, the Constitutional Court supported the exception of

unconstitutionality directly brought to the Constitutional Court by the People's Advocate based on art. 146 letter d) second thesis of the Constitution, and ascertained that art. 16 of Law no. 115/1999 regarding ministers' liability and the Government Emergency Ordinance no. 95/2007 modifying Law no. 115/1999 are unconstitutional. By the same Decision, the Constitutional Court rejected as inadmissible the exception of unconstitutionality of the provisions of art. 23, paragraphs (2) and (3) of Law no. 115/1999 and as unfounded the exception of unconstitutionality of provisions of art 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, art. 23, paragraph (1) and art. 24 of Law no. 115/1999.

## MATERIALS AND BUDGET RESOURCES USED IN 2007

The budget of the people's advocate institution for 2007 is as it follows:

	Initial Budget	Credits Withdrawal – June 2007	Extra budget Sept/Dec 2007	Credits availability Dec 2007	Final budget -lei-	Used budget	Accomplished %
<b>Total, out of which</b>	<b>4.687.000</b>	<b>38.000</b>	<b>500.000</b>	<b>151.000</b>	<b>4.898.000</b>	<b>4.854.417</b>	<b>99,11</b>
<b>Personnel expenses</b>	<b>3.303.000</b>	<b>0</b>	<b>500.000</b>	<b>43.000</b>	<b>3.760.000</b>	<b>3.744.000</b>	<b>99,57</b>
<b>Goods and services</b>	<b>1.225.000</b>	<b>23.000</b>	<b>0</b>	<b>91.000</b>	<b>1.011.000</b>	<b>984.993</b>	<b>97,42</b>
<b>Transfers</b>	<b>9.000</b>	<b>0</b>	<b>0</b>	<b>3.000</b>	<b>6.000</b>	<b>4.735</b>	<b>78,92</b>
<b>Capital</b>	<b>150.000</b>	<b>5.000</b>	<b>0</b>	<b>14.000</b>	<b>121.000</b>	<b>120.689</b>	<b>99,74</b>

The Budget Discharge as of 31.12.2007 is of 99.11% and we consider it as being a very good discharge compared with the actual, particular conditions of work during 2007.

For the year 2007, **the initial Budget was sub-dimensioned** for the staff expenses, so that, from June 2007 we made the necessary interventions to get the required extra budget in order to cover such expenses. Despite of all our assertiveness, the budgetary supplementation for the personnel expenses was made in two phases: 300.000 lei was allotted in September 2007, and 200.000 lei in December 2007. This fact, together with the ceiling of the credits opening for December 2007, generated the impossibility of consumption of the whole of the budgetary credits rendering available the amount of 43.000 under this expenses title.

The withdrawal of the budgetary credits, operated by the Ministry of Economy and Finances in June 2007 in a total amount of 138.000 lei, under the Title II. Assets and Services (123.000 lei), as well as under the Title X. Non-financial Assets (15.000 lei) generated the impossibility to set up certain actions connected to a the celebration of the People's Advocate Institution 10 years of existence and the renouncing to purchase some goods and services, as well as computer programs.

The limitation of the credits opening for the month of December 2007 generated the impossibility to use rendering available certain credits amounted to 91.000 lei under the Title II. Assets and Services and 14.000 lei under the Title X. Non-financial assets.

With a view to the improving of our institution activity, with respect to the consumption of the distributed funds for the year 2008, we suggest that the Ministry of

Economy and Finances shouldn't impose expenses restrictions in the field of personnel expenses, the one of the assets, services and capital and to operate the budgetary supplementations in due time, according to our grounded requests, so that the obtained credits in the budgetary rectifications could be wholly spend.

## **COOPERATION WITH SIMILAR INTERNATIONAL INSTITUTIONS AND AUTHORITIES**

According to the Romanian Constitution, the role of the People's Advocate Institution is to defend the rights and freedoms of the individuals in their interactions with public authorities.

By exercising its competences as an autonomous and independent public authority, the People's Advocate Institution extended and diversified its activities carried out in Romania, in pursuit of the above-mentioned goal.

During 2007, the People's Advocate Institution intensified its activities abroad, in order to on the one hand, consolidate the bilateral relationships with similar institutions in Europe and other countries. On the other hand, the goal was to get increasingly involved in various ways in the meetings in which it participated as a member of the European Ombudsman Institute and the International Ombudsman Institute, as well as the roundtable meetings and conferences organised by the European Union, the Council of Europe and the National Institutions for Human Rights Protection in the E.U. Member States.

These events were an opportunity for the People's Advocate representatives to participate actively in debates, to present the activities of the People's Advocates in defence of citizen rights and freedoms, to express their position supporting the strengthening of the dialogue at a regional and international level among the Ombudsman institutions in various countries, together with the increased involvement of organisations that promote objectives of Ombudsman type institutions.

During visits of delegations of authorities and institutions from various countries and from the Council of Europe or the United Nations Organisation, the People's Advocate acted toward presenting in an adequate manner its relationship with the Romanian Parliament, other state institutions, and the civil society, emphasising the efforts made throughout this year to extensively inform citizens on matters in its competence area.

In this regard, the following should be mentioned:

- a) A delegation of the Constitutional Court of the Republic of Armenia led by Prof. Dr. Gagik HARUTYUNIAN, President, visited the office of the People's Advocate Institution on February 27, 2007.
- b) A delegation of the Constitutional Court of the Republic of Lithuania led by Prof. Dr. Egidijus KURIS, President, visited the office of the People's Advocate Institution on March 15, 2007.

The discussions carried out during these visits touched on aspects concerning the organisation and functioning of the People's Advocate Institution, the procedure to approach the People's Advocate Institution, the main rights violated by public administration authorities, the issued recommendations and special reports, as well as the collaboration with the Constitutional Court in Romania.

- c) At the request of the Romanian Minister of Foreign Affairs, Mr. Thomas HAMMARBERG, the Council of Europe Commissioner for Human Rights, visited the headquarters of the People's Advocate Institution on September 20, 2007. The Commissioner for Human Rights was accompanied by his adviser, Mr. Alp AY and a delegation on the part of the Ministry for Foreign Affairs led by

Mr. Răzvan ROTUNDU, Deputy Director of OSCE Directorate, Council of Europe and Human Rights (DOSCE – COE - HR)

The discussions focused on strengthening the cooperation between the Council of Europe and the People's Advocate Institution in terms of human rights protection.

Also, during the discussions, the Commissioner wanted to focus on the issue of breaking the reasonable deadlines in undergoing lawsuits, of not observing the legislation concerning the right to private property, the public pension system, as well as the issue of prison overcrowding and inadequate special detention conditions for minors.

- d) A delegation of the Federal Constitutional Court of the Republic of Germany led by Prof. Dr. Hans-Jürgen PAPIER, President, accompanied by representatives of the Romanian Constitutional Court, visited the office of the People's Advocate on September 25, 2007. Mr. Olaf MALCHOV participated on the part of the Federal Republic of Germany embassy.

The discussions focused on the information exchange regarding the activity of the People's Advocate Institution and of the Federal Constitutional Court of the Republic of Germany, with an emphasis on the involvement of the People's Advocate in the constitutional oversight and in the relationship with the Romanian Constitutional Court.

- e) At the suggestion of the Romanian Lawyers' Union, Mr. Andrei TREBKOV, President of the International Lawyers Union of the Russian Federation visited the headquarters of the People's Advocate Institution on October 4, 2007. Mr. Eldar Hasanov, Ambassador of the Republic of Azerbaijan in Bucharest also attended the meeting.
- f) The Education Commissioner in the Republic of Hungary, Mr. OAARY Tamas Lajos, visited the headquarters of the People's Advocate Institution on October 9, 2007. The Education Commissioner presented the organisational model of the office he runs, its competences, the appointing procedure, the office personnel, talked about the diversity and large number of the complaints they receive, approximately 1000-1500/year.
- g) During October 30-31, 2007, a delegation of representatives of the Ombudsman in Amsterdam – Mrs. Petra VISSCHER, adviser, and Mrs. Hanneke EILJDERS, expert, visited the headquarters of the People's Advocate Institution. The Dutch delegation was received by Prof. Ioan MURARU, People's Advocate, and his assistants, at the offices of the Institution, on October 30, 2007. The discussions continued with the representatives of each field of activity, and the guests were given a description of the particularities of each field.

The visit included a trip to the Pitesti Territorial Office of the People's Advocate Institution, during which the representatives of the Ombudsman in Amsterdam also met with the mayor of Pitesti City and People's Advocate personnel from the Pitesti Territorial Office.

