



ROMANIA
PEOPLE'S ADVOCATE



REPORT
of activity for 2008

Bucharest
2009

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**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,
as per art. 60 of the Romanian Constitution**



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**Ombudsman
Minister Office**

Address No. 1072/January 30, 2009

Dear Mr. President,

According to the provisions of the art. 60 of the Romanian Constitution and art. 50 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 2008***, with the request to be presented to the two Chambers of Parliament.

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

Prof. Ioan MURARU, Ph.D.

People's Advocate

Bucharest, January 27, 2009

**To Mrs. Roberta Alma ANASTASE,
President of the Deputies Chamber**



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**To Mr. Mircea-Dan GEOANA,
President of the Senate**

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

We submit for consideration and deliberation to the joint assembly of the Chamber of Deputies and the Senate, the Report of the People's Advocate Institution for 2008. Therefore, we comply with the provision of the art. 60 of the Romanian Constitution, as well as of the art. 50 from Law no. 35/1997 on the organization and functioning of the People's Advocate Institution.

*Following an overview and retrospective, we inform you that in 2008, the institution development accomplished not only a quantitative, but also a qualitative progress. Thus, in figures, we can notice that in 2008, comparing to 2007, a number of 17783 citizens **were heard**, an **increase of 14 %**; a number of **8030 petitions** were registered, that is an **increase of 16 %**; the phone calls service was used by **5820** citizens with an **increase of 3 %**. Besides that, we can add **42 inquiries**, **12 recommendations**, **2088 points of view** submitted to the Constitutional Court (an **increase of 27%**), **6 exceptions of unconstitutionality** by which we notified the Constitutional Court (an increase of 50%).*

This development progress could be achieved due to the existence of a complete personnel plan, for the central office, as well as on the level of the 14 territorial offices of the People's Advocate Institution.

The present report details and explains the problems the institution was focused on, according to the specialization fields stipulated by the law. Complete information and assessment are offered concerning: procedures and means specific to the institution; material and budgetary resources; cooperation with similar international institutions and authorities, etc.

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

➤ ***The concern of the People's Advocate Institution regarding the protection of physical entities rights***

*Believing that it is the duty of the Ombudsmen to make efforts for imprinting an attitude of respect and tolerance in the public opinion and the behaviour of public authorities, favourable to the free movement of persons and for the elimination of any forms of discrimination between the citizens of a member state of the European Union and the citizens of the other member states, the People's Advocate drafted an **Open Letter**, addressed to the European Ombudsman, the President of the International Institute of the Ombudsman – the European Region, the Ombudsmen of the European Union, insisting on the idea of cooperation between the Ombudsman institutions of the European Union member states, with a view to favouring the right to free movement of Romanian citizens abroad. Also, the People's Advocate Institution sent the open letter concerning the situation of Romanians in Italy to the 19 local Ombudsmen in Italy.*

Through written responses, the European Ombudsman, the National Ombudsman of Ireland, the Parliamentary Ombudsman of Finland, the Civic Defender- the Basilicata Region, the Commissary for the Protection of Civil Rights in Poland, the Civic Defender - the Friuli Venezia Region, the Civic Defender - the Romana Region, have shown that they were impressed by the People's Advocate's message, promising support for the institution in the matters regarding the discrimination that some Romanian citizens, who exercise their right to free movement, are confronted with. Moreover, Jean-Paul Delevoye, the Mediator of the French Republic, has addressed Mr. François Fillon, the French prime-minister, requesting information regarding the situation of the Romanian citizens in France.

The exchange of correspondence between the People's Advocate and the Ombudsmen of the European Union member states expresses the concern of these institutions for the protection of the rights and freedoms of physical entities. In what concerns us, this exchange is established in art. 17 of the Romanian Constitution, according to which the Romanian citizens abroad are protected by the Romanian state.

Here we also mention the collaboration with Janusz Kochanowski, the Commissioner for Civil Rights Protection in the Polonaise Republic,

regarding the case of a Romanian citizen deceased in a penitentiary in Poland. Through the letter addressed to the People's Advocate on May 5th 2008, the Commissioner for Civil Rights Protection in the Polish Republic guaranteed he would make all the necessary efforts and use all the means at his disposal to establish the causes and circumstances of the noted situation.

➤ ***Involvement in constitutionality control***

In the actions undertaken (drawing 2088 points of view regarding the exceptions of unconstitutionality and notifying the Constitutional Court of 6 exceptions of non-constitutionality, out of which, to the present date, 3 were admitted), the People's Advocate expressed himself as an autonomous and independent authority and completely committed to conducting in a loyal constitutional manner. The actions undertaken during the constitutionality control were energetic actions, undoubtedly critical regarding some normative documents. Those who have observed the activity of the People's Advocate in this direction closely and in good-faith can ascertain the fact that there have not been nor are there conflicts between the People's Advocate and the public authorities issuing normative documents undergoing constitutionality control. All the authorities have fulfilled their constitutional obligations and the Constitutional Court has also fulfilled its constitutional obligation of guarantor of the Constitution's supremacy, and these actions of the People's Advocate have been the result of opinions from different angles. As a result, the activity of the People's Advocate in this department has been a natural activity in a free society, organized in a constitutional state, governed by the principles of legality, pluralism and transparency.

- During the year 2008, there was a stronger communication with the **mass-media** interested in informing the public opinion regarding the role and activity of the People's Advocate Institution. Thus, over **170 manifestations** on the level of televisions and radios, central and local newspapers were registered.
- *We must state the fact that we have had the support of the **Parliament**, even though at the*

*debate and approval of the state budget Law for the year 2008, we would have expected the parliamentarians, who, during the debate for the People's Advocate Institution's budget within the parliamentary committees, had promised to support us. Naturally, the activity undertaken during the year 2008 could not be objectively characterized, unless we mentioned some **inexecutions** here.*

➤ **Financially**, in the context of general austerity, a certain aggression of the structures of the Ministry of Economy and Finances towards the People's Advocate Institution was also registered.

Due to this fact, the People's Advocate was unable to fulfill some international liabilities within the collaboration rapport with the International Institute of the Ombudsman, the European Institute of the Ombudsman and the Association of Ombudsmen and Francophone Mediators, as well as with other similar institutions or international authorities.

➤ We were unable to determine some **public authorities**, especially from the structures of the city halls, to be receptive to the requests of the People's Advocate Institution and, without doubt to those of the citizens. In those cases, the means at the disposal of the People's Advocate Institution proved to be ineffective, while the support of the superior hierarchic authority was null.

*Therewith, some **proposals** regarding the improvement of the institution's activity can be emphasized here.*

The cumulated experience proves that some improvements of Law no. 35/1997 on the organization and functioning of the People's Advocate Institution could be useful. Here we mean the manner of organizing the territorial offices in the sense that, depending on the possibilities, the People's Advocate should be able to establish territorial offices in another county in the territorial jurisdiction range of the appeal courts. Moreover, we highlight the need for completing the current legislation, in order to establish a territorial office of the People's Advocate Institution in Slobozia or Alexandria, responsible for the five counties (Calarasi, Giurgiu, Ialomita, Ilfov, Teleorman) within the territorial jurisdiction of the Bucharest Court of Appeal.

*The People's Advocate Institution would have expected to be **consulted** by the initiators of law and ordinance projects, which by the content of the regulations, regard the citizens' rights and freedoms, stipulated in the Romanian Constitution, the pacts and other international treaties regarding the fundamental human rights, to which Romania is part, as per art. 27 of Law no. 35/1997, republished. Through this consult, we could avoid the means of notifying the Constitutional Court, for amending the eventual regulations that the People's Advocate considers to be unconstitutional. The People's Advocate Institution works with a body of counsellors and experts with higher professional training, capable of investigating correctly the legislative proposals.*

The report also includes in its content several other proposals for improving the legislative frame regarding the rights of the physical entities and their rapports with the public authorities. We express our certainty that by reading the report, those who are interested will be able to assess realistically the activity of the People's Advocate Institution during the year 2008.

Prof. Ioan Muraru, Ph. D.
People's Advocate

Bucharest, January 2009

SYNTHESIS OF THE PEOPLE'S ADVOCATE INSTITUTION REPORT FOR THE YEAR 2008

The report comprises **14 chapters** and **9 annexes**.

Chapter I describes the legal organizational and functional frame of the People's Advocate Institution.

After presenting the main current regulations referring to the People's Advocate Institution, there is a brief description of the role, attributions and steps taken with a view to solving the requests addressed by petitioners whose rights have been violated by the public administration's authorities. We can observe the fact that, for fulfilling the constitutional purpose, the People's Advocate can make investigations, recommendations, and in case the investigations show gaps in the legislation or cases of severe corruption or violation of the state's laws, the institution can present a report enclosing the observed facts to the presidents of the two Chambers of Parliament or, depending on the case, to the prime-minister.

Chapter II presents the organizational structure and establishment of the People's Advocate Institution. We mention that the organizational structure of the People's Advocate Institution is stipulated in the organizational and functional Regulations of the People's Advocate Institution and it is approved accordingly to the institution's development stage. Also, we can notice the fact that during the year 2008 there have been competitions organized for filling the available positions and that the institution's specialized personnel attended several seminars and public debates regarding the problematic of the protection of the rights and freedoms of physical entities. **Four specialization fields** operate within the People's Advocate Institution: human rights, equality of chances between men and women, religious cults and national minorities; the rights of children, families, the youth, pensioners, disabled individuals; army, justice, police, penitentiaries and property, labour, social security, taxes and fees.

Chapter III presents the general amount of activity of the People's Advocate Institution. We can observe the activity during hearings, for solving petitions, answering telephone calls. Also presented are the following: the subject of the petitions; the institution's activity in the field of the control of constitutionality of the laws and ordinances as well as the activity developed for informing the citizens regarding the protection of the rights and freedoms of physical entities and for mediatizing the role of the People's Advocate Institution.

Chapter IV presents the problems subject of the petitions addressed to the People's Advocate Institution. This analysis encloses the methods and intervention means specific to the People's Advocate Institution, as well as a short presentation of the activities undertaken and the outcomes obtained, as a result to practicing the intervention means characteristic to the institution.

Chapter V includes a general presentation of the activity undertaken in the human rights, equality of chances for men and women, religious cults and national minorities specialization field. We find information regarding the constitutional texts that have been allegedly breached by the public administration's authorities in the relations with petitioners. Moreover, we find an analysis of the solved petitions and a presentation of the case records that are considered to be more interesting.

Chapter VI presents the activity undertaken in the specialization field of the rights of children, family, youth, pensioners, people with disabilities. In this chapter we find the presentation of the percentage of petitions solved by the People's Advocate Institution and the percentage of those solved in favor of the petitioner.

Chapter VII includes a presentation of the activity undertaken in the specialization filed of army, justice, police, penitentiaries, with the mentioning of the number of petitions solved in this field as well as the steps taken with a view to solving them.

Moreover, from the content of this chapter we must note the fact that during the year 2008 the Special Report was written, regarding the regulations issued by the Ministry of Justice and by the General Manager of the National Administration of Penitentiaries regarding the enforcing of punishments and of the educational measure of submitting criminal minors to educational centers. Through the response address to this report, the Ministry of Justice informed the People's Advocate of the fact that since the date of July 22nd 2008, the management of the National Administration of Penitentiaries ruled that all issued normative instruments are to be published in Romania's Official Gazette, Part I. This decision was taken in order to insure a higher degree of transparence of the decisional act of the general manager of the National Administration of Penitentiaries, and so that the individuals deprived of freedom, by the civil society and by the institutions interested with attributions in the protection of the rights and freedoms of individuals deprived of freedom, acknowledge the decisions issued in the field of punishment enforcement.