- h) A delegation of the National Popular Assembly of the People's Republic of China led by Mr. Li CHONG'AN, Member of the Permanent Committee of the National Popular Assembly, accompanied by representatives of the Romanian Constitutional Court and one representative of the People's Republic of China Embassy in Bucharest, visited the office of the People's Advocate Institution on November 16, 2007.

The discussions targeted the information exchange regarding the activity of the People's Advocate Institution and of the National Popular Assembly of the People's

Republic of China, with an emphasis on the involvement of the People's Advocate in the constitutional oversight and in the collaboration with the Romanian Constitutional Court

- i) A meeting with Prof. Paulo Sergio PINHEIRO, independent expert for the UN Secretary-General regarding the study of violence against children took place at the headquarters of the People's Advocate Institution on December 13, 2007. A brief presentation was given of the People's Advocate Institution and of its competences, scope of activity, claims resolving procedure, the collaboration with state authorities. The presentation also included a case study involving the People's Advocate Institution which was finalised by issuing a recommendation, and, in particular, the problems raised by violence against children. Moreover, the relatively new issues confronting the Romanian society were mentioned, such as: street children, international adoptions, children abandonment due to parents leaving for work abroad, illiteracy among the Roma population, instances of sexual tourism, child pornography favoured by free internet access. However, the UN expert was informed that in Romania violence against children is still at a minimal level compared to other European countries.

In 2007 the Matra programme on "Strengthening the administrative and institutional capacity of the People's Advocate" continued. The main activities of the programme are: preparatory study, selecting a public image and increasing the public's receptivity; analysing the possibility to use an effective informal procedure to resolve claims; improving professional training in order to provide better legal consultations; assessment and improving the investigations and special reports of the People's Advocate; perfecting the claim recording system. In July 2007, the Institution has carried out activities focused on self initiatives and inquiries.

Besides the meetings taking place at the People's Advocate headquarters, to which councillors and experts of the institutions participated, the program also included meetings with the Pitesti Territorial Office of the People's Advocate Institution.

An effective activity within the Matra program was carried out in November: 8 councillors and experts from the territorial offices of the People's Advocate Institution participated in a training session on giving legal consultations, organised in Zutphen by the Police Academy and the National Ombudsman Institution in the Netherlands. The People's Advocate Institution was represented by Simina Gagu, councillor, Mihaela Stanciulescu - expert Pitesti Territorial Office, Felicia Nedea - expert Constanta Territorial Office, Simona Emandi - councillor Craiova Territorial Office, Camelia Reghini - councillor Cluj-Napoca Territorial Office, Tiberiu Cotarlan - expert Targu-Mures Territorial Office, Marius Capota - expert Oradea Territorial Office and Ioan Popa - expert Alba-Iulia Territorial Office.

Participants were involved individually in practical exercises consisting of interview simulations with claimants or officials. The experience in terms of interviewing techniques gained by the participants during this course will be shared with other co-workers from the territorial offices. At the end of the training programme, the participants received graduation certificates.

***The participation of representatives of the People's Advocate Institution in international meetings, conferences, symposiums, and reunions related to human rights.***

In 2007, the People's Advocate Institution continued the consolidation of the cooperation with similar organisations and authorities, in the form of bilateral, regional or international dialogues.

The active participation of the People's Advocate Institution representatives, at the international level, in debates focused on human rights protection and promotion was also supported by distributing several reference documents, among which the Activity Report of the People's Advocate for 2006, the brochure with the presentation of the institution occasioned by its 10<sup>th</sup> anniversary, the People's Advocate Informative Bulletin, the various papers and studies prepared by councillors and experts, such as those regarding the contribution of the of the People's Advocate to observing the principle of legality and good management, the People's Advocate, as defender of human rights in Romania, the collaboration between the People's Advocate and the Constitutional Court.

Among the events the People's Advocate Institution representatives participated in, such as international meetings, conferences, symposiums and reunions dedicated to human rights aspects, we mention the following:

1. At the invitation of the Ombudsman of Amsterdam, Ulco van de Pol, Prof. Dr. Ioan MURARU, People's, made an official visit in the Netherlands, in April 19-20, 2007. He was accompanied by Simina GAGU, councillor of the People's Advocate and by Ioan GANFAĂLEAN, councillor – coordinator of the Alba-Iulia Territorial Office.

The purpose of the visit was to assess the cooperation between the two institutions, and to identify measures and projects intended to further facilitate the dialogue between them. Special attention was given to the cooperation among the territorial offices, as the visit also took the form of an experience exchange between the Romanian and Dutch representatives. The visit represented an opportunity to discuss the possibility to initiate an experience exchange between the territorial offices in Romania and the Netherlands.

The visit of the People's Advocate also included meetings with representatives of other Dutch central and local authorities, such as Alex Brenninkmeijer, the Dutch National Ombudsman and M. J. Cohen, the Mayor of Amsterdam.

2. Participation at the Roundtable meeting of the European Ombudsman – 10 year Anniversary from the founding of the Ombudsman institution in Greece, which took place in Athens, during April 12-13, 2007. Alexandru BALANESCU, Deputy People's Advocate, represented the People's Advocate Institution.
3. Participation at the General Assembly of the European Ombudsman Institute, which took place in Mainz, on June 2, 2007. The People's Advocate Institution was represented by Erzsebet Rucz and Ionel Oprea, Deputies People's Advocate.
4. Participation at the training seminar on the topic of "Ombudsman interventions – between the principle of legality and those of good management", which took place in Sofia, during September 17-18, 2007. The People's Advocate Institution was represented by Magda Stefanescu, councillor, and Mihaela Stanculescu, expert of the Pitesti Territorial Office of the People's Advocate Institution.
5. Participation at a conference entitled "Economic migration in the European Union – problems and challenges", organised by the Commissioner for the protection of civil rights (the Ombudsman) in Poland, in collaboration with the Polish Ministry of Foreign Affairs and the Polish Ministry of Labour and Social Policy, as well as the European Commission office in Poland. The conference took place in

- Warsaw, on September 24, 2007. The People's Advocate Institution was represented by Erzsebet Rucz, Deputy People's Advocate and Alina Dinu, expert.
6. Participation at a conference entitled "The role of the Constitutional Court and of the defenders of human rights in matters related to human rights protection", which took place in Erevan, during October 5-6, 2007. The conference was organised by the Constitutional Court of the Republic of Armenia in collaboration with the Human Rights Defender in Armenia. The People's Advocate Institution was represented by Mihail Gondoş, Deputy People's Advocate and Alina Dinu, expert.
  7. Participation at the 6<sup>th</sup> Seminar of National Ombudsmen of the EU Member States and Candidate Countries, which took place in Strasbourg, during October 14-16, 2007. The seminar was organised by the European Mediator – Prof. Nikiforos Diamandouros – in collaboration with the Mediator of the French Republic – Jean-Paul Delevoye. Erzsebet Rucz, Deputy People's Advocate and Simina Gagu, councillor, represented the People's Advocate Institution.
  8. Participation at the First Reunion of the Focal Points for the cooperation with the Office of the Council of Europe Commissioner for Human Rights, which took place in Strasbourg, during November 6-7, 2007. Mihaela Enache, councillor, represented the People's Advocate Institution.
  9. Participation at the scientific conference entitled "The Ombudsman Institution and the protection of human rights in Hungary", which took place in Budapest, on December 3, 2007. Erzsebet Rucz, Deputy People's Advocate, represented the People's Advocate Institution.
  10. Participation at the seminar entitled "Breaking the barriers of public participation", which took place in Nafplion, Greece, during December 7-8, 2007. The seminar was organised by the Greek Ombudsman, Yorgos Kaminis. The People's Advocate Institution was represented by Dorina David, expert.

*The topics debated during these meetings, the scientific papers presented by colleagues from similar institutions, the opinion exchange, the discussions carried out on finding solutions for certain cases are an important source of information and documentation and provide expertise to the People's Advocate Institution, in the process of continuous professional improvement of our experts and councillors.*

The collaboration between the People's Advocate Institution and the European Ombudsman continued in 2007. In this regard, there should be noted the contributions of the People's Advocate in preparing the European Ombudsmen Informative Bulletin, consisting of several articles, such as: "*Equality of chances*" and "*Problems of the retired people*".

Moreover, taking into account that Romania joined the European Union and obtained the status of Member State, the European Ombudsman prepared a brochure in Romanian containing a succinct presentation of its attributions, as well as a complaint model which can be submitted by Romanian citizens to the European institution. Also, the European Ombudsman published its Annual report for 2006 in Romanian, together with a series of posters and postal cards.

The 63 letters by means of which citizens submitted the European Ombudsman to asking for a solution for their requests should also be mentioned, since they were directed for assistance to the People's Advocate Institution in Romania.