Also, the analysis of the specialization field of army, justice, police, and penitentiaries includes the most significant actual findings found in the case records presented, as well as the most interesting cases solved in this field of activity.

Chapter VIII presents the activity undertaken during the year 2008 in the specialization field of property, labour, social security, duties and taxes. We note the large number of petitions registered in this field where steps have been taken for solving them. Furthermore, for completing the description of the activity undertaken, some of the case records are also presented.

Chapter IX encloses the general presentation of the activity undertaken by the territorial offices of the People's Advocate Institution. We state the fact that the activity undertaken by these offices consists in solving petitions by measures addressed to the authorities of the local public administration, yielding hearings and taking telephone calls. The activity undertaken by the territorial offices of the People's Advocate Institution is important under the

aspect of covering all of the geographical areas, aspect which gives the citizens relatively easy access to the institution's services.

Chapter X presents the institution's activity in the field of the control of the laws and ordinances constitutionality. We must note the fact that since the revisal of the Constitution in the year 2003, acknowledging the involvement of the People's Advocate in the control of constitutionality, the People's Advocate has manifested a special interest for the values of a democratic society, where a series of principles necessary for a proper and real functioning of the state are acknowledged. This control of constitutionality is linked to the People's Advocate's constitutional liability regarding the proper enforcement of the law. As per art. 13, letters (d)- (f) of Law no. 35/1997, on the organization and functioning of the People's Advocate, republished, further modifications and completions included, the People's Advocate states points of view at the request of the Constitutional Court; he can notify the Constitutional Court regarding the non-constitutionality of the laws, before enacting them and he can directly notify the Constitutional Court except for the non-constitutionality of the laws and ordinances. The number of points of view expressed by the People's Advocate has increased from year to year: if in the year 2005 their number rose up to 1005, in the year 2006, their number was 1375, and in the year 2007, it was 1635. In the year 2008, the number of points of view regarding the exceptions of non-constitutionality of laws and ordinances referring to the rights and freedoms of citizens expressed by the People's Advocate at the request of the Constitutional Court rose up to 2088, and 2 points of view referred to the notifications of non-constitutionality formulated by the Government.

Chapter XI presents the material and budget resources used during the year 2008. In this respect, an assessment regarding the financial possibilities of the institution, as well as proposals regarding the improvement of the expenses fund for the following year, are made.

Chapter XII encloses the cooperation with similar international authorities and institutions. We must note the fact that the manifestations developed outside the state's borders have contributed to the mediatizing of the People's Advocate Institution among the Ombudsman institutions in Europe. In this chapter we find a presentation of the essential activities, including attending conferences, seminars and relevant reunions.

Chapter XIII summarizes the overall activity regarding trials and judicial problems of the institution, by mentioning the number of judicial causes that the People's Advocate Institution was part of during the year 2008. Also, the problems that caused these litigations are highlighted, as well as the importance of maintaining the People's Advocate Institution within the sphere of the institutions for mediation, dialogue, and not in the one of those with coercive power.

Chapter XIV encloses information referring to Mediatizing, Bulletin, Radio, Romanian actuality. We must note the fact that the People's Advocate has intensified his efforts so that the citizens have a better knowledge of the role given by the Constitution, as well as by the law for organizing and functioning, and also of the instruments used by the People's Advocate Institution for promptly and professionally intervening in supporting them. The main means for mediatizing of the People's Advocate Institution consist in attending radio and television shows, the written press, and the institution's trimestral informative Bulletin, the press releases and the site, which offer information of public interest.

The report ends with the presentation of the **9 annexes** which refer to the following, in order: the general volume of activity, the statistics of petitions registered referring to the violated rights and freedoms, the statistics of petitions divided per county, the statistics of petitions received from abroad, the activity of the People's Advocate Institution's territorial offices, the statistics of points of view expressed by the People's Advocate regarding the exceptions of non-constitutionality, investigations, recommendations issued by the People's Advocate and graphics regarding the indicators registered in the activity of the People's Advocate Institution.

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

The revision of the Constitution during the year 2003 had the main purpose of adopting the constitutional rules necessary for Romania's integration in the European Union and the Euro Atlantic community, optimizing constitutional democracy by acknowledging and guaranteeing some new fundamental rights, and especially for consolidating the instruments of legal protection of the physical entities rights and freedoms. An important aspect is the fact that several of the new stipulations of the Constitution directly address the activity and liability of the People Advocate, who has been provided with new judicial means, with the purpose of facilitating the fulfillment of his purpose and functions.

Since passing the law of the People's Advocate, in 1997, he has been organized and has operated in Romania with the purpose of protecting the rights and freedoms of physical entities in their relations with the authorities of the public administration, valuing the tradition and experience of the classic west-European ombudsman.

The main current regulations regarding the People's Advocate are enclosed in:

- The Romanian Constitution, art. 58-60, art. 65, paragraph 2), art. 146, letters a) and d), republished in Romania's Official Gazette, 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 Romania's Official Gazette, Part I, no. 844 of September 15, 2004, modified and completed by Law no. 383/2007 published in Romania's Official Gazette, Part I, no. 900 of December 28, 2007;
- the structural and functional regulations of the People's Advocate Institution, republished in Romania's Official Gazette, Part I, no. 619 of July 8, 2004, completed by Decision no. 6/2007 of the Chamber of

Deputies and Senate's Permanent Offices, published in Romania's Official Gazette, no. 445 of June 29, 2007;

- Law no. 554/2004 of the administrative disputed claims office, published in Romania's Official Gazette, Part I, no. 1154 of December 7, 2004, further modifications and completions included;
- Law no. 170/1999 regarding the approval for the People's Advocate Institution's affiliation to the Ombudsmen and Francophone Mediators' Association, published in Romania's Official Gazette, Part I, no. 584 of November 30, 1999;
- Law no. 206/ 1998 regarding the approval for the People's Advocate Institution's affiliation to the Ombudsman's International Institute and to the Ombudsman's European Institute, published in Romania's Official Gazette, Part I, no. 445 of November 23, 1998.

The People's Advocate is appointed by joint session of the Chamber of Deputies and Senate for a 5 years term, for 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 is aided by deputies, appointed by the Chamber of Deputies and Senate's permanent offices, specialized in the activity fields established by Law no. 35/1997, republished, further modifications and completions included:

- Human rights, equality of chances between men and women, religious cults and national minorities;
- The rights of children, family, youth, pensioners and people with disabilities;
- Army, justice, police, penitentiaries;
- Property, labour, social security, duties and taxes.

These legal dispositions create the premises for increasing the effectiveness of the People's Advocate Institution's activity and they are in compliance with the regulations of other countries where the ombudsman is structured and functional.

The People's Advocate operates either **ex-officio**, or at the **request** of individuals whose rights and freedoms have been violated, within boundaries established by the law. The Constitution compels the public authorities to grant the People's Advocate the support necessary for exercising his attributions.

The People's Advocate only answers to the Parliament, being compelled to present reports to the Parliament. In these reports, the People's Advocate can also make recommendations regarding the legislation or adopting measures for protecting the citizens' rights and freedoms.

The Constitutional dispositions referring to the People's Advocate have been detailed through legal stipulations, outlining his particular judicial traits. Thus the People's Advocate is an **autonomous public authority** and **independent** from any other public authority; he does not subrogate to public authorities, he cannot be bound by any imperative or representative warrant, and his activity has a public nature; he is provided with **his own budget** which is an integral part of the state's budget, the People's Advocate and his assistants are **not legally liable** for the opinions expressed or for the actions undertaken, in compliance with the law, in exercising the attributions stipulated by law.

In order to fulfill his constitutional and legal role, the People's Advocate receives, examines and solves, in compliance with the law, the petitions addressed by any physical entity, regardless of citizenship, age, gender, political affiliation or religious creeds. The petitions addressed to the People's Advocate are to be formulated in writing and sent by mail, including electronic, by telephone, fax or directly through hearings, which represent the main means for dialogue with the citizens. The petitioner must prove the fact that the public administration has refused to legally solve their request. The petitions addressed to the People's Advocate are free of the stamp fee.

In order to solve the problems brought to his attention, the People's Advocate has the right to compel the public administration authority in question to take the measures necessary for defending the rights and freedoms of the physical entities, as well as notifying the public authorities hierarchically superior in reference to the lack of reaction of those who are

compelled to take the necessary measures. Also, the People's Advocate can make investigations and formulate recommendations.

Therefore, the People's Advocate has the right to make his **own investigations**, to ask the public administration's authorities for any information or documents necessary for the investigation, to approve hearings and to take statements from the leaders of the public administration's authorities as well as from any clerk who can provide the information necessary for solving the petition. Moreover, in exercising his attributions, the People's Advocate issues **recommendations** which cannot be controlled by the Parliament or judicially. Through the recommendations emitted, the People's Advocate notifies the public administration's authorities of the illegality of the administrative actions and facts.

The People's Advocate's competence in solving some petitions regarding the judicial authority materialize in his legal possibility to address, depending on the case, the Ministry of Justice, the Public Minister or the president of the Judicial Court, who are compelled to communicate the measures taken. This represents a legal way for the People's Advocate to intervene in the situations of bureaucracy generated by non-compliance with art. 21, paragraph (3) of the Constitution, which values the stipulations of art. 6 of the Convention for defending human rights and the fundamental freedoms regarding the right of the parties to a fair trial and solving the cause at a reasonable term.

In case the People's Advocate notices, through the investigations performed, gaps in the legislation or severe cases of corruption or of non-compliance with the state's law, he will forward a report, stating the noticed facts, to the presidents of the two Chambers of Parliament or, depending on the case, to the prime-minister.

Furthermore, the People's Advocate can be involved in the **control of constitutionality** of laws and ordinances, performed by the Constitutional Court. Thus the People's Advocate can notify the Constitutional Court in reference to the non-constitutionality of the laws adopted by the Parliament, before they are enacted by the President of Romania; he can bring exceptions of non-constitutionality regarding current laws and ordinances to the attention of the Constitutional Court; at the request of the Constitutional Court, he can

issue points of view regarding the exceptions of non-constitutionality of laws and ordinances, referring to the citizens' rights and freedoms.

The legal and constitutional regulations presented provide the People's Advocate Institution with means and specific procedures for acting effectively in view of fulfilling the role of protecting the rights and freedoms of physical entities.

The necessity, opportunity and legality of the People's Advocate's interventions for protecting the constitutional rights and freedoms have caused a change in mentality, on the level of the public administration's authority as well as in the conscience of the citizens.

CHAPTER II. ORGANIZATIONAL STRUCTURE AND SCHEME OF PERSONNEL

The organizational structure of the People's Advocate Institution is stipulated in the structural and working Regulations of the institution.

The organizational structure of the institution reflects the specialization fields, in compliance with the law, as it follows:

- a) Human rights, equality of chances between men and women, religious cults and national minorities;
- b) Rights of children, family, youth, pensioners, people with disabilities;
- c) Army, justice, police, penitentiaries;
- d) Property, labour, social security, duties and taxes.

The approved organizational structure corresponds to the institution's development stage, which is in the middle of an affirmation process by accepting new attributions or by developing the existing ones.

The institution is managed by the **People's Advocate**, supported by **deputies specialized** in the four activity fields. **The General Secretary** coordinates the economical and administrative activity of the institution.

The **Consultative Council** operates within the institution and it is formed of the People's Advocate, his assistants and councilors, the general secretary as well as other persons appointed by the People's Advocate. The Council assembles once per year or as often as necessary.

The People's Advocate convokes the Advisory Council.

In the field, the activity is structured by the **14 territorial offices**, organized based on the geographic criterion of the Courts of Appeal.

During the year 2008, the activity of the People's Advocate Institution developed based on a personnel diagram enclosing a number of **100 positions** distributed at the centre and in the field.