### Student internships

In the context of the collaboration with other institutions, the partnership with the Law Faculty within the University of Bucharest should be mentioned, more precisely, the ELSA Program, during which a number of 21 students carried out internships at the People's Advocate Institution in 2007 (during March 5-9, April 2-6, April 23-27, May 21-27, July 2-13, July 9-20, July 16-20, July 30-August 10, August 1-14, and November 5-18). At the end of the internships students filled out evaluation forms for the program, with questions and suggestions regarding the internship. All students expressed positive opinions about the activities included in the internship, some being even interested in a future career within the People's Advocate Institution.

During February 19-March 16, 2007, 10 justice auditors within the National Institute of Magistracy carried out internships at the People's Advocate Institution.

## LAWSUITS, JURIDICAL ISSUES OF THE INSTITUTION

### Causes where the People's Advocate Institution was a party during the judiciary year of 2007

In 2007, People's Advocate Institution acted as a party in a number of **18 causes**, out of which **4** referred to labour litigation (actions initiated by former and present employees) and **14** causes represented the actions initiated by several complainers who were dissatisfied with the actions carried out by the experts and counsellors of the institution.

Out of the total of 18 causes, 7 of them received final and conclusive judicial decisions while the rest of 11 files are still under different procedural stages on the trial courts pending.

As regards the causes related to the claimants' discontentment with the proceedings undertaken by the experts and counsellors of the institution, the opinion of the People's Advocate Institution was that the People's Advocate, being an Ombudsman type institution, contributes to the settlement of the disputes between individuals and the public administration authorities, only amiably, by mediation and dialogue.

The People's Advocate Institution, having no legal means of coercion to force or sanction other public authority, actions only as a supervising authority.

This clearly comes out both from the provisions of 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 at 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), which stipulates as follows: "in charge of its duties, the People's Advocate issues recommendations that cannot be subjected to either Parliament or judicial control. Through its recommendations, the People's Advocate **notifies** the public administration authorities on the illegality of the administrative acts or facts".

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.

The People's Advocate institutional structure, according to the Law no. 35/1997, led to the strengthening of the public authorities' capacity of reaction as against the society's exigencies of eliminating the critical situations where the citizens' rights and freedoms are violated.

Even in this situation, the People's Advocate must always be and stay an institution of mediation and dialogue and not an institution with power of coercion, as some discontent citizens might wish.

## MEDIA PRESENCE, BULLETIN, RADIO, ROMANIAN ACTUALITY

Alongside with the integration of Romania in the European Union, for the People's Advocate institution one opened up at the same time both new possibilities of knowledge and integration within the larger context of human rights protection in the European community and the necessity of complying with the new challenges related to the extension of the significance of the "European citizen" concept.

After 10 years of activity, the People's Advocate institution, established in 1997, acquired entirely its credibility, first because of its actual involvement in the settlement of the complaints submitted by citizens.

The necessity, appropriateness and legality of People's Advocate interventions in defence of the constitutional rights and freedoms have brought about a change of mentality, both at the public administration authorities level and in the citizens' conscience.

The People's Advocate Institution extended permanently its cooperation in the advertising field and collaboration at the informal level with similar institution from within the country and abroad, what led to a significant increase of the institution's image.

During those 10 years of functioning, the People's Advocate Institution aimed primordially the observance, by the state public authorities and institutions, of the human fundamental freedoms. For this purpose, the People's Advocate Institution acted as a legal instrument of protection for the civil and political rights and, in a wide sense, as a defender of the citizens' interests.

In order to increase the advertising degree, extend the relations of informational interchanges with the state institutions and strength the logistical capacity, the People's Advocate Institution needs special funds meant expressly to those needs. To this effect, with the support granted by the Parliament and public administration authorities from the central level, the People's Advocate Institution can accomplish more efficiently, for the benefit of the citizens, its constitutional role.

In 2007, one also intensified the participation of the Romania People's Advocate representatives in the mass-media debates, meant to assure the build up of the citizens' legal culture and facilitate their access to the People's Advocate, as an autonomous and independent authority.

In 2007, the People's Advocate, fully aware of the citizens' interest in getting familiar with the role of the People's Advocate Institution as regards the defence of their rights and freedoms, resorted to advertising means, **public television and radio**.

The invitations received from certain radio and television stations are very eloquent in this respect: Prof. Ioan Muraru Ph. D., People's Advocate, gave some interviews to the television stations TVR 2 and PRIMA TV as regards the institution's competences. Upon the invitation of the TVR 1 television station, the People's Advocate Institution representatives were also present within the telecast "General Interest", on the subject "Who is the People's Advocate?"

The great number of invitations received from the radio and television stations proved the interest showed by the citizens on the involvement of the People's Advocate Institution in the settlement of the issues faced by them. Out of these, we mention the following invitations: Alba Antena 1, with the participation of the Alba Territorial Office representatives, CNS Roman TV - interview on the subject "The People's Advocate reached the age of 10 years".

Within the “Foreground” telecast, the People’s Advocate Institution representatives granted live hearings to the citizens.

MTV Piatra Neamt presented an interview/show with the representatives of the Territorial Office Bacau.

At the same time, the TV stations ROM TV Roman and ASIS TV Neamt hosted several telecasts about the People’s Advocate.

The local station Nova TV Brasov presented the institution’s competences and the most frequent cases of action.

Advertising of the People’s Advocate Institution was also made by the following radio stations: Radio Constanta, Radio SKY Constanta, Radio Severin and TV Severin.

On the TELE M and M Bit TV News one advertised both the People’s Advocate Institution activity and its role in the campaign against corruption.

The “Vocea Evangheliei“ Radio station presented the broadcast “Respecting the individuals with disabilities”, with the participation of the People’s Advocate Institution representatives.

As for the written press, first of all, one must mention the “Actualitatea Romanească – Ziarul romanilor de pretutindeni”, which published the answers to the question submitted by the Romanians from abroad, drawn up by the experts and counsellors of the People’s Advocate Institution.

The Territorial Offices of the People’s Advocate Institution from Alba-Iulia, Bacau, Brasov, Constanta, Cluj, Craiova, Galati, Iasi, Oradea, Pitesti, Ploiesti, Suceava, Targu-Mures and Timisoara, through the instrumentality of the local press have intensified their action of making the citizens familiar with the means of their rights protection and the ways of action as against their relation with the central or local institutions.

The invitations received from the local press were very numerous and on the most various subjects, out of which we mention the following: “The People’s Advocate close to the citizens’ issues”, “The People’s Advocate in Alba-Iulia” – the both articles were published by the “Monitorul de Alba” paper; “The Territorial Office Bacau of the People’s Advocate Institution reached the age of 4 years” – article published by the daily paper “Desteptarea Bacau”; “How to submitted to the People’s Advocate” – in the “Ziarul de Roman” paper. Therewith, written interventions were requested from the People’s Advocate representatives by the following papers: “Replica de Constanta”, “Observer”, “Obiectiv de Tulcea”, “Gazeta de Olt”, “Monitorul de Valcea”, “Monitorul de Galati”, and “Ziarul de Arges”.

The Matra Program, on the collaboration between the People’s Advocate Institution and the National Ombudsman from the Netherlands, within the project “The strengthening of the organizational and institutional capacity of the People’s Advocate”, was being carried further successfully in 2007 as well.

The diversity, specific features and information exchange constituted important sources for documentation and making efficient the activity developed by the experts and specialists within the People’s Advocate Institution.

As regards the collaboration between the People’s Advocate Institution and the European Ombudsman in 2007, the specific issues faced by the Romania People’s Advocate were treated in the materials published in the “European Ombudsman Informative Bulletin” and drawn up by the experts and counsellors within the People’s Advocate Institution. Out of these, we mention as follows: “Equality of Chances”, “Pensioners’ Issues”. The following articles were also forwarded to publishing: “Aspects

of the practice used by the People's Advocate Institution regarding the ex officio taking notice procedure", "Settlement by the Alba-Iulia Territorial Office of the People's Advocate Institution of the complaints concerning the violation of the right to a decent standard of living and of the right of a person injured by a public authority", "A case of birocra-tism in the Romanian public administration settled by the intervention of the People's Advocate Institution", "Possible incongruence between the legal provisions and Constitution, brought to the attention of the Constitutional Court by the People's Advocate".

The quarterly Informative Bulletin of the People's Advocate Institution, the visiting card for the activity of the institution, contains notable aspects from the activity developed by the institution, appreciations made by the complainants and public authorities submitted to the People's Advocate Institution, cases settled by the People's Advocate intervention, and so on. The same as in the previous years, the Informative Bulletin was printed by own financial efforts. The People's Advocate has an active presence as regards the information of the public on its interventions, using for this purpose the press releases about some special events developed internally or externally and about its decisions, the brochure submitted to the complainers, the annual report submitted to the Parliament, etc. these informative materials are available in electronic format as well, on the People's Advocate Institution site.