Contests have been organized, in the year 2008, for filling the available positions in the institution, as a result of which there have been selected experts and councilors, who usually have judicial training.

After 4 contests the following positions have been filled: an available expert position for the Oradea Territorial Office, two available expert positions in the activity fields and foreign relations and protocol, two available expert positions in the economical and administrative service, a position of office manager and one of courier, positions stipulated in the positions and personnel chart of the People's Advocate Institution.

The specialized enforcing personnel of the institution, formed of councilors and experts, are assimilated to the personnel in the Parliament's specialization structures.

Due to the fact that the Ministry of Economy and Finances set a series of limits regarding the drafting of the institution's budget for the year 2008, a deficit of funds occurred with the personnel expenses during August 2008, deficit which was covered through a suppletion of funds in November 2008.

In order to optimize the professional training of the specialized personnel within the institution, several seminars and debates with specialization themes have been organized, as well as meetings with experts from the territorial offices.

Furthermore, during the year 2008, the councilors and experts within the institution attended internal seminars and public debates, as well as some on external level, referring to the problematic of the protection of the physical entities rights and freedoms.

CHAPTER III. GENERAL VOLUME OF ACTIVITY

a) Activity carried out during the hearings

During the year 2008, at the central office and the territorial offices of the People's Advocate Institution, a total of **17783 hearings** have been granted, during which violations of the rights of physical entities have been invoked (Annex no. 1).

b) Activity of solving the petitions

During the year 2008, at the central office and the territorial offices of the People's Advocate Institution, a total of **8030 petitions** have been filed (Annex no.1, Annex no. 3, Annex no. 4).

c) Activity of receiving telephone calls

The physical entities who have addressed the People's Advocate Institution telephonically have especially been those at great distances, as well as individuals with movement disorders. A total of **1938 telephone calls** have been recorded by the institution's dispatcher. A number of **3882 telephone calls** have been recorded at the territorial offices of the People's Advocate Institution. Thus, a total number of **5820 telephone calls** have been recorded (Annex no. 1).

d) The subject of the petitions submitted to the People's Advocate

The objects of the petitions addressed to the People's Advocate Institution are violations of some civil rights and freedoms, as well as abuses of the public authorities. They have been analyzed in rapport with the violated rights and freedoms, in the context of the specialization fields of the People's Advocate Institution's activity (Annex no. 2).

e) The comparative analysis of the quantity of petitions on the specialization fields

Out of the total number of petitions addressed to the institution, a percentage of **20.11%** of the total number of petitions are in reference to property, labour, social security, taxes and fees. **13.75% of the petitions** were registered in the field of army, justice, police and penitentiaries. **12.71% of the petitions** were registered in the field referring to the rights of children, families, youth, pensioners and disable individuals. **7.93%** of the petitions

were registered in the field of human rights, equality of chances between man and woman, religious creeds and national minorities, and **1.69%** of the petitions were sent to the General Secretary of the institution, the People's Advocate's councilors and the Relations department with other institutions and persons or protocol. The percentage of **43.80%** of the petitions was registered at the territorial offices.

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

At the request of the Constitutional Court, during the year 2008, a number of **2088 points of view regarding the non-constitutionality of laws and ordinances and 2 points of view regarding objections of non-constitutionality** were formulated.

Moreover, the People's Advocate presented **6 exceptions of non-constitutionality** directly in front of the Constitutional Court:

- the exception of non-constitutionality of the stipulations in art. 48, paragraph (3) of Law no. 67/2004 for appointing the authorities for the local public administration, republished, **rejected** by the Constitutional Court by Decision no. 606/2008;

- the exception of non-constitutionality of the stipulations of Law no. 16/2007 regarding the structuring and performing of the surveyor profession, **admitted** by the Constitutional Court by Decision no. 1150/2008;

- the exception of non-constitutionality of the stipulations of art. 111, paragraph (6) of the Emergency Government Ordinance no. 195/2002 regarding traffic on public roads, republished, **admitted** by the Constitutional Court by Decision no. 742/2008;

- the exception of non-constitutionality of stipulations of art. 19 and 20, paragraph (1) of Law no 154/1998 regarding the system for establishing the basic salaries in the budget sector and indemnities for persons in positions with public dignity, to which the Court has not given a response up to the present;

- the exception of non-constitutionality regarding the Emergency Government Ordinance no. 136/2008 regarding the establishing of measures for remunerating the personnel in education in the year 2008, exception **admitted** by the Constitutional Court by Decision no. 1221/2008;

- the exception of non-constitutionality referring to the stipulations of art. 20¹ paragraph (1) letters a), b), c) and d) of Law no. 508/2004 regarding the establishing, organizing and working of the Department for Investigating Organized Crime and Terrorism within the Public Ministry, further modifications and completions included, and of art. 22³, paragraph (1), letters a), b), c) and d) of Emergency Government Ordinance no. 43/2002 regarding the National Anti-corruption Department, further modifications and completions included, to which the Court has not given a response up to the present.

g) The activity undertaken for informing citizens in reference to protecting the rights and freedoms of the physical entities and for the mediatizing of the People's Advocate role

The People's Advocate Institution has multiplied its efforts for a better familiarity of the citizens with the subject of the constitutional role and especially of the instruments available to the People's Advocate to intervene promptly and professionally in supporting the citizen.

During the year 2008, *the written press* continued to treat the problematic of the citizen responsibly, this being part of the competence of the People's Advocate Institution.

We mention the requests received from the central press („Actualitatea Românească”, „Adevărul”, „Evenimentul Zilei”), as well as local („Informația de Alba”, „Ziarul Deșteptarea”, „Ziarul de Roman”, „Monitorul de Bacău ”, „Transilvania Expres”, „Cuvântul nou”, „Ghimpele de Constanța”, „Replica”, „Obiectiv de Tulcea”, „Observator”, „Școala Constanțeană”, „Foaia Transilvană”, „Gazeta de Cluj”, „Panoramic Mehedințean”, „Gorjanul”, „Orizontul din Pașcani”, „Ziarul de Iași”, „Obiectiv de Vaslui”, „Ieșeanul”, „Ziua de Iași”, „Ziarul Crișana”, „Curierul Zilei”, „Argeșul”, „Evenimentul Muscelan”, „Săptămânalul Ancheta”, „Orizont Economic Argeșean”, „Telegraful de Prahova”, „Șansa Buzoiană”, „Actualitatea Prahoveană”, „Monitorul de Prahova”, „Crai Nou”, „24 ore Mureșene”, „Cuvântul Liber”, „Kozpont”, „Vasarhely Hirlap”, „Punctul”, „Renașterea Bănățeană”, „Agenda Zilei”, „Opinia Timișoarei” and „Agenda Consiliului Județean Timiș”, which have related important aspects of the People's Advocate Institution's activity.

Press releases were issued trimestrially and on other occasions, addressed to the press agencies and published on the official site of the People's Advocate Institution.

For a better understanding of the role and attributions of the People's Advocate Institution, there were issued, at its own financial effort, the trimestral **informative bulletin** regarding the activity of the institution and the cases solved by the intervention of the People's Advocate and the **"People's Advocate in Romania" brochure** dedicated to the 10 year activity anniversary. This material, with informative nature, was granted free of charge to physical entities, but also to the authorities of the central and local public administration (ministries, prefectures, city councils, city halls).

During the year 2008, the People's Advocate co-worked more intently with the *television and public radio*, the most effective means of mediatizing on national level (TVR1, Vocea Speranței, Realitatea TV, Radio România Actualități, Radio Atlas Alba-Iulia, Radical FM Bacău, TV CNS Roman, Nova TV Brașov, Radio Constanța, Televiziunea Constanța, Radio Oltenia, TVS – Craiova, Radio Craiova, TV Total Vaslui, TV Tele M, Radio Smile TV, Transilvania TV, Argeș TV, Radio 21, Televiziunea „Etalon” Râmnicu Vâlcea, Prahova TV, Alpha TV, Antena 1 Târgu-Mureș, Televiziunea Târgu-Mureș, Radio Târgu-Mureș).

The channels BBC Romania, Realitatea TV and B1 TV have had the People's Advocate, prof. Ioan Muraru, as a guest and he has had dialogues with the producers of the shows, presenting the intervention possibilities of the People's Advocate Institution in solving conflict between physical entities and the authorities of public administration.

With the purpose of supporting the citizens, the People's Advocate Institution signed **collaboration protocols**, by means of the territorial offices, with the authorities of the public administration and also with universities in the country, in view of the People's Advocate Institution hosting the practice activity of students.

Moreover, with the purpose of supporting the children who are confronted with special problems, **social aid** has been granted from the fund for the People's Advocate Institution, actions organized by the field of the rights of children, family, youth, pensioners and people with disabilities.

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

In view of fulfilling its legal and constitutional attributions, the People's Advocate Institution disposes of a series of specific intervention procedures and means to guarantee the observing of citizens' fundamental rights and freedoms. In this context, one of the goals of the People's Advocate Institution is to ensure the effectiveness of its interventions in view of solving the petitions it is notified with, interventions materialized in: granting hearings; performing preliminary research by requesting information from the public authorities; performing investigations; formulating recommendations; editing special reports.

Hearings represent the main means of communicating with citizens, through which the People's Advocate identifies the problems of the petitioners, legislative gaps that affect the citizens' rights and freedoms, dysfunctions recorded in the activity of the public administration's authorities. Furthermore, hearings represent a way of informing petitioners regarding the rights and freedoms granted to them by law, and also regarding ways for them to capitalize their fundamental rights and freedoms. The role of hearings is reflected by their significant number recorded for the year 2008, respectively 17783, compared to 15517, in the year 2007.

Regarding the **preliminary research**, during the year of 2008, the People's Advocate formulated a number of **2949** requests, asking for information from the accountant public authorities, respectively from the hierarchically superior public authorities. By means of these steps, consisting in written demands addressed to the public authorities involved in solving the petitioners' requests, the People's Advocate has had the possibility of performing a complete informing necessary for analyzing and solving the aforementioned requests.

Investigations represent a means for the People's Advocate to examine the petitions that he has been notified with and they also represent the sources for receiving the most concrete information which can be used in solving the petitions. Through the performed investigations, the public administration's

authorities were asked to provide the information or documents necessary for solving the petitions, the presidents of the public administration's authorities or the employees who have violated rights or freedoms of physical entities attended hearings and gave statements. As a result of the investigations performed, in the situations where he identified violations of the petitioner's civic rights and freedoms, the People's Advocate: **a)** either formulated a written demand, addressed to the public administration's authority that violated the rights of the petitioner, to revoke the administrative document and to repair the damages caused, as well as to return the injured person to the anterior situation; **b)** either notified the hierarchically superior public authorities in reference to the absence of a reaction from those responsible with taking the necessary measures; **c)** either issued recommendations addressed to the public administration's authority, that violated the rights or issued the illegal document, in case he detects a severe violation of the petitioner's rights or the illegality of the administrative document.

During the year 2008, the People's Advocate Institution performed a number of **42 investigations** (Annex no. 7), out of which:

- **13 investigations** in reference to the respecting of the right to private property at: the Prefect's Institution in Bucharest City- the Board for enforcing the stipulations of Law no. 290/2003; the Town Hall of Bucharest City; the National Authority for Returning Property- the Service for enforcing Law no. 9/1998; the Town Hall of Bucharest City- the Service for enforcing Law no. 10/2001; the Town Hall of Petresti Town, Dambovit County; the Town Hall of Ocnele Mari City, Valcea County; the Town Hall of Eforie City, Constanta County; the Town Hall of Comarnic City, Prahova County; the Town Hall of Braila City, Braila County; the Dolj County Committee for enforcing Law no. 18/1991; the Town Hall of Gornet-Cricov Town, Prahova County; the Town Hall of Fulga Town, Prahova County.
- **5 investigations** in reference to the respecting of the right to private property and the right to petition at: the National Authority for Returning Property (2); the Town Hall of Fagaras City, Brasov County; the Town Hall of Sector 5 in Bucharest; the Town Hall

of Bucharest City- the Judicial, Disputed Claims, Legislation Department.