In 2007, at the People's Advocate Institution headquarters, a press conference was organized with the participation both of Prof. Ioan Muraru Ph. D., People's Advocate, and his four deputies, on which occasion the mass-media representatives who participated to it were informed on the content of the Annual Report for 2006 forwarded to the Parliament by the People's Advocate. On the same occasion, the People's Advocate deputies, specialized in different fields of activity, participated to the said conference in order to provide a better efficiency of the activity performed by the institution, concurrently realising the concordance with the legislation of other states where the Ombudsman institution acts.

An already well-known practice of the People's Advocate Institution is the social aids granting. In 2007, the People's Advocate granted social aids, namely articles of personal use, to the children of the Kindergarten and School of Balteni Deal, in Vaslui County and to the children of Dolhestii Mici School and Valea Bourii School, both of them located in Dolhești Commune, Suceava County. The children of Murgesti General School, Ramnicu Sarat Town, Buzau County have received such social aids this year, as well.

**Conclusively**, the same as in the previous years, in 2007 the People's Advocate major scope was to make the citizens to acknowledge the utility of such an institution and the fact that People's Advocate Institution must be perceived as a forceful instrument of protection for the civil and political rights, in other words, for the protection of citizens' interests.

The People's Advocate Institution by the nature of its constitutional competences can have directly knowledge of the citizens' discontents against the act of governing, being deeply attached to the principles of rightness and justice. In 2008, the People's Advocate Institution is firmly decided to intensify its efforts so that the institution can become de facto a reality of the Romanian democratic system.

## GENERAL VOLUME OF ACTIVITY

No.	Indicator	Total of the performed works
1.	Hearings at the People's Advocate head office and the territorial offices	15517
2.	Complaints submitted to the People's Advocate head office and the territorial offices regarding the violation of citizens' rights and freedoms	6919
3.	Telephone calls received by dispatcher office at the People's Advocate head office and territorial offices	5616
4.	Inquiries conducted by the People's Advocate Institution	18
5.	Recommendations issued by the People's Advocate	12
6.	Points of view regarding the exceptions of unconstitutionality of the laws and ordinances regarding the citizens' rights and freedoms expressed on the Constitutional Court's request	1635
7.	Exceptions of unconstitutionality directly raised by the People's Advocate	4

**STATISTICS OF THE COMPLAINTS REGISTERED RELATED TO THE  
INFRINGED RIGHTS AND FREEDOMS**

<b>No.</b>	<b>Name of the right (art. of the Constitution)</b>	<b>Number of complaints</b>
1.	Equality of rights (art. 16)	133
2.	Aliens and stateless persons (art. 18)	2
3.	The right to asylum, extradition and expulsion (art. 19)	0
4.	Free access to justice (art. 21)	337
5.	Right to life and physical and mental integrity (art.22)	12
6.	Individual freedom (art. 23)	3
7.	Right to defence (art. 24)	10
8.	Right to freedom of movement (art. 25)	11
9.	Right to intimate, family and private life (art. 26)	8
10.	Inviolability of domicile (art. 27)	4
11.	Secrecy of correspondence (art. 28)	0
12.	Freedom of conscience (art. 29)	2
13.	Freedom of expression (art. 30)	57
14.	Right to information (art. 31)	706
15.	Right to education (art. 32)	6
16.	Access to culture (art. 33)	5
17.	Right to protection of health (art. 34)	24
18.	Right to a healthy environment (art. 35)	11
19.	Right to vote (art. 36)	2
20.	Right to be elected (art. 37)	0
21.	Right to be elected in the European Parliament (art. 38)	0
22.	Freedom to meetings (art. 39)	0
23.	Right to association (art. 40)	2
24.	Right to labour and social protection of labour (art. 41)	89
25.	Right to strike (art. 43)	8
26.	Right to private property (art. 44)	1654
27.	Economic liberty (art. 45)	4
28.	Right to inheritance (art. 46)	28
29.	Right to a decent living standard (art. 47)	1126
30.	Family and the right to marriage (art. 48)	4
31.	Protection of children and youth (art. 49)	53
32.	Protection of disabled persons (art. 50)	72
33.	Right of petition (art. 51)	1324
34.	Right of a person aggrieved by a public authority (art. 52)	716
35.	Restriction of certain rights or freedoms (art. 53)	4
36.	The right to a fair trial (art. 6 of CEDO)	16
37.	Other rights	185
38.	Complaints not referring to the infringement of rights or freedoms	301
	<b>TOTAL</b>	<b>6919</b>

## STATISTICS OF COMPLAINTS PER COUNTY

No.	County	Number of complaints
1.	Alba	146
2.	Arad	52
3.	Arges	374
4.	Bacau	162
5.	Bihor	174
6.	Bistrita-Nasaud	17
7.	Botosani	63
8.	Braila	43
9.	Brasov	133
10.	Bucuresti	1595
11.	Buzau	58
12.	Caras-Severin	36
12.	Calarasi	47
14.	Cluj	194
15.	Constanta	299
16.	Covasna	27
17.	Dambovita	67
18.	Dolj	155
19.	Galati	89
20.	Giurgiu	40
21.	Gorj	58
22.	Harghita	85
23.	Hunedoara	69
24.	Ialomita	22
25.	Iasi	269
26.	Ilfov	93
27.	Maramures	48
28.	Mehedinti	76
29.	Mures	185
30.	Neamt	133
31.	Olt	79
32.	Prahova	375
33.	Salaj	28
34.	Satu Mare	32
35.	Sibiu	45
36.	Suceava	135
37.	Teleorman	44
38.	Timis	169

<b>39.</b>	<b>Tulcea</b>	<b>37</b>
<b>40.</b>	<b>Vaslui</b>	<b>60</b>
<b>41.</b>	<b>Valcea</b>	<b>104</b>
<b>42.</b>	<b>Vrancea</b>	<b>57</b>
	<b>TOTAL*</b>	<b>5974</b>

*\*Observation: To the total number of claims submitted to the People's Advocate Institution from the country and abroad on hardcopy, a number of 837 complaints submitted by e-mail should be added.*

## STATISTICS OF COMPLAINTS RECEIVED FROM ABROAD

<b>No.</b>	<b>Country</b>	<b>Number of registered complaints</b>
<b>1.</b>	<b>ANDORRA</b>	<b>1</b>
<b>2.</b>	<b>ENGLAND</b>	<b>3</b>
<b>3.</b>	<b>ARGENTINA</b>	<b>1</b>
<b>4.</b>	<b>AUSTRIA</b>	<b>7</b>
<b>5.</b>	<b>BELGIUM</b>	<b>7</b>
<b>6.</b>	<b>CANADA</b>	<b>2</b>
<b>7.</b>	<b>SWITZERLAND</b>	<b>9</b>
<b>8.</b>	<b>FRANCE</b>	<b>1</b>
<b>9.</b>	<b>GERMANY</b>	<b>43</b>
<b>10.</b>	<b>GREECE</b>	<b>3</b>
<b>11.</b>	<b>ISRAEL</b>	<b>2</b>
<b>12.</b>	<b>ITALY</b>	<b>7</b>
<b>13.</b>	<b>LUXEMBURG</b>	<b>1</b>
<b>14.</b>	<b>HOLLAND</b>	<b>3</b>
<b>15.</b>	<b>PORTUGAL</b>	<b>2</b>
<b>16.</b>	<b>SLOVAKIA</b>	<b>3</b>
<b>17.</b>	<b>SYRIA</b>	<b>1</b>
<b>18.</b>	<b>U.S.A</b>	<b>1</b>
<b>19.</b>	<b>HUNGARIA</b>	<b>11</b>
	<b>TOTAL</b>	<b>108</b>

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

<b>No.</b>	<b>Territorial office</b>	<b>Hearings</b>	<b>Complaints registered</b>	<b>Telephone calls</b>	<b>Information activities</b>
1.	<b>Alba-Iulia</b>	<b>717</b>	<b>159</b>	<b>184</b>	- 1 radio-TV broadcasts; - 4 articles published in newspapers; -10 cooperation with NGOs and other authorities.
2.	<b>Bacau</b>	<b>765</b>	<b>192</b>	<b>180</b>	- 9 radio-TV broadcasts; - 22 articles published in newspapers; - 9 cooperation with NGOs and other authorities.
3.	<b>Brasov</b>	<b>879</b>	<b>97</b>	<b>173</b>	- 8 radio-TV broadcasts; - 2 articles published in newspapers.
4.	<b>Cluj-Napoca</b>	<b>929</b>	<b>169</b>	<b>334</b>	-1 radio-TV broadcasts; - 4 articles published in newspapers; - 4 cooperation with NGOs and other authorities.
5.	<b>Constanta</b>	<b>843</b>	<b>214</b>	<b>123</b>	- 6 radio-TV broadcasts; -19 articles published in newspapers; - 5 cooperation with NGOs and other authorities.
6.	<b>Craiova</b>	<b>1467</b>	<b>122</b>	<b>601</b>	- 20 radio-TV broadcasts; -12 articles published in newspapers; - 39 cooperation with NGOs and other authorities.
7.	<b>Galati</b>	<b>319</b>	<b>80</b>	<b>101</b>	- 5 radio-TV broadcasts; -17 articles published in newspapers; -103 cooperation with NGOs and other authorities.
8.	<b>Iasi</b>	<b>676</b>	<b>229</b>	<b>407</b>	- 9 radio-TV broadcasts; -13 articles published in newspapers; - 7 cooperation with NGOs and other authorities.