- **5** investigations in reference to the respecting of the right to private property and the right of a person aggrieved by a public authority at: the Town Hall of Bucharest City; the Town Hall of Mihailesti Town, Giurgiu County; the Town Hall of Oncesti Town, Bacau County; the Town Hall of Farcasesti Town, Dolj City; the Town Hall of Bradu Town, Arges County.
- **2** investigations in reference to the special protection for disabled individuals and the right of a person aggrieved by a public authority at: the National Authority for Disabled Individuals; the Public Service for Social Security Bacau.
- **2** investigations in reference to the respecting of the right to a standard of living, the right to petition and the right of a person aggrieved by a public authority at: the Local Pension House of Sector 1, Bucharest; the Local Pension House of Sector 6, Bucharest.
- **3** investigations in reference to the respecting of the right to a decent living standard and the right to petition at: the Local Pension House of Sector 1 (2), Bucharest; the Local Pension House of Sector 6, Bucharest.
- **1** investigation in reference to the right of the disabled individual and to a decent living standard of living at the Brasov Town Hall.
- **3** investigations in reference to the right to petition and the right of a person aggrieved by a public authority at: “Dr. Constantin Gorgos” Titan Psychiatric Hospital; the Town Hall of Sector 5, Bucharest; the Timis County Office for the Consumer’s Protection.
- **1** investigation in reference to the respecting of the right to information at the Town Hall of Stefanesti City, Arges County.
- **1** investigation in reference to the right regarding the Protection of children and

the youth at: the Vaslui General Department for Social Services and Child Protection and the “Elena Farago” Barlad Placement Center, Vaslui County.

- **1** investigation in reference to checking the way the right regarding the protection of children and the youth is respected, as a result of the aspects published in the press at: the Vaslui General Department for Social Services and Child Protection and the Dr. I.T.Nicolaescu Hospital in Tutova, Vaslui County.
- **2** investigations in reference to the respecting of the right to a decent living standard at: the Mures County Pension House and the Prahova County Pension House.
- **2** investigations in reference to the respecting of the right of a person aggrieved by a public authority at: the Arges County Pension House and the Buzau County Council.
- **1** investigation in reference to the respecting of the right of a person aggrieved by a public authority, the right to a decent living standard and the right to intimate, family and private life at Vaslui Penitentiary, Vaslui County.

At the same time, during the year 2008, a number of **12 recommendations** (Annex no. 8) were formulated, by means of which the People’s Advocate notified the authorities of the public administration regarding the illegality of the administrative documents or facts. Thus, the following were issued:

- **2** recommendations regarding the special protection of disabled individuals, addressed to: the president of the National Authority of Disabled Individuals and to the president of the Superior Evaluation Board for Disabled Adult Individuals;
- **7** recommendations regarding the respecting of the right to private property and the right of a person aggrieved by a public authority, addressed to: the Prefect of Bucharest City, as President of the Board responsible for enforcing Law no. 290/2003; the Mayor of Constanta City; the Mayor of Ardasat Town, Maramures County; the Mayor of Ilieni Town, Covasna County; the Mayor of Eforie City, Constanta County and the Mayor of Bucharest City (2);

- 1 recommendation regarding the respecting of the right to petition and the right of a person aggrieved by a public authority, addressed to the Mayor of Sector 5, Bucharest;
- 1 recommendation regarding the respecting of the right to petition, addressed to the management of “Dr. Constantin Gorgos” Titan Psychiatric Hospital;
- 1 recommendation regarding the respecting of the right to information, addressed to the Mayor of Stefanesti City, Arges County.

During the process of exercising his attributions, the People’s Advocate formulated **2 Special Reports**, which he presented to the Parliament as it follows:

- Special Report regarding the severe financial difficulties of the People’s Advocate Institution for the year 2008
- Special Report regarding the rules issued by the ministry of justice and by the general president of the National Administration of Penitentiaries in the matter of enforcing punishments and of the educational measure of entering underage felons in centers for reeducation.

CHAPTER V. THE FIELD OF HUMAN RIGHTS, EQUALITY OF CHANCES BETWEEN MEN AND WOMEN, RELIGIOUS CULTS AND NATIONAL MINORITIES

In the field of human rights, equality of chances between men and women, religious cults and national minorities, the competence sphere of the People's Advocate is very vast, comprising a large number of the fundamental rights and freedoms stipulated in the Fundamental Law. Therefore, the activity in this field consisted in **clarifying** the content of the requests received from petitioners, performing investigations, as well as issuing recommendations. Also, when referring to protecting human rights in general, the collaborations that the field had with several authorities during the year 2008, the meetings with several Non-Governmental Organizations' representatives, attending seminars and radio shows addressing this subject, the art.s published in the national and international press cannot be omitted.

During the year 2008, the human rights, equality for chances between men and women, religious cults and national minorities field received, for analysis and solving, a number of **637** petitions, which represents 7.93% of the total of **8030** petitions registered within the People's Advocate Institution. For a number of **92** of the petitions distributed to the field, steps were taken with the public authorities in view of solving the problems signaled by the petitioners, and for a number of **545** of petitions, the problems signaled were solved at the level of the field, without the intervention of the authorities. Due to the fact that a large number of petitions regarded aspects that did not coincide with the institution's type of activity, the petitioners were directed towards the authorities appointed by law for solving their problems, receiving information regarding the legal path they should follow. The aspects signaled in the petitions assigned to the field referred especially to violations of the right to equality of chances, the right to petition, the right to information correlated to violations of the rights of a person aggrieved by a public authority and less to violations of the other fundamental rights and freedoms.

In the cases where public authorities failed to give answers to the requests or the answers received did not clarify the problems of the

petitioners, **3 investigations** were performed, at the Town Hall of Sector 5, Bucharest, at the Buzau County Council and at the “Dr. Constantin Gorgos” Psychiatric Hospital in Bucharest. At the same time, **2 recommendations** were issued, addressed to the mayor of Sector 5 and to the management of “Dr. Constantin Gorgos” Psychiatric Hospital in Bucharest.

The field had a significant contribution in drawing the *Special Report regarding the severe financial difficulties of the People’s Advocate Institution during the year 2008*, presented to the Romanian Parliament in April 2008.

I. HUMAN RIGHTS

Through its legal role, the field of human rights, equality of chances between men and women, religious cults and national minorities also solved petitions regarding the violation of some rights and freedoms, petitions which were not assigned to the other specialization fields.

This explains why the petitions assigned to the field referred only to certain rights, and not to the entire range of constitutional rights.

Through the requests in this category, physical entities signaled violations of the following fundamental rights and freedoms: nationality and equality of rights (art. 4 and 16); the right to life and to physical and mental integrity (art. 22); right to intimate, family and private life (art. 26); freedom of expression (art. 30); the right to information (art. 31); the right to health protection (art. 34); the right to a healthy environment (art. 35); the right to vote (art. 36); the right to be elected (art. 37); the right to petition (art. 51); the right of a person aggrieved by a public authority (art. 52).

In the category of petitions assigned to this field notifying violations of the fundamental rights and freedoms, the petitions regarding the right to information are highlighted, in number of **234**, and the ones regarding the violation of the right to petition, in number of **195**, summed up representing over **67%** of the petitions solved by the collective of the field.

In the next position, in a number of **76**, representing **12%** of the number of solved petitions, are those notifying rights being violated by public authorities and institutions which refer to the right of a person injured by a public authority, stipulated in art. 52 of the Romanian Constitution.

The fact that for the year 2008 a high percentage of the physical entities' notifications regarded possible violations of the right to information, the right to petition, as well as the right of a person aggrieved by a public authority, proves that there are cases where the public workers in institutions of the local and central public administration are insecure, and the managerial ability to implement decentralized responsibilities is not consolidated. Even though real progress has been achieved, considerable efforts are still required for improving the quality of the services provided to the citizens.

The petitions regarding a possible violation of the equality of rights for all citizens (art. 4 and 16), there were **30** registered, representing **4.71%** of the total number of petitions assigned to the field. As for the past year, their number was relatively reduced, being influenced by the citizens' increased addressability to the National Council for Combating Discrimination, as state authority in the field of discrimination, autonomous, with juristic character, under the parliamentary and guarantor control of the respecting and enforcing of the non-discrimination principle, as per the current internal legislation and the international documents to which Romania is part.

A number of **69** petitions regarded subjects other than the violation of constitutional rights and freedoms.

An analysis of the solved requests will be presented in the following pages, in the order of rights violated:

a) equality of rights (art. 16 of the Constitution)

The **30 petitions** regarding a possible violation of the equality of rights for all citizens addressed: alleged violations of Law no. 128/1997 regarding the Status of the didactic personnel, decisions issued by the pension houses, stipulations of the school's internal policy and, quite often, the direct notifying of the Constitutional Court was requested with the exception of non-constitutionality of the legal stipulations. In the following pages we present some of the answers given to the petitioners in such cases.

In request number 5966/2008, Corina (fictive name) expressed her opinion that the stipulations of art. 44 (2) of Law no. 303/2004, regarding the status of judges and prosecutors, as per which "when calculating length of service stipulated in paragraph (1) one should also take into account the period of time when the judge or prosecutor was an attorney" are

unconstitutional, as they violate art. 16, paragraph (1) of the Romanian Constitution which stipulates the fact that “all citizens are equal before the law and the public authorities, without privileges and without discrimination”. The petitioner believed that by the stipulations of art. 44, paragraph (2) of Law no. 303/2004, a “differential treatment” is assigned to the attorney profession in comparison to any other profession in the juristic sphere. In reference to this aspect, it was communicated that, after analyzing the notification, it was ascertained that it was not a case of a violation of the Constitution. In the situation notified, the real intention was of completing Law no. 303/2004 in the sense of also taking into account, when calculating length of service stipulated in art. 44 (1) of Law no. 303/2004, the period of time when the judge or prosecutor was a juristic counselor. It was also mentioned that the respective stipulations apply equally to all those within the hypothesis of legal rule without any discrimination based on arbitrary reasons. Art.16, paragraph (1) of the Constitution stipulates the fact that all citizens are equal before the law and the public authorities, without privileges and without discrimination.

It is our belief that the cases presented on end are representative for the field’s activity regarding the violation of the stipulations of art. 16 of the Constitution.

CASE FILE

File no. 4746/2008. Sandu (fictive name) criticized the fact that, even though Law no. 51/1993 regarding the granting of some rights to the magistrates released from office due to political reasons between the years 1945-1952, stipulates the granting of an indemnity updated yearly by a decision of the Government, this has never taken place. For this reason, the petitioner, a retired magistrate, considered himself to be discriminated in rapport with other categories of pensioners.

At the time with notifying the People’s Advocate Institution, the petitioner had already addressed the Ministry of Justice, the initiator of the law, in order for it to pass the project for normative document by which the indemnity granted to the magistrates released from service, for political reasons, between the years 1945-1952 is to be updated. However, the Ministry of Justice informed the petitioner that such a project had already been

initiated, but it was a project to modify Law no. 51/1993, suggesting increasing said indemnity, as well as extending the applicability of the legal stipulations for the magistrates released from office after 1952 and that this project had not been approved by the Ministry of Economics and Finances.