9.	<b>Oradea</b>	<b>534</b>	<b>186</b>	<b>182</b>	- 8 radio-TV broadcasts; -19 articles published in newspapers; - 2 cooperation with NGOs and other authorities.
10.	<b>Pitesti</b>	<b>989</b>	<b>352</b>	<b>110</b>	- 9 radio-TV broadcasts; -100 articles published in newspapers; - 7 cooperation with NGOs and other authorities.
11	<b>Ploiesti</b>	<b>971</b>	<b>301</b>	<b>60</b>	- 9 radio broadcasts; -10 articles published in newspapers.
12.	<b>Suceava</b>	<b>720</b>	<b>67</b>	<b>266</b>	- 2 articles published in newspapers. -1 cooperation with NGOs and other authorities.
13.	<b>Targu-Mures</b>	<b>1375</b>	<b>226</b>	<b>180</b>	- 6 radio broadcasts; - 5 articles published in newspapers. - 14 cooperation with NGOs and other authorities.
14.	<b>Timisoara</b>	<b>239</b>	<b>116</b>	<b>82</b>	- 5 radio-TV broadcasts; -10 articles published in newspapers;
	<b>TOTAL</b>	<b>11423</b>	<b>2510</b>	<b>2983</b>	<b>536</b>

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

No.	Field	Number of points of view
1.	State governed by the rule of (art. 1)	6
2.	Universality; Principle of non-retroactivity of law; more favourable criminal or administrative law (art. 15)	47
3.	Trade unions, syndicates and professional associations (art. 9)	1
4.	Principle of equality of rights (art. 4)	268
5.	Aliens and stateless persons (art. 18)	4
6.	Priority of international regulations (art. 11, 20)	20
7.	Free access to justice; a fair trial (art. 21)	456
8.	Right to life, to physical and mental integrity (art. 22)	28
9.	Right to individual freedom (art. 23)	44
10.	Right to defence (art. 24)	65
11.	Right to free movement (art. 25)	9
12.	Right to personal, family and private life (art. 26)	25
13.	Right to freedom of opinion (art 29, art. 30, and art. 40)	1
14.	Right to information (art. 31)	8
15.	Right to health protection (art. 34)	3
16.	Right to a healthy environment (art. 35)	1
17.	Right to vote (art. 36); Right to be elected (art. 37); Right to be elected in the European Parliament (art 38)	3
18.	Right to labour and social protection of labour and prohibition of the forced labour (art. 41 and art. 42); Right to strike (art. 43)	38
19.	Right to property (art. 44, 136)	279
20.	Right to inheritance (art. 46)	4
21.	Right to a decent living standard (art. 47)	14
22.	Family (art. 48)	5
23.	Protection of children and youth (art. 49)	2
24.	Protection of the disabled persons (art. 50)	3
25.	Right to petition (art. 51)	4
26.	Right of a person aggrieved by a public authority (art. 52)	13
27.	Restriction of certain rights or freedoms (art. 53)	55
28.	Public administrative authorities (art. 61-art. 72)	1
29.	Categories of Laws (art. 73); Law enforcement (art. 78)	22
30.	Legislative Council (art. 79)	2
31.	Prime-Minister (art. 107)	1
32.	Legislative delegation (art.115)	19
33.	Local public administration (art. 120-art.123)	6
34.	Justice making (art. 124)	25
35.	The judges status (art.125)	1

<b>36.</b>	<b>Courts of Law (art. 126, art. 127)</b>	<b>13</b>
<b>37.</b>	<b>Use of appeal (art. 129)</b>	<b>14</b>
<b>38.</b>	<b>Statute of Public Prosecutors (art 131 and art. 132)</b>	<b>13</b>
<b>39.</b>	<b>Superior Council of Magistracy (art. 133, art. 134)</b>	<b>1</b>
<b>40.</b>	<b>Economic freedom (art. 45)</b>	<b>44</b>
<b>41</b>	<b>Economy (art. 135)</b>	<b>27</b>
<b>42</b>	<b>Financial contributions (art. 56); Taxes, duties and other contributions (art. 139)</b>	<b>10</b>
<b>43</b>	<b>Assignments of the Constitutional Court (art. 146)</b>	<b>4</b>
<b>44</b>	<b>The temporary conflict of laws (art. 154)</b>	<b>3</b>
<b>45</b>	<b>Exceptions where the infringed constitutional text was not specified</b>	<b>23</b>
	<b>TOTAL</b>	<b>1635</b>

*\*In case of 1182 points of views, several fields are approached, and for the statistics the significant field was taken into consideration.*

## INQUIRIES

No.	Subject of the investigations	Number of investigations carried out	Public administration authority targeted by the investigations	Results of the investigations
1.	Observance of the right to private property	7	<ul style="list-style-type: none"> <li>- Commission of the Bucharest Municipality dealing with the implementation of Law no. 290/2003</li> <li>- Local Commission for Agricultural Real Estate Chiajna, Ilfov County</li> <li>- the Legislation-Disputed Claims Office within Bucharest City Hall</li> <li>- Bacau City Hall</li> <li>- Townhall of Bistret Commune, Dolj County</li> <li>- Bucharest Prefect's Office</li> <li>- National Authority for the Restitution of Property</li> </ul>	<ul style="list-style-type: none"> <li>- Settlement of complaint and issuing a recommendation</li> <li>- Settlement of the issues raised by the complainant.</li> <li>- Settlement of the complaints</li> <li>- Settlement of the complaints.</li> </ul>
2	Observance of the rights of people with disabilities	1	<ul style="list-style-type: none"> <li>- Superior Evaluation Committee for Individuals with Disabilities</li> </ul>	<ul style="list-style-type: none"> <li>- Clarifying the necessary aspects concerning the implementation of the law and settlement of complaints.</li> </ul>
3.	Observance of the right to a decent living standard, the right to petition and the right to compensation for harm caused by a public authority	<p>3</p> <p>1</p> <p>2</p>	<ul style="list-style-type: none"> <li>- Local House for Pensions, County 1</li> <li>- Local House for Pensions, County 3</li> <li>- Local House for Pensions, County 6</li> </ul>	<ul style="list-style-type: none"> <li>- Settlement of the complaints and issuing 2 recommendations</li> <li>- Settlement of the complaints and issuing a recommendation</li> <li>- Settlement of the complaint.</li> </ul>

No.	Subject of the investigations	Number of investigations carried out	Public administration authority targeted by the investigations	Results of the investigations
4.	Making sure the rights of persons with disabilities and the right to education are observed, as a result of unconformities signalled by the media.	1	- Special School No. 4 Bucharest	Finding out whether measures are implemented to criminalize those responsible by the school management.
5.	Making sure the principle of equality of rights is observed, as a result of unconformities signalled by the media.	1	- National Inspectorate for Personal Records	Establishing that the issues signalled by the media are not true. We analysed the possibilities to involve the public administration bodies in implementing the provisions set down by Government Decision no. 430/2001 regarding approval of the Romanian Government strategy to improve the situation of the Roma population.
6	Making sure the right to protection of health is observed, following unconformities signalled by the media.	1	- the Neuro-psychiatric Recovery and Rehabilitation Centre in Bolintin Vale, Giurgiu County and the General Directorate for Social Security and Child Protection Giurgiu	Issuing two recommendations
7	Observing the right to compensation for harm caused by a public authority and the right to petition.	1	- Odorheiu Secuiesc City Hall	Settlement of the complaint.
	<b>TOTAL</b>	<b>18</b>		

## RECOMMENDATIONS ISSUED BY THE PEOPLE'S ADVOCATE

No.	Number and issue date of the recommendation. Object of the recommendation	The public authority targeted by the recommendation	Short content of the recommendation
1	1/February 11, 2007 Violation of the right to property set down by art. 44 of the Constitution, in case a decision is issued for the claim submitted based on Law no. 247/2005 regarding private property and justice reform, together with other associated measures.	- Prefect's Office of Bacau County	- examining the situation created by the fact that the claim submitted based on Law no. 247/2005 regarding private property and justice reforms, together with other associated measures was not resolved; - taking all necessary legal measures in order to: * speed up the finding a solution to restore the right to private property of the complainer on the old site; *inform the People's Advocate regarding the implemented measures.
2	2/May 24, 2007 Violation of the right to a decent living standard set down by art. 47 and of the right of petition set down by art. 51 of the Constitution, in case a decision is issued for the claim submitted based on Law no. 19/2000 regarding the public pension system and other rights to social insurance, with subsequent modification and additions.	- Local House for Pensions, County 3 Bucharest	- examining the situation created by the fact that the claim submitted based on Law no. 19/2000 was not resolved by the legal deadline; - taking all necessary legal measures in order to: * speed up the payment of the remaining financial rights of the complainers; * communicate the answer to the claims requesting the payment of all retirement money in accordance with the retirement decisions issued after recalculation by the legal deadline; * inform the People's Advocate regarding the implemented measures.
3	3/April 5, 2007 Violating the right to private property set down by art. 44 and the right to compensation for harm caused by a public authority set down by art. 52 of the Constitution in case a decision is issued for the claim submitted based on Law no. 10/2001 regarding the legal status of properties confiscated by the state	- Bucharest City Hall	- examining the situation created by the fact that the claim submitted based on Law no. 10/2001 regarding the legal status of properties confiscated by the state between March 6, 1945 and December 22, 1989 was not resolved by the legal deadline; - taking all necessary legal measures in order to: * speed up resolving the situation regarding the restitution of the

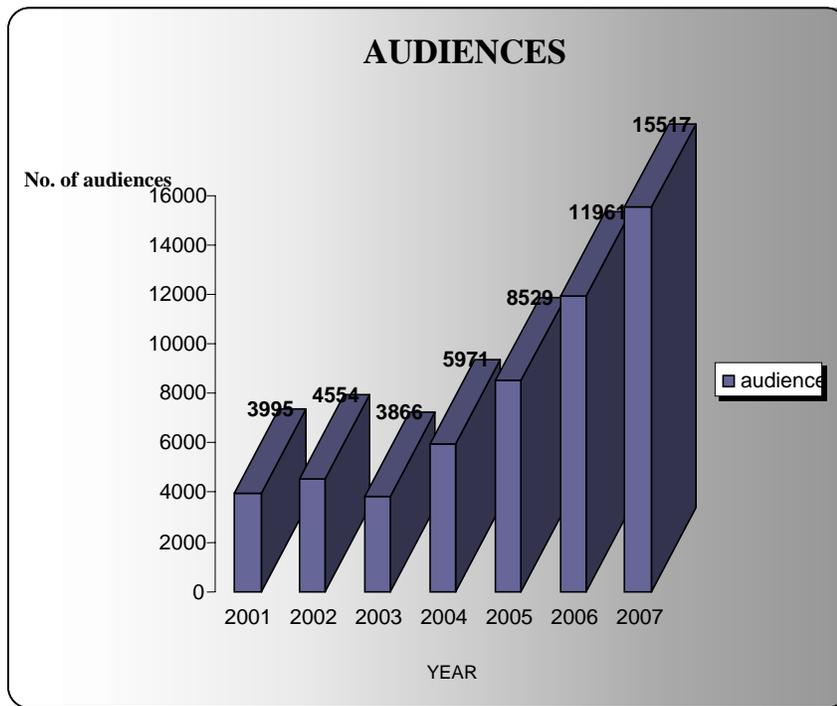
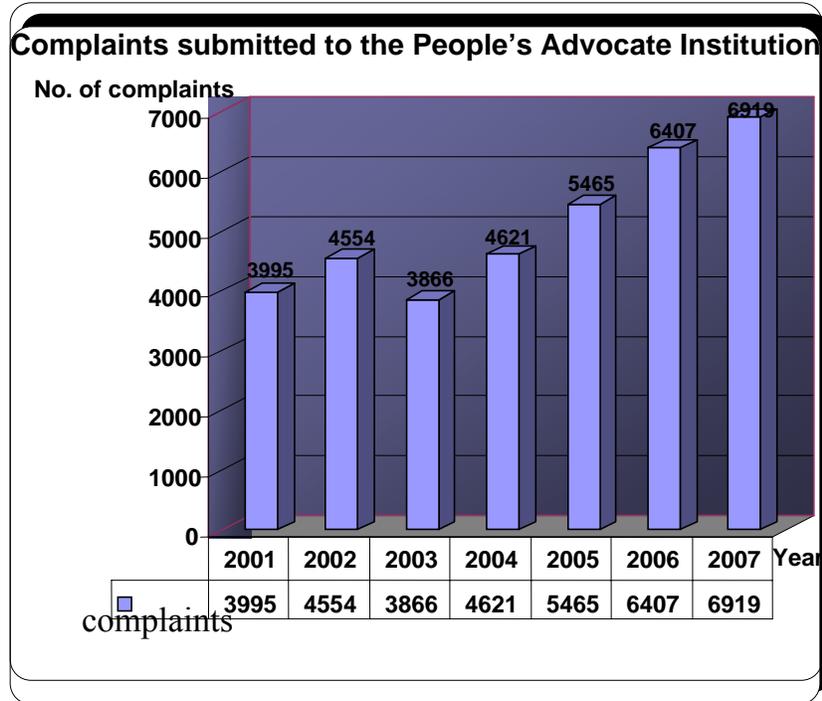
<b>No.</b>	<b>Number and issue date of the recommendation. Object of the recommendation</b>	<b>The public authority targeted by the recommendation</b>	<b>Short content of the recommendation</b>
	between March 6, 1945 and December 22, 1989		requested property; * inform the People's Advocate regarding the implemented measures.
4	4/July 3, 2007 Violation of the right to a decent living standard set down by art. 47 and of the right of petition set down by art. 51 of the Constitution, in case a decision is issued for the claim submitted based on Law no. 19/2000 regarding the public pensions system and other rights to social insurance, with all subsequent modifications and additions.	- Local House for Pensions, County 1 Bucharest	- speeding up the issue of retirement decisions and the payment of pensions in accordance with the retirement decisions issued after the pension recalculation, in order to observe art. 47 and art. 51 of the Constitution. - inform the People's Advocate regarding the implemented measures.
5	5/August 20, 2007 Violation of the right to protection of health and the right to special protection of individuals with disabilities, set down by art. 34 and art. 50 of the Constitution.	- Giurgiu County Council	- taking the appropriate legal measures so that the General Directorate for Social Security and Child Protection Giurgiu, subordinated to the County Council, ensures a proper medical care system and the necessary daily nutrition, within the sum provided by law for each patient in the Neuro-psychiatric Recovery and Rehabilitation Centre Bolintin Vale. - taking measures to make sure that both at the first budget rectification, and at the establishing of the budget for 2008, the necessary funds are ensured to provide proper social services for adults with disabilities, at the minimum quality standards set by the legislation in force. - inform the People's Advocate regarding the implemented measures.
6	6/August 20, 2007 Violation of the right to special protection of individuals with disabilities and the right to protection of health, set down by	- National Authority for People with Disabilities	- taking measures towards the supervision and coordination of the urgent implementation of the minimum quality standards for adults with disabilities living at the Neuro-