Analyzing the petitioner's request in the context of art. 16 and 52 of the Romanian Constitution, regarding the equality of rights and the right of a person aggrieved by a public authority, the People's Advocate urged the Ministry of Economics and Finances to reanalyze the project and recommended that they take into account the fact that the number of beneficiaries from Law no. 51/1993 is very small and they are of old age.

The response received from this authority was very clear: there have not been Government decisions initiated for the updating of the indemnity granted to the magistrates released from office due to political reasons between the years 1945-1952.

Regarding the updating of this indemnity, indexed to the inflation rate, it led to an increasing of the quantum by 45%, without affecting the state budget.

In this situation, the People's Advocate urged the Ministry of Justice to take the legal measures in order to pass the legislative project only for indexing the indemnity.

As a result, the Ministry of Justice informed our institution that, by Emergency Government Ordinance no. 170/2008, the necessary modifications have been made to Law no. 51/1993 regarding the granting of some rights to the magistrates released from office due to political reasons between the years 1945-1952. Therefore, the indemnity granted to this category of magistrates was indexed.

The example presented is proof of the fact that discriminatory and inequitable stipulations in the content of some laws can be obviated as a result of mediation and dialogue with the institutions habilitated for approving the necessary modifications for the normative documents in question.

b) the right to life and to physical and mental integrity (art. 22 of the Constitution)

There were a number of **3 petitions** notifying in reference to alleged violations of art. 22 of the Constitution assigned to the field of human rights,

equality of chances between men and women, religious cults and national minorities. As for their content, it revealed aspects regarding private conflicts, between petitioners and third parties (family members, relatives, neighbors), and for solving them, the People's Advocate Institution gave information in reference to the competences granted to it by the law of organizing and it guided the petitioners in the legal steps they had to take.

c) the right to intimate, family and private life (art. 26 of the Constitution)

The violation of this right was subject for 4 petitions which were redirected to the field for solving.

The petitions referred to the citizens' repeated complaints regarding the violation, by third parties, of the right to intimate, family and private life, and solving them consisted in indicating the legal paths the petitioners were to follow.

d) freedom of expression (art. 30 of the Constitution)

During the year 2008, there were a number of 5 petitions regarding a possible violation of the freedom of expression.

Their content revealed the need for respecting the correlative obligations resulting from the stipulations of art. 30 paragraph (6), referring to the fact that freedom of expression cannot cause prejudices to a person's dignity, honor and private life. In 2 such requests, the issue addressed was the severe violation of the confidentiality of personal information by the fact that an advertising company in Targu Mures published a so-called "black list" of the employees who have created problems for the employers (the advertising company was not authorized to process personal information). The situations presented by the petitioners were analyzed in the context of art. 30 paragraph (6) regarding the right to one's own image. Due to the fact that the problematic addressed was the subject of activity of another autonomous public authority, respectively the National Authority for Monitoring the Processing of Personal Information, the requests were redirected, for the respective authority to solve them competently, and the petitioners were notified of this fact.

e) the right to information (art. 31 of the Constitution)

There were **234** petitions regarding the right to information, which represents a percentage of **36.73%** of the total number of petitions assigned to the field.

Even though quantitatively these types of petitions were numerous, the same way as in the past years, not all the petitioners were able to prove the fact that they had addressed the authorities accountant. Due to this fact, the People's Advocate Institution was unable to give them direct support in solving the registered petitions; however, it informed the petitioners of the legal procedures to be followed.

The main aspects notified by means of the petitions referred to the request for information regarding: the activity and resources of some institutions; the evolution process of auctions; information regarding the institutions that are to be notified of cases of corruption in Romania; legal stipulations regarding the assigning of parking spaces; legal stipulations regarding the assigning of burial spaces and the administering of cemeteries; the European laws regarding the peace of the citizen; information referring to Law no. 329/2003 regarding the exercising of the private detective profession; legal stipulations regarding public lighting and the attributions of the public authorities for enforcing Law no. 230/2006 regarding the service of public lighting; information necessary for receiving compensations granted to physical entities who have made deposits with the House of Savings and Consignations (CEC), as per Emergency Government Ordinance no. 156/2007; information regarding the adopting of Law no. 257/2008 in order to modify paragraph (1) of art. 1 of the Emergency Government Ordinance no. 148/2005 regarding the support of the family in view of raising a child; stipulations of Law no. 341/2004 of gratitude towards the heroes-martyrs and fighters who have contributed to the victory of the Romanian Revolution in December 1989 and the necessary steps taken with the public authorities; the steps necessary for obtaining the quality of war veteran, as per stipulations of Law no. 44/1994, republished with the ulterior modifications and additions; Establishing the Institute for Investigating Crimes of Communism; the attributions of the National Authority for Monitoring the Processing of Personal Information; the regulations for the activity of solving petitions;

stipulations of Law no. 544/2001 regarding free access to information of public interest; the activity, address, schedule for hearings granted at the central office of the People's Advocate Institution or at the territorial offices, as well as the terms under which the institution provides financial aid.

The examination of these petitions highlights the fact that there are some public authorities and institutions which do not comply with their constitutional obligations to provide petitioners with the information they require, under the terms and conditions stipulated in Law no. 544/2001 regarding the free access to information of public interest, with the ulterior modifications and additions.

The People's Advocate Institution acted promptly, notifying the town halls, prefectures, the Secretariat of State for the Problems of Revolutionaries, the National Archives, the National Authority for the Consumer's Protection, territorial pension houses, which have not complied with their liability to respond to the petitioners' requests regarding public matters and problems of personal interest. In frequent situations, the petitioners' requests were directed towards authorities competent in solving the problems notified by them, in order to be solved competently.

Concurrently, we must highlight the fact that a significant number of petitioners have wrongfully invoked the stipulations of Law no. 544/2001, with the ulterior modifications and additions and thus have requested some information, which, however, had no connection to the institution's activity.

CASE FILE

File no. 5549/2008. Rasinaru (fictive name) claimed that he addressed the Secretariat of State for the problems of Revolutionaries of December 1989 (SSPR) requesting information regarding the development stage of his case and he has not received any response.

The aspects notified by the petitioner were analyzed in the context of the violation of art. 31 of the Romanian Constitution, regarding the right to information.

In reference to the petitioner's notifications, as per art. 4 of Law no. 35/1997, republished, the People's Advocate Institution addressed the Secretariat of State for the Problems of the Revolutionaries of December 1989 (SSPR) requesting information regarding the state of development of his case.

As a result of the People's Advocate Institution' intervention, the Secretariat of State for the Problems of the Revolutionaries of December 1989 (SSPR) issued a response mentioning the fact that some clarifications are necessary in view of the favorable solving of the petitioner's request, and that his hearing is programmed with SSPR for October 1st 2008.

f) the right to health protection (art. 34 of the Constitution)

There were a number of 5 petitions regarding the right to health protection assigned to the field for the year 2008.

The petitions referred to: granting compensated medication, some allegedly violated rights regarding the disabled individuals, cases of malpraxis where the injured persons were not compensated, non-compliance with the national health programs.

CASE FILE

File no. 802/2008. Alex (fictive name) notified the People's Advocate Institution of a possible violation (by the Buzau Town Hall) of the right to health protection and of the right of a person injured by a public authority stipulated in art. 34 and 52 of the Romanian Constitution.

The petitioner addressed the Town Hall of Buzau City, requesting support in the casting away of the stray dogs from the area near his residence, claiming that it represents the reason why he no longer can receive ambulatory medical treatment, because the medical personnel of the "Al. Marghiloman" Complex of Services for the Elderly refused travelling to the area. Although the petitioner was informed by the Buzau City Town Hall of the fact that problems related to the stray dogs in the area were not confirmed, the real situation was different.

As the petitioner's health was poor, this determining him to file numerous requests to other authorities which had no legal possibilities to support him, as per art. 59, paragraph (2) of the Romanian Constitution, corroborated with art. 4 of Law no. 35/1997 regarding the organizing and functioning of the People's Advocate Institution, republished, we have addressed the Buzau City Town Hall.

On February 25th 2008 the People's Advocate Institution was informed by the Buzau City Town Hall regarding the steps taken for the resuming of medical services at the residence of the petitioners by the "Al. Marghiloman"

complex of Services for the Elderly, and the petitioner received a copy of the response.

g) the right to a healthy environment (art. 35 of the Constitution)

The petitions assigned to the field of human rights, equality of chances between man and woman, religious creeds and national minorities, regarding the right to a healthy environment, stipulated in art. 35 of the Constitution were in a total number of 6.

The small number of petitions in this category can also be explained by the fact that the institutions competent in solving such cases, firstly the National Environmental Guard, the National Agency for the Protection of the Environment, the Administration of the “Delta Dunarii” Biosphere Reservation, the National Agency for Dangerous Substances and Chemicals within the Ministry of the Environment and Durable Development, were much more visible because of the means of intervention and sanctioning provided by law, therefore the people have had the possibility to address these institutions.

The aspects notified in the petitions addressed to the People’s Advocate Institution especially referred to the respecting of the legal stipulations regarding ensuring a healthy and ecologically balanced surrounding environment: the negative impact of positioning a station for waste transfer on the radius of a town, violations of stipulations regarding the level of ambient noise or polluting with PM 2.5 powders and mono and polinuclear aromatic hydrocarbures from the powders.

CASE FILE

File no. 3401/2008. Paul (fictive name) notified the People’s Advocate Institution of the fact that on the ground floor of his residence building there is a restaurant-bar in function, whose music disturbs the residents at night, between the hours 0:00 and 5:00. He notified the authorities and received a response from the National Environment Guard - the Commissary of Bucharest City, which did not satisfy the petitioner, thus he requested the intervention of the People’s Advocate Institution.

The aspects notified by the petitioner were analyzed in the context of the violation of art. 35 and 51 of the Romanian Constitution, the right to a healthy environment and the right to petition.

Regarding the aspects presented, as per the stipulations of art. 4 and 22 of Law no. 35/1997, republished, we have addressed the National Environment Guard - the Commissary of Bucharest City, requesting information regarding the petitioner's notification.

As a result of these actions, we have received a response from the National Environment Guard - the Commissary of Bucharest City, registered under no. 5541/23.06.2008 with our institution, indicating the fact that controls have been performed at the working point of the commercial society in question. Through the observation note, the commercial society was compelled to assess the noise level in diurnal and nocturnal time, under normal functioning conditions, and to ensure the necessary measures, depending on the case, in view of respecting regulations regarding the protection of the atmosphere and of the population's living environment.

h) the right to vote (art. 36 of the Constitution)

During the year 2008, the People's Advocate Institution was notified with a number of **6 petitions** addressing the problem of the right to vote, all being assigned to the field of human rights, equality of chances between man and woman, religious creeds and national minorities, in order to be solved.

Compared to the previous year, the number of petitions addressed to the People's Advocate Institution, regarding the violation of the right to vote, has slightly increased, a natural growth, 2008 being an electoral year. Mainly, the problems addressed referred to: legal stipulations regarding the development of the electoral campaign, dissatisfactions related to some stipulations of the electoral law regarding the conditioning of the right to vote, by the home or residence of the voter, as well as to the absence of the voting option "I pass" from the electoral law.

In all cases, the petitioners were informed of the current legal regulations, as well as the means available to them for improving the legal frame in the field.

We found the case of a petitioner particularly interesting, former Moldavian citizen; here is the presentation of the case:

CASE FILE

File no. 9399/2008. Moldovan (fictive name) complained of the fact that he had addressed several petitions to the National Inspectorate for the

Population's Records, requesting information regarding the term for transcribing his birth certificate (as a result of acquiring Romanian citizenship) and up to the date of addressing our institution he has not received an answer. The petitioner also claimed the fact that, because of the passiveness manifested by the workers of the aforementioned institution, he can be put in the situation of not being able to exercise his right to vote, at the general election in November 2008.

The aspects notified by the petitioner were analyzed under the conditions of possible violations of art. 52 and 36 of the Constitution regarding the right of a person aggrieved by a public authority and the right to vote.

As a result of the actions undertaken with the National Inspectorate for the Population's Records, through the response registered under number 10019 of November 27th 2008 with the People's Advocate Institution, we have been informed of the fact that in the meantime, the petitioner received the answer he was waiting for, which was then confirm, by the petitioner by mail.

i) the right to be elected (art. 37 of the Constitution)

There were 4 petitions regarding the right to be elected, stipulated in art. 37 of the Romanian Constitution.

The problematic especially addressed causes, less experienced, suggested by some independent candidates, regarding the development of the electoral campaign for the general elections in November 2008, such as: obstructing access to mass information, fraud attempts regarding the elections, destroying posters etc. Also, the support of the People's Advocate Institution was requested in reference to modifying the status of the independent candidate or interventions with the state's authorities regarding the smooth development of the electoral campaign.

The petitioners were informed of the way of solving contestations, stipulated in Law no. 35/2008 for electing the Chamber of Deputies and Senate and for modifying and completing Law no. 67/2004 for electing the authorities of the local public administration, of the Law for the local public administration no. 215/2001 and Law no. 393/2004 regarding the Status of the local elect, further modifications and completions included.

Moreover, it was assessed that an eventual new normative approach of the independent candidate's status should be performed in the general context of the revision of the entire Romanian electoral system's philosophy (addressing both local elections, as well as national or European parliamentary elections).

j) the right to petition (art. 51 of the Constitution)

In view of the fact that the right to petition is part of the guarantee rights category, violating it is associated, in most cases, with the violation of one or several rights, for example, the right of a person aggrieved by a public authority, guaranteed by art. 52 of the Romanian Constitution, the right to private property, guaranteed by art. 44 of the Constitution, the right to a decent living standard, stipulated in art. 47 of the Constitution, the right to information, stipulated in art. 31 of the Fundamental Law.

Therefore, the physical entities notified the People's Advocate of the fact that they have addressed some public authorities by means of requests, complaints, notifications, proposals for solving some personal problems (such as: solving some aspects regarding pensions; property; granting social aid; providing explanations regarding the of the solving process for the notifications registered by the legitimate persons, as per Law no. 10/2001 regarding the juristic condition of some property taken abusively during the period between March 6, 1945 and December 22, 1989, further modifications and completions included, or the stage of solving of the files regarding compensations granted as per Law no. 9/1998 regarding the granting of compensations to Romanian citizens for the property transferred in the property of the Bulgarian state as a result of enforcing the Treaty between Romania and Bulgaria, signed at Craiova on September 7, 1940; changing the certificates for revolutionaries and granting the rights stipulated in Law no. 341/2004 of gratitude towards the heroes-martyrs and fighters who have contributed to the victory of the Romanian Revolution in December 1989, reobtaining Romanian citizenship and clarifying the Romanian citizenship), but were faced with difficulties caused by the notified public authorities, referring to providing information regarding the solving stage of the file, as well as the date and form for the petitioners to receive what the law has to offer to them.

Also, there were notifications of situations where some authorities refused to register the petitions. In other situations, even though the petition was registered, the notified public authorities did not answer the petitioner within the legal term or they have delayed the solving of the highlighted aspects.

In this category we usually find the National Authority for the Consumer's Protection, the Secretariat of State for the Problems of Revolutionaries and the Citizenship Commission within the Ministry of Justice, as the largest number of complaints regarding the violation of the mentioned right was registered for these authorities. Moreover, even at the requests of the People's Advocate Institution, these authorities of the public administration responded after urgencies and after the notifying of the hierarchically superior forum.

By means of the field of human rights, equality of chances between man and woman, religious cults and national minorities, the People's Advocate Institution intervened promptly every time for supporting the petitioners and their requests, addressing all levels stipulated by the law, in view of receiving the requested answer.

CASE FILE

File no. 7571/2008. Marcu (fictive name) notified the People's Advocate Institution in reference to a possible violation, by the National Authority for the Consumer's Protection, of the right to petition, stipulated in art. 51 of the Romanian Constitution.

The petitioner claims that he addressed the National Authority for the Consumer's Protection online on May 20th 2008, being dissatisfied with the response received from the Prahova County Office for the Consumer's Protection. Also online, the National Authority for the Consumer's Protection requested a copy of the complaint and of the response received by the petitioner from the Prahova County Office for the Consumer's Protection. Even though the petitioner sent the requested documents, he had not received a response up to the date he addressed our institution.

Regarding this situation, as per art. 59 paragraph (2) of the Romanian Constitution, corroborated with art. 4 of Law no 35/1997, republished, it was brought to the attention of the National Authority of the Consumer's

Protection the fact that the situation presented was being examined. As a result of the actions undertaken, on the date of September 29, 2008, the notified authority issued a response to the People's Advocate Institution and a copy of this was sent to the petitioner.

k) the right of a person aggrieved by a public authority (art. 52 of the Constitution)

Over the year 2008, the right of a person aggrieved by a public authority was invoked in a large number of the petitions assigned to the field, and it is possible to regard this aspect as a significant minus in performing the reform of the public administration.

Even though, quantitatively, these types of petitions were more numerous (76), in the same way as the previous years, not all the petitioners initially addressed the notified authorities or they cannot prove taking this action. Because of this fact, the People's Advocate Institution was unable to support them directly, in solving the registered petitions; however, it informed the petitioners regarding the legal procedures that are to be followed.

A large part of the petitioners were aggrieved in their rights by institutions and authorities of the public administration the refusal or the delaying of a response to different petitions, which thwarted the coming into rights at the legal term or under the legal conditions. That is why, most often the violation of the right of the injured person occurred correlatively with the violation of the right to petition. For solving petitions notifying violations of art. 52 of the Constitution, at the field's level, there were **3 investigations** performed and **2 recommendations** were issued.

CASE FILE

File no. 2516/2008. Mirela (fictive name) notified us in connection to a possible violation, by the Buzau County Council, of the right of a person aggrieved by a public authority, stipulated in art. 52 of the Romanian Constitution.

The petitioner addressed the Buzau County Council, requesting the intervention of the specialists for starting some work consisting in positioning prominent markers, meant for reducing the traffic speed of auto vehicles, considering the obvious danger of destroying the buildings in her residential area.

After the response received from the notified authority, mentioning that indicators for reducing speed would be installed as soon as possible and that in the plans of works for the year 2008 the marking of the pedestrian crossings with prominent indicators would also be stipulated, no further action was taken up to the date when the petitioner addressed our institution.

The imminent danger of affecting the resistance structures of the buildings around her residential area, determined the petitioner to repeat her request for installing prominent indicators, however the situation has not changed.

As a result, the People's Advocate Institution addressed the Buzau County Council and demanded an explanation regarding the reasons that have led to this situation. However, the response received, claiming that in order to install prominent indicators, "traffic measurements are required", as well as technical regulations established by the National Company of Highways and National Roads "considering the possible negative effects regarding the stability of the riverbank constructions", was unable to convince anyone of the fact that diligences are invested for solving the problem.

For clarifying the aspects notified by the petitioner, considering that in the initial response of the authority it mentioned the term for installing as the year 2008 and the fact that the petitioner's request was not singular, **an investigation** was approved for the Buzau County Council. As a result, the Buzau County Council sped up the measures taken with the National Company of Highways and National Roads, and the investment took place during the year 2008.

File no. 4178/2008. Serena (fictive name) notified the People's Advocate Institution in the context of a possible violation of the right to petition and the right of a person injured by a public authority, stipulated in art. 51 and 52 of the Romanian Constitution by the "Dr. Constantin Gorgos" Titan Psychiatric Hospital in Bucharest.

Through her petition, she requested the support of the People's Advocate Institution for receiving a response to the several petitions addressed to the hospital regarding the forming of a psychiatric evaluation commission, as the evaluation was necessary at her work place.

In order to support the petitioner, as per the stipulations of art. 4 of Law no. 35/1997, republished, on May 21st 2008, through petition number 4178, we notified the Public Health Authority of Bucharest City, which recommended that we directly address the management of the hospital. After analyzing the documentation communicated by the hospital, we have reached the conclusion that what is mentioned verbally is not supported by documents. As a result, **an investigation** was performed at the “Dr. Constantin Gorgos” Titan Psychiatric Hospital in Bucharest. By means of this investigation, it was ascertained that, even though the petitioner had been committed for psychiatric evaluation, she had not received any document to certify this. Due to the fact that there were dysfunctions registered in the managerial activity, **recommendation number 12** of the People’s Advocate was issued for the management of the hospital.

II. EQUALITY OF CHANCES BETWEEN MEN AND WOMEN, RELIGIOUS CULTS AND NATIONAL MINORITIES

For the year 2008, the field of human rights, equality of chances between men and women, religious cults and national minorities was not assigned petitions regarding the equality of chances between man and woman, there were no highlighted aspects regarding the freedom of conscience or regarding the freedom of organizing for the religious creeds and no petitions addressing violations of the rights of national minorities were recorded.

Without possessing a numeric record of the petitioners on national minorities, but solely on the rights violated, of the physical entities who have addressed the People’s Advocate Institution notifying alleged violations of the stipulations of art. 16 of the Romanian Constitution, the first place is taken by those of Romany ethny. The subject of the petitions formulated by them primarily referred to: cases of not granting or suspending the granting of social aid; abusive interpretation of the criteria for granting social aid, violations of the right to petition, indifference, silence or hostility of the authorities (regarding their problems), compensations for the deporting in Transnistria and they have addressed the town halls, several employers, County School Inspectorates. Most of the requests were clarified, and for the remaining ones, the petitioners were informed of the procedures to follow or

the competent institutions, being offered guidance and explanations, and also, the aspects notified in the petitions were not confirmed.

Considering these aspects, in order to know the problems that the national minorities in our country are confronted with, and to establish what it can do to help them, our institution has analyzed the possibility of signing partnerships between the People's Advocate Institution and the organizations of the different national minorities.

As a result, during December 2008, we proceeded to issuing several letters of intent addressed to each national minority represented in the Parliament, other than Magyar and Romany, notifying them of the institution's intention to know each other better and to collaborate with the respective organizations. For this purpose, they received a proposal for organizing a series of meetings after January 15, 2009, at the office of the People's Advocate Institution or at the Bucharest offices of the organizations.

Except for the Cultural Union of the Rutens in Romania, from which the Romanian Postal Office returned our address, all the other organizations, 16, have received the letter and some have already responded to the proposal.

Over the year 2008, the field of human rights, equality of chances between man and woman, religious creeds and national minorities was represented at several reunions organized by the Department for Interethnic Relations – the Romanian Government, regarding the monitoring of the compliance to the European Book of regional or minority languages, book ratified by Law no. 282/2007.

In view of writing the first country report for the European Council (which is due by May 1, 2009), the field of human rights, equality of chances between men and women, religious cults and national minorities has appointed a person to take part to writing this document.

We believed that the lack of petitions in the field of equality of chances between men and women, religious cults and national minorities is explained by the existence of several public authorities at state level, with attributions in these fields.

Thus, in the field of **equality of chances between men and women**, several public authorities and organizational structures operate at state level, of which we mention: the Ministry of Labour and Social Security; the

Chamber of Deputies' Commission for equality of chances between man and woman; the Senate's Commission for equality of chances; the National Agency for equality of chances between men and women; the National Commission in the field of equality of chances between men and women; the County Commission, respectively of Bucharest City, in the field of equality of chances between men and women; the Economic and Social Council, by means of the Commission for equality of chances and treatment.