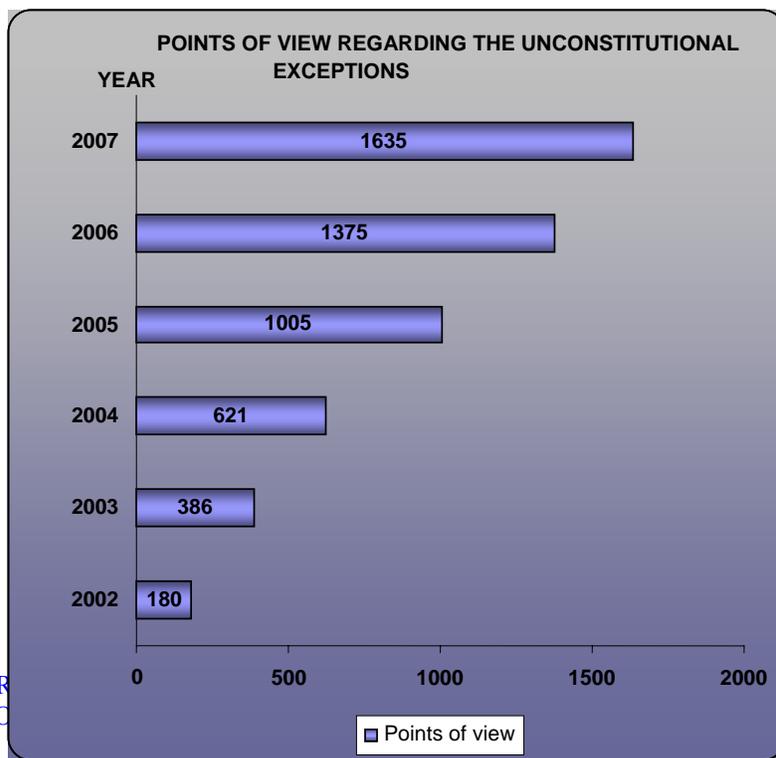
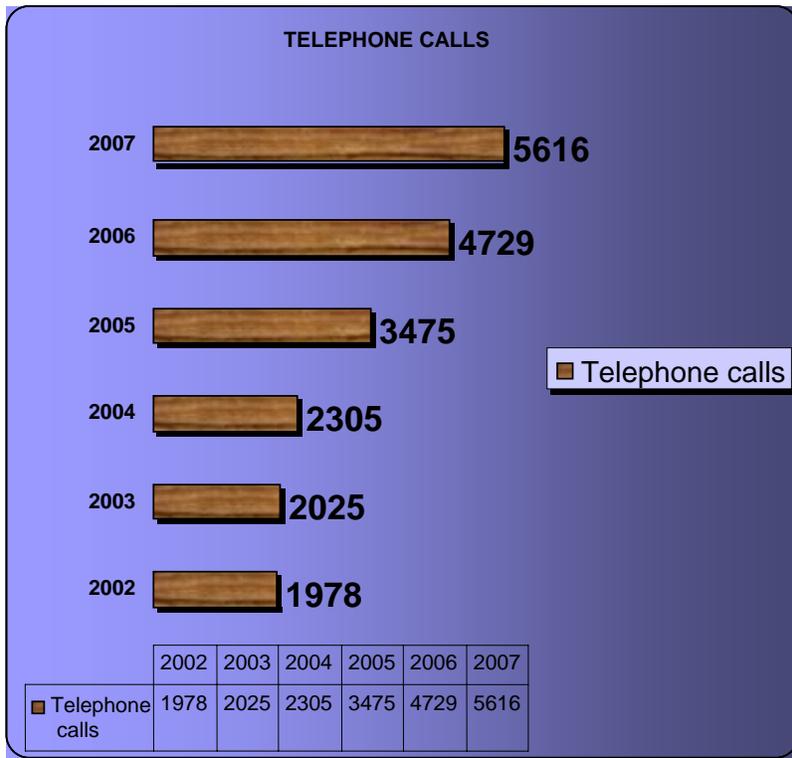
<b>No.</b>	<b>Number and issue date of the recommendation. Object of the recommendation</b>	<b>The public authority targeted by the recommendation</b>	<b>Short content of the recommendation</b>
	art. 50 and art. 34 of the Constitution.		psychiatric Recovery and Rehabilitation Centre Bolintin Vale; - providing the necessary support by means of official interventions from the Ministry of Economy and Finance and the Giurgiu County Council in order to fairly recalculate the budget assigned to the General Directorate for Social Security and Child Protection Giurgiu; - inform the People's Advocate regarding the implemented measures.
7	7/November 13, 2007 Violation of the right to special protection of individuals with disabilities and of the right to compensation for harm caused by a public authority set down by art. 50 and art. 52 of the Constitution, in case a decision is issued for the claim submitted based Law no. 448/2006 regarding the protection and promotion of the rights of individuals with disabilities, with all subsequent modifications and additions.	- National Administration of Penitentiaries	- examining the situation created by delaying making a decision regarding the claim submitted based on Law no. 448/2006 regarding the protection and promotion of the rights of individuals with disabilities, with all subsequent modifications and additions; - taking all necessary legal measures in order to: * establish the legal procedure for the appearance before the competent evaluation commission of adults with disabilities held in detention centres; * inform the People's Advocate regarding the implemented measures.
8	8/November 13, 2007 Violation of the right to special protection of Individuals with disabilities and of the right to compensation for harm caused by a public authority set down by art. 50 and art. 52 of the Constitution, in case a decision is issued for the claim submitted based Law no. 448/2006 regarding the protection and promotion of the rights of Individuals with disabilities, with all subsequent modifications and additions.	- National Authority for People with Disabilities	- taking all measures to identify the competent evaluation commission for adults with which can assess the situation of complainers held in detention centres. - preparing a methodology regarding the appearance of Individuals with disabilities held in detention centres before the competent evaluation commission; - inform the People's Advocate regarding the implemented measures.
9	9/November 16, 2007 Violation of the right to a decent living standard set down by art. 47	- Local House for Pensions, County 1 Bucharest	- taking measures to speed up the decision for the claims requesting the revision of the pension recalculation;

<b>No.</b>	<b>Number and issue date of the recommendation. Object of the recommendation</b>	<b>The public authority targeted by the recommendation</b>	<b>Short content of the recommendation</b>
	and of the right of petition set down by art. 51 of the Constitution, in case a decision is issued for the claim submitted based on Law no. 19/2000 regarding the public pensions system and other rights to social insurance, with all subsequent modifications and additions.		- inform the People's Advocate regarding the implemented measures.
10	10/ November 20, 2007 Violation of the principle of equality in rights and of the right to special protection of individuals with disabilities set down by art. 16 and art. 50 of the Constitution, in case the institution decides on its own to take action regarding the manner in which individuals with severe or accentuated disabilities can benefit from free metro transportation, as set down by Law no. 448/2006 regarding the protection and promotion of the rights of Individuals with disabilities, with all subsequent modifications and additions.	- National Authority for People with Disabilities	- to urgently issue a piece of legislation that deals uniformly with the procedure for providing free metro transportation for individuals with disabilities which is ensured under Law no. 448/2006, with subsequent modifications and additions. - inform the People's Advocate regarding the implemented measures.
11	11/November 16, 2007 Restricting the possibility to exercise the rights or freedoms set down by art. 53 of the Constitution in case Order no. 2538/2007 of the Ministry of Education, Research and Youth is approved, regarding the organisation and carrying out procedure of elections for the academic top positions in certified higher education institutions.	- Ministry of Education, Research and Youth	- re-examining the provisions set down in Article 4 of Order no. 2538/2007 of the Ministry of Education, Research and Youth is approved, regarding the organisation and carrying out procedure of elections for the academic top positions in certified higher education institutions.
12	12/December 12, 2007 Violation of the right to property set down by art. 44 and the right to compensation for harm caused by a public authority set down by art. 52 of the Constitution, in case a	- Bucharest General City Hall	- establishing the responsibilities of the personnel of the Legislation-Disputed Claims Office within Bucharest City Hall in what regards the collaboration with the personnel of the People's Advocate Institution in order to