In the field of **religious cults**, the Ministry of Culture, Cults and National Patrimony is organized and functioning on state level. Also, in the Parliament, the Commission for human rights, cults and problems of the national minorities in the Chamber of Deputies is operational, as well as the Senate's Commission for human rights, cults and national minorities.

Regarding the **national minorities**, several public authorities and institutions, organizational structures operate at state level, of which we mention: the National Council for Combating Discrimination; the Romany National Agency; the Romany National Culture Center; the Department for Interethnic Relations; the National Minorities Council; the Commission for human rights, cults and the problems of the national minorities of the Chamber of Deputies; the Senate's Commission for human rights, cults and minorities.

CHAPTER VI. THE FIELD OF THE RIGHTS OF CHILDREN, FAMILY, YOUTH, PENSIONERS AND PEOPLE WITH DISABILITIES

During the year 2008, the field of the rights of the children, family, youth, pensioners and the people with disabilities received a number of **1021** petitions, representing **12.71%** of the total number of petitions received by the People's Advocate Institution. A number of **342** of these petitions were clarified as a result of the intervention of the People's Advocate Institution. A percentage of **75.4%** of the solved petitions were solved in favor of the petitioners, **11.7%** of the petitions were unable to be solved in favor of the petitioner and the rest are currently undergoing the solving process. The fact that they were not solved in favor of the petitioner does not represent a negative result for him/her, at least they benefit from a complete explanation from the institution or the organism involved in what has been solved.

For instance, the People's Advocate Institution received the complaint of a parent, in reference to the abuse their children suffer, being in the Saint Nicolae Placement Centre in Bucharest. The petitioner claimed that, their children were unjustifiably transferred from the Pinocchio Receiving Center, to the aforementioned placement center, thus he addressed the General Direction of Social Services and Child Protection in Sector 3, Bucharest, however, they were not successful in obtaining a concrete answer. As a result of the intervention of the People's Advocate Institution, controls were ordered by the habilitated institutions, controls in view of establishing the real situation the petitioner's children are in. As a result of the controls performed by the Control Body of the General Direction of Social Services and Child Protection, Sector 3, Bucharest, it was ascertained that the civic rights and freedoms of the two minors are respected as per Law no. 272/2004 regarding the protection and promoting of the child's rights, and they benefited from optimal conditions of growth and care. Also, the People's Advocate Institution as informed of the fact that by maintain the placement measure, the separation of the two children and establishing residence for one of them in a

Family Centre type “Nightingale” Apartment were established by the Civic Sentence given by Bucharest Court- Civic Section V (**File no. 4464/2008**).

1. THE RIGHTS OF CHILDREN

Law no. 272/2004 regarding the protection and promoting of the child’s rights created a new legal frame regarding the respecting, promoting and guaranteeing the child’s rights. The implementing of this legislation allowed a new modern European system to be created for protecting the rights of the child in harmony with the international treaties to which Romania is part, with the Convention of November 20, 1989 regarding the child’s rights, republished, and with the Convention for Protection of the Human Rights and of the Fundamental Freedoms.

In this context, the People’s Advocate Institution had the purpose of guaranteeing the child’s rights and benefiting from respecting of his personality and individuality, of enjoying the best health state one can experience, receiving an education which allows the development, under non-discriminatory conditions, of their skills and personality, being protected against any form of violence, abuse, ill treatment or negligence, being protected against any form of exploitation.

The activity of the field in reference to the protection of the child’s rights consisted in clarifying the petitions received from petitioners, **2 notifications from within office, 4 investigations**. Moreover, the steps in view of consolidating inter-institutional relations were continued, in view of undertaking several sustained actions for fulfilling the constitutional and legal attributions of the People’s Advocate Institution, of protector of the rights of physical entities in general and in particular, of those categories confronted with special problems such as children, the youth, disabled individuals, pensioners.

The main aspects highlighted by the petitioners in the **44 petitions** addressed to the field of the rights of the child, family, youth, pensioners and persons with disabilities referred to the refusal of several general directions of social services and child protection to approve the transfer of the institutionalized children at request, the dissatisfactions of one of the parents regarding the content of some judicial decisions, by which the minor was

assigned to the care of other parent, the refusal of the tutelary authority to approve the sale of assets in the property of a minor, the payment of alimony only through banks established by the general direction of social services and child protection, granting the indemnity for raising a child, granting the trousseau for the newly born children.

Furthermore, by means of the actions undertaken we have identified some aspects which, due to the negative effects they can have on children, should represent the starting point for initiating several debates, in view of finding adequate solutions.

Thus, we cannot remain indifferent to the financial difficulties that many families with children in Romania are confronted with, which lead, in most cases, to the parents' impossibility to raise their children, and in this situation, to abandoning them.

In this context, we assess the fact that **a solution should be found** which would render more effective the stipulations of art. 5 of Law no. 272/2004 regarding the protection and promoting of the child's rights, according to which, the parents are the first responsible for raising and insuring the child's development, having the obligation to exercise their rights and to fulfill their obligations to the child bearing in mind the priority of the child's superior interest. In subsidiary, the responsibility falls upon the local collectivity of which the child and his family are part. The authorities of the local public administration have the obligation to support the parents or, depending on the case, other legal representative of the child for realizing the obligations they have in reference to the child, developing and insuring diverse services, accessible and of quality, corresponding to the child's needs. The state's intervention is complementary. The state insures the child's protection and guarantees the respecting of all their rights by means of the specific activity performed by the state's institutions and the public authorities with contributions to this field.

In finding a solution, one could take into account the stipulations of art. 119 of Law no. 272/2004, according to which for each child the placement measure was taken, a monthly placement allowance, of 90 lei, is granted, indexed as per Government decision. This allowance also applies for the child whose custody was instituted in compliance with the law. The allowance is

paid to the person or family representative who took the child into placement or to the child's legal guardian. The placement allowance is supported by the state budget through the budget of the Ministry of Labour, Social Solidarity and Family.

In this context, a **natural question** arises, to which the competent authorities could give an answer, respectively, why is granting an allowance possible only for the case where the placement measure was taken for the child, and not in the situation where the child is raised by the family?

Maybe the solution will be found in the answer to this question, in a manner that highlights the stipulations of art. 5 of Law no. 272/2004 regarding the protection and promoting of the child's rights.

Another issue that generated a series of debates regarded the possibility of the authorities to assign a child, successively, in the care of several **maternal assistants**.

Without denying the opportunity of changing a maternal assistant in case of abuse or the non-fulfilling of their legal attributions to the child, still, a more clear and restrictive presentation of the conditions for the change is necessary, because of the negative effect of the maternal assistant's repeated change on the child. Moreover, the adoption institution should be highlighted more, which should prime in front of the special protection measures.

The aforementioned aspects have been debated by the representatives of the field of the rights of the child, family, the youth, pensioners and disabled individuals, by means of performing the four investigations. The representatives of the public authorities with attributions in the field of the protection of the child's rights have proven willing, within the limits of legal competences, to support an initiative in the direction of the aforementioned aspects.

CASE FILE

File no 9377/2008. Based upon an art. entitled "26 children were discharged from a Vaslui hospital" by a news agency, describing the situation of several children committed for several years to the hospital in Tutova Town, in Vaslui, the People's Advocate initiated an ex-officio investigation.

The art. revealed the fact that a child committed to the hospital in Tutova is condemned to a long stay here, and when discharged he appears to

be mentally retarded. The author of this art. stated the fact that these children are victims of emotional abuse and that their right to a family is being violated.

From the context presented, a possible violation of the stipulations of art. 49 resulted, regarding the right to protection of the children and youth and of art. 34 regarding the right to health protection, stipulated in the Romanian Constitution.

Investigations have been performed at “Dr. I.T. Nicolaescu” hospital in Tutova and at the Vaslui General Direction of Social Services and Child Protection. Furthermore, the problems have been discussed with the representatives of the National Authority for Child Protection.

The aspects observed in the two investigations regarded the living conditions and the health of the children committed to the “Dr. I.T. Nicolaescu” hospital in Tutova, the periods of time for which the children were committed, the children’s medical records, the presence of personnel specialized in caring for the children in the “Dr. I.T. Nicolaescu” hospital in Tutova, as well as the involvement of the authorities and the public local institutions in the protection of the rights of children in difficult situations.

As a result of the actions undertaken at the “Dr. I.T. Nicolaescu” hospital in Tutova, we have ascertained the fact that 2 children, of the 25 children committed, had been there for a very long time. The first child suffered from severe affections, and was in need of special protection, which the family could not provide for her. Even though there was a request for custody formulated by the girl’s mother, it was not approved because of the fact that the girl’s health state required the maintaining of the committing to hospital measure. Still, we have also ascertained the fact that not all necessary diligences had been invested in view of establishing the terms for the girl’s possible discharge into the custody of the family. The second child, whose health problems required repeated committing beginning with the age of 3 months, had not been visited by the parents for over 4 years, practically being abandoned in the hospital. In this context, the management of the “Dr. I.T. Nicolaescu” hospital in Tutova requested the performing of a social investigation by the Vaslui General Direction of Social Services and Child Protection for establishing the child’s psycho-social situation in view of

enforcing a measure of special protection. The social investigation had not yet been performed at the date the actions of the People's Advocate Institution were undertaken.

Moreover, we have found that in the personnel diagram of the "Dr. I.T. Nicolaescu" hospital in Tutova there was no mentioning of the position of social assistant or a person with attributions of social service and the Vaslui General Direction of Social Services and Child Protection had not appointed a social assistant to insure the permanent connection with the "Dr. I.T. Nicolaescu" hospital in Tutova, as it was stipulated in the current legal dispositions.

Furthermore, as per dispositions of the Order of the Health Minister, no. 756/2005, of Law no. 272/2004 and the Regulations- internal organizing and working Frame, the General Direction of Social Services and Child Protection had the obligation to collaborate with the "Dr. I.T. Nicolaescu" hospital in view of establishing the terms under which, for the first case, the girl could be discharged into the custody of the family and for writing the report of the child and her family's initial evaluation and proposing a set of special protection measures to be taken for the second case.

In reference to the findings of the investigations, the People's Advocate Institution formulated an address to the President of the Vaslui General Direction of Social Services and Child Protection, requesting the institution in question to examine the situation created in reference to the violation of the right regarding the protection of children and of the youth. Also, we have requested the more rapid development of the steps in view of respecting the dispositions of Order no. 756/2005 regarding the coordinating of actions meant to prevent abandonment in the sanitary units with sections for newly-born babies and/or a pediatric section and of Law no. 272/2004 regarding the protection and promoting of the child's rights in reference to the indispensability of employing, respectively, appointing a social assistant to provide the permanent connection to the "Dr. I.T. Nicolaescu" hospital in Tutova, and maintain the People's Advocate Institution informed with respect to all deficiencies registered.

Another aspect of the activity undertaken by the specialization field regarding children, highlighting the interest for this social category, with

special needs, consisted in the **material support** given to the children through the four actions undertaken at: the General School with I-IV classes Olari, Prahova County; the Orlat Services Complex, in Sibiu County; the General School with I-IV classes in Tomulesti in Toporu Town, Giurgiu County and at the Pacureti General School with I-IV classes, Pacureti Town, Prahova County, as it follows:

- on June 12, 2008, at Olari General School with I-IV classes, Prahova County, the action of **granting social aid** was undertaken, from the fund available to the Public Advocate's Institution, as per stipulations of art. 36 of Law no. 35/1997, republished. The delegation was led by the People's Advocate, Ioan Muraru Ph.D. A school inspector attended in the name of the School Inspectorate in Prahova.

With this occasion, a number of 45 students, boys and girls, classes I-IV, received social aid consisting in assets for personal use (clothing and footwear), writing materials and candy.