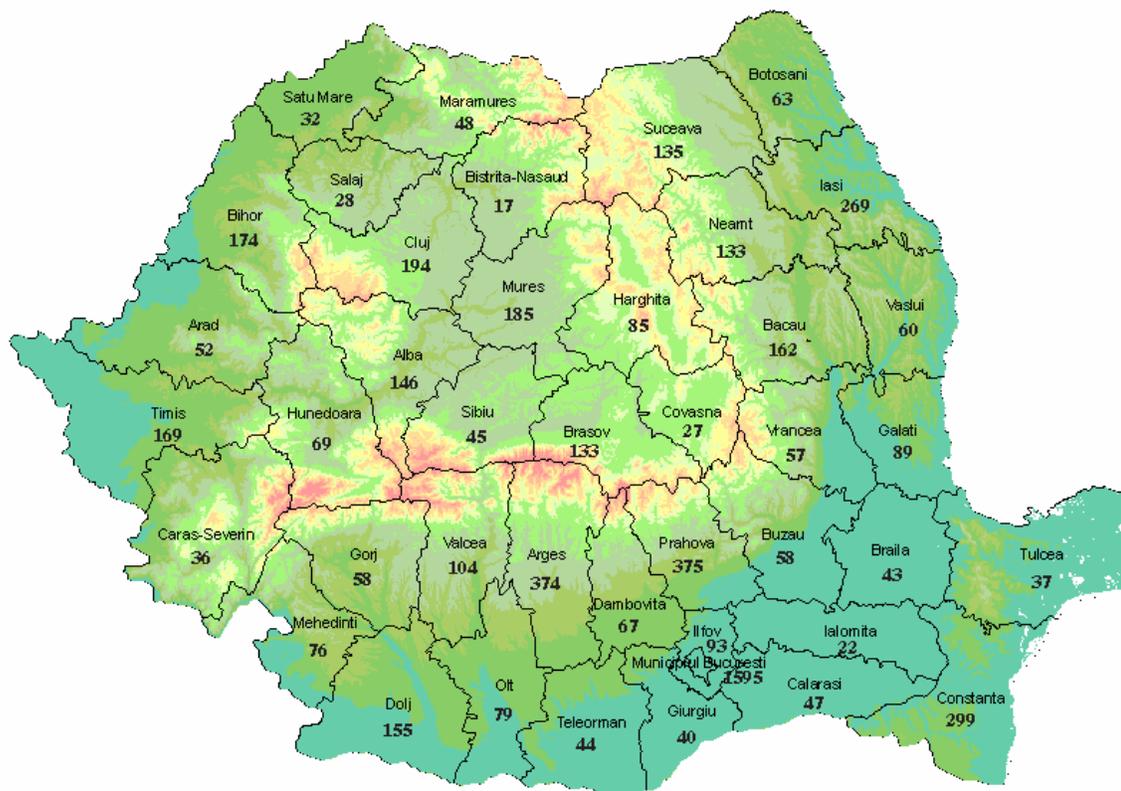
<b>No.</b>	<b>Number and issue date of the recommendation. Object of the recommendation</b>	<b>The public authority targeted by the recommendation</b>	<b>Short content of the recommendation</b>
	decision is issued for the claim submitted based Law no. 10/2001 regarding the legal status of properties confiscated by the state between March 6, 1945 and December 22, 1989 and under Law no. 247/2005 regarding private property reform.		observe the provisions set down by art. 59 and art. 22 of Law no. 35/1997, republished; - taking all necessary measures to speed up formulating answers for the complainers and the People's Advocate Institution. - inform the People's Advocate regarding the implemented measures.

### CHARTS REGARDING THE INDICATORS OF THE PEOPLE'S ADVOCATE ACTIVITY





## STATISTICS ON COMPLAINTS BY COUNTIES



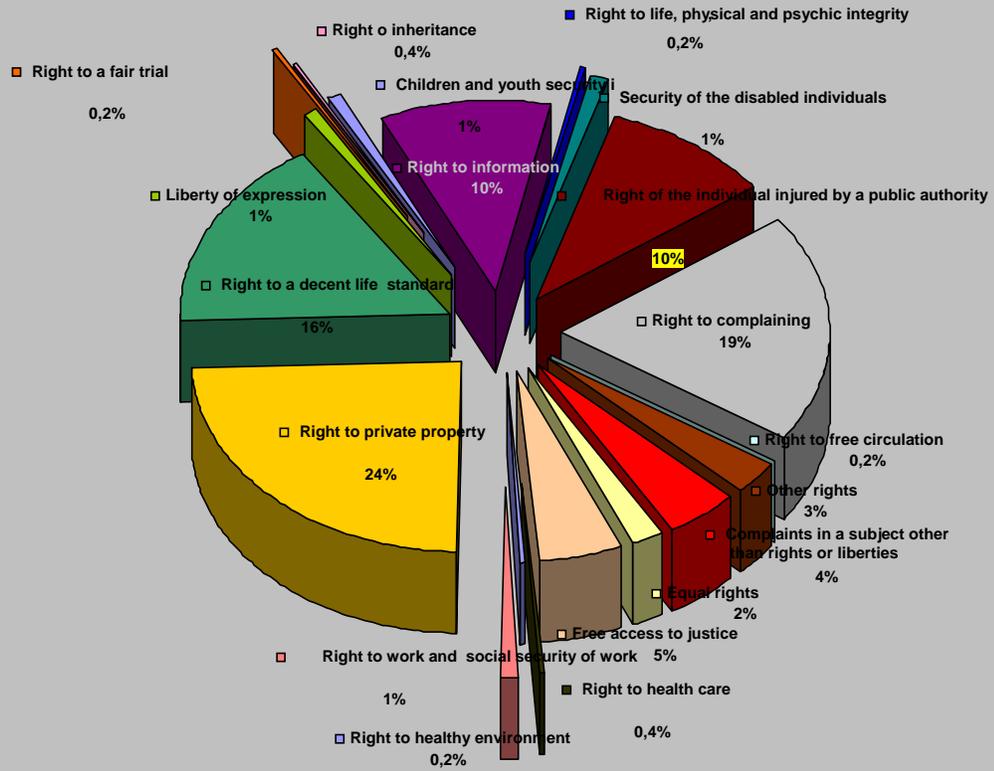
Complaints received from the country by post mail (on hardcopy): 5974

Complaints received by e-mail: 837

Complaints received from abroad: 108

Total number of received complaints: 6919

**STATISTICS OF THE REGISTERED COMPLAINTS RELATED TO ALLEGED VIOLATED RIGHT**



Equal rights	Free access to justice
Right to health care	Right to a healthy environment
Right to work and work social security	Right to the private property
Right to a decent life standard	Liberty of expression
Right to a fair trial (art.6 of CEDO)	Right to inheritance
Children and youth security	Right to information
Right to life, physical and psychical integrity	Security of the disabled individuals
Right of the individual injured by a public authority	Complaining right
Right to free circulation	Other rights
Complaints in other subjects than rights and liberties	

## **SUMMARY**

<b>THE LEGAL FRAMEWORK OF ORGANIZATION AND FUNCTIONING OF THE PEOPLE'S ADVOCATE INSTITUTION.....</b>	<b>3</b>
<b>ORGANIZATIONAL STRUCTURE AND THE SCHEME OF PERSONNEL .....</b>	<b>10</b>
<b>THE GENERAL VOLUME OF ACTIVITY .....</b>	<b>11</b>
<b>PROCEDURES AND MEANS OF INTERVENTION SPECIFIC TO THE PEOPLE'S ADVOCATE INSTITUTION .....</b>	<b>14</b>
<b>THE AREA OF HUMAN RIGHTS, EQUALITY OF CHANCES BETWEEN MEN AND WOMEN, RELIGIOUS CULTS AND NATIONAL MINORITIES.....</b>	<b>16</b>
<b>THE AREA OF THE RIGHTS OF CHILDREN, FAMILY, YOUTH, PENSIONERS, PERSONS WITH DISABILITIES.....</b>	<b>26</b>
<b>THE AREA OF ARMY, JUSTICE, POLICE, PENITENTIARIES.....</b>	<b>40</b>
<b>THE AREA OF PROPERTY, LABOUR, SOCIAL PROTECTION DUTIES AND TAXES.....</b>	<b>54</b>
<b>THE ACTIVITY OF THE TERRITORIAL OFFICES OF THE PEOPLE'S ADVOCATE INSTITUTION .....</b>	<b>63</b>
<b>THE PEOPLE'S ADVOCATE ACTIVITY IN THE FIELD OF CONSTITUTIONALITY CONTROL OF LAWS AND ORDINANCES....</b>	<b>65</b>
<b>MATERIALS AND BUDGET RESOURCES USED IN 2007.....</b>	<b>71</b>
<b>COOPERATION WITH SIMILAR INTERNATIONAL INSTITUTIONS AND AUTHORITIES .....</b>	<b>73</b>
<b>LAWSUITS, JURIDICAL ISSUES OF THE INSTITUTION.....</b>	<b>79</b>
<b>MEDIA PRESENCE, BULLETIN, RADIO, ROMANIAN ACTUALITY.....</b>	<b>80</b>

**ANNEXES**

**ANNEX NO. 1 GENERAL VOLUME OF ACTIVITY.....83**

**ANNEX NO. 2 STATISTICS OF THE COMPLAINTS REGISTERED RELATED TO THE INFRINGED RIGHTS AND FREEDOMS .....84**

**ANNEX NO. 3 STATISTICS OF COMPLAINTS PER COUNTY.....85**

**ANNEX NO. 4 STATISTICS OF COMPLAINTS RECEIVED FROM ABROAD.....87**

**ANNEX NO. 5 THE ACTIVITY OF THE PEOPLE’S ADVOCATE TERRITORIAL OFFICES .....88**

**ANNEX NO. 6 STATISTICS OF THE POINTS EXPRESSED BY THE PEOPLE’S ADVOCATE ON THE EXCEPTIONS OF UNCONSTITUTIONALITY .....90**

**ANNEX NO. 7 INQUIRIES.....92**

**ANNEX NO. 8 RECOMMENDATIONS ISSUED BY THE PEOPLE’S ADVOCATE.....94**

**ANNEX NO. 9 CHARTS REGARDING THE INDICATORS OF THE PEOPLE’S ADVOCATE ACTIVITY .....99**