- on August 25, 2008, the People's Advocate Institution granted **Social aid** to the children in the Orlat Service Complex, in Sibiu County. The delegation was led by the People's Advocate, Ioan Muraru Ph.D. The general vice-president and the economic vice-president of the General Direction for Social Services and Child Protection have also attended the venue. The Orlat Services Complex was represented by the manager and accountant of the complex. Also taking part in the venue was the mayor of Orlat Town.

The social aid given to the 29 girls in the Orlat Service Complex consisted in assets for personal use (clothing and footwear), writing materials and candy.

- on November 3, 2008, the action of **granting social aid** at the Tomulesti General School, with I-IV classes, in Toporu Town, Giurgiu County was undertaken.

The People's Advocate Institution was represented by Mihail Gondos, adjunct to the People's Advocate and Cristian Cristea, general secretary.

The local authorities were represented by the mayor of Toporu Town and the principal of the General School hosting the venue.

The social aid granted to a number of 33 students, boys and girls, classes I-IV, received social aid consisting in assets for personal use (clothing and footwear), writing materials and candy.

- on December 5, 2008, **social aid was granted** at the Pacureti General School, with I-IV classes, Pacureti Town, Prahova County.

The People's Advocate Institution was represented by the People's Advocate, Ioan Muraru Ph.D.

The local authorities were represented by the mayor of Pacureti Town, the principle of the Pacureti General School, with I-IV classes and the minister of Pacureti Town.

The social aid granted to the 52 students, boys and girls, classes I-IV, consisted in assets for personal use (clothing and footwear), writing materials and candy.

II. THE RIGHTS OF THE FAMILY

In the **7 petitions** received by the field of the rights of the child, families, the youth, pensioners and disabled individuals, regarding the protection of the family rights, the petitioners requested information in reference to: granting maternity leave and leave for raising a child up to 2 years old, granting the indemnity for raising a child, obtaining an inheritor pension, granting financial aid stipulated in art. 3 of Law no 396/2006 regarding the granting of financial aid when starting a family, the obligation of the parents to contribute to the supporting of the minor. Also, the petitioners expressed dissatisfactions in reference to the content of some judicial decisions as per which the minor is assigned to the care of the other parent.

III. THE RIGHTS OF THE YOUTH

The **15 petitions** addressed by the youth to the field of the rights of the child, the youth, pensioners and the disabled individuals, mainly expressed dissatisfactions in reference to the conditions of living they are provided with in the institutions of social protection; not granting the study scholarships at the term established by the University Senate; not granting a social residence; the refusal to approve the transfer, at request, to another placement centre;

violations of the right to work and the right to private property. Also, the youth have requested information regarding the procedure for obtaining dole and information regarding citizenship.

In order to highlight part of the problems that the youth have been confronted with, as well as the actual manner in which the field of the rights of the child, families, pensioners and disabled individuals intervened for solving them, we mention some of the cases we have registered in our casuistry:

CASE FILE

File no. 2027/2008. By means of several petitions, the People's Advocate Institution was notified by Ion (fictive name) regarding the situation of the youth institutionalized in placement center in Vaslui County.

The petitioner claimed the fact that within the Barlad family type Service, children are victims of abuse, violence ad negligence from the ones in charge with caring for them. Thus the People's Advocate Institution addressed the management of the Vaslui General Direction for Social services and Child Protection.

As a result of the People's Advocate Institution's intervention, the Vaslui General Direction for Social services and Child Protection have informed us of the fact that an investigation has been ordered for the Barlad family type Service. During the investigation, the young petitioner was interviewed as well as other young people, residents of the aforementioned center.

As a result of the findings, one of the nurse's Labour contract was annulled, and the petitioner was transferred, at request, to another placement center.

Ulterior, the petitioner returned to the People's Advocate Institution claiming that the youth in the "Elena Farago" placement center in the same town, Barlad, do not benefit from the protection and living conditions necessary for a normal growth and development. The petitioner criticized the lack of maintenance of the building, of the sanitary items and of the degrading state of the furniture as well as deficiencies in monitoring the youth in the center, incidents between them being very common.

Regarding the notified aspects, the representatives of the People's Advocate Institution performed **investigations** at the "Elena Farago" placement center in Barlad and at the Vaslui General Direction for Social services and Child Protection.

During the investigation, hearings took place for the manager of the complex as well as for other employees, and children, information regarding the living conditions was requested and also regarding the relations between children and the complex personnel, as well as documents (medical records, school performance of the children in the center, individual counseling charts, documents regarding the specialized personnel as well as auxiliary personnel of the complex), a fact control of the complex was performed (maintenance status for the spaces and the hygiene-sanitary conditions, the existence of spaces adequate for preparing food, serving meals, for rest and doing homework, the existence of a medical office etc).

As a result of the People's Advocate Institution's intervention with the Vaslui General Direction for Social services and Child Protection, an internal investigation was initiated in reference to the fulfilling of service attributions by the employees of the "Elena Farago" placement center in Barlad, as a result of which, disciplinary sanctioning was proposed for several employees of the placement center as a result of not fulfilling some of the attributions stipulated in the position diagram.

As for the petitioner's situation, he was institutionalized within the Alternative Protection Service "House with garden" family type in Vaslui.

IV. THE RIGHTS OF PENSIONERS

For the most part, the petitions addressed to the field of the rights of children, families, the youth, pensioners and the disabled individuals, claimed violations of the stipulations of Law no. 276/2004 for completing art. 169 of Law no. 19/2000 regarding the recalculating, at request, of the pensions, by adding the assimilated subscription stage stipulated in art. 38 paragraph (1) letter b) of the Government Decision no. 1550/2004 regarding evaluation in view of recalculating as per the principles of Law no. 19/2000 of the pensions in the public system established in the former system of the state social security in compliance with the legislation anterior to the date of April 1,

2001, of the Emergency Government Ordinance no. 4/2005 regarding the recalculation by determining the annual average score and the quantum for each pension, in compliance with the stipulations of Law no. 19/2000, Law no. 164/2001 regarding military state pension, republished and of Law no. 303/2004 regarding the status of judges and prosecutors, republished.

The **884 petitions** regarding pensions, addressed to the field of rights of the child, families, the youth, pensioners and disabled individuals, were in reference to the dissatisfaction of the pensioners in the public pension system, and dissatisfactions of pensioners in other systems, such as: army, justice, police.

In reference to the public pension system, the petitioners were dissatisfied with:

- the manner of conduct of some territorial pension houses when calculating or recalculating pensions, or regarding the fact that their pensions were not recalculated;
- the impossibility of obtaining certificates to attest the quantum of salaries and increases with permanent character required for the recalculating pensions, as per Emergency Government Ordinance no. 4/2005;
- the score obtained as a result of the pension recalculation;
- overreaching the legal terms stipulated by law regarding the date of the pension recalculation, delays in solving requests for revisal of the recalculated pensions or in establishing the rights to pension or crossing from one type of pension to another, and even the lack of response to several petitions;
- the refusal of the pension houses (especially the local pension houses of Bucharest City and the Central Pension House of Bucharest City) to answer the requests formulated, in legal term;
- acknowledging the subscription stage effected in Romania in view of obtaining pension in another European state;
- the score obtained after recalculating the pensions;
- delays in payments of the new rights to pension established as a result of the recalculation;
- the refusal of the pension houses to enforce permanent and irrevocable judicial decisions for establishing the rights to pension;

- the disregarding by the pension houses of the documents registered by the petitioners in view of recalculating pensions;
- difficulties in recalculating the pension as a result of effecting some subscription stages ulterior to the date of retiring based on age limit;
- problems occurred regarding the transfer of the pension files from one pension house to another, at the request of the pensioner due to changing their residence;
- not indexing pensions by the pension houses in compliance with the legal dispositions;
- abusive behavior of some employees of pension houses towards pensioners;
- the manner of establishing the pension quantum for people who have worked under special conditions;
- the illegal suspending of pension payments;
- not receiving from the pension houses' representatives of some clarifications regarding the manner of recalculating pensions, the current methodology being complicated and laborious, which makes it very difficult to check the correctness of pension recalculation by the pensioners themselves;
- the salaries taken into account for calculating pensions, for the times when the obtained income was not stipulated in the workman's pass and cannot be proven by certificate;
- the discriminating effects caused by some normative documents, such as Government Decision no. 267/1990, in the sense that, when determining the annual average score, one takes into account an entire subscription stage of 20 years only for the persons who have worked underground for a period of minim 15 years and only if they retired after February 1, 1990;
- proving the salary rights obtained and the sums retained and transferred in the pension fund and social security, for the time of working abroad on governmental contract;
- urging the pensioner by law to reconstitute the pension file, when it can no longer be found, as per Government Decision no. 1550/2004, according to which the presenting of proving documents necessary for reconstituting the pension documentation is the obligation of the pensioner in question;

- violating the principle of contributiveness when establishing the rights to pension, by not taking into account all of the salary income, for which contributions to social security were made, in order to pay for them;
- not modifying the quantum of several pensions after recalculating, because the score determined as per the new legislation was lower than the one determined anterior. Thus, many pensioners have not even benefited from the indexations of the pensions later granted by the Government;
- calculating pensions for men and for women. Thus, the annual average score is obtained by dividing the number of points, the summing up of the annual scores obtained by the ensured person during the subscription period, to the number of years corresponding to the complete stage of subscription. However, the complete stage of subscription is different for men and for women (after passing Law no. 19/2000, the complete subscription stage for women was 25 years, whereas for men it was 30 years), which determines a pension quantum larger for women compared to men.

One cannot deny the fact that the recalculation method for pensions in the public system has been a complex operation; however, this cannot entirely justify the delays registered for the recalculating of pensions, as well as the attitude of some employees of pension houses towards the pensioners.

The petitions received reveal the fact that the pensioners have more and more faith in the People's Advocate Institution and they turn to it in view of solving problems they are dealing with, however, it also highlights the numerous problems still existing, between the pensioners and the pension houses. We also observe the fact that many of the public institutions have understood the role and place of the People's Advocate Institution in the Romanian institution diagram: the situations where pension houses do not answer the requests of the People's Advocate Institution within legal term are much rarer. The persisting problems regard the quality of the answers. These are superficial at times, being necessary to repeatedly address the public institutions in question or notifying the hierarchically superior organs.

Because of the fact that the number of pensioners has increased and their financial resources are insufficient, we assess that a **possible modification** of Law no. 19/2000 will be considered, by adopting a system for establishing and recalculating pensions, in rapport to 2 elements: an

immobile part, with a quantum would insure a decent living standard, equal to the minimum wage in Economy and which should be granted to all pensioners, and a variable part, determined based on scores, calculated in rapport to the subscription stage and the level of income obtained during activity.

Moreover, we believe that a minimum pension guaranteed should be introduced, after the model of the minimum income guaranteed and the minimum wage guaranteed.

Recalculating pensions should be performed by taking into account, prioritary, the paid contributions and not the retiring conditions. As per Emergency Government Ordinance no. 4/2005, the principle of *“equal retiring conditions mean equal pensions, regardless of the retiring year”* was introduced. However, this rule violates the principles of contributiveness, equality and uniqueness that the public pension system is based on. Equal conditions of retiring do not necessarily mean equal contributions. The principle stipulated in the ordinance even encloses a contradiction of terms, due to the fact that depending on the year of retirement, the conditions were different, by law. Currently, there are pensions paid that were established not only by Law no. 3/1977 and Law no. 19/2000, but also by other normative documents from the period anterior to 1977, but also ulterior to this year, which have stipulated entirely different conditions of length of service and age, which created inequities between pensioners. For instance, the same seniority increase can be mentioned differently for the same length of service, depending on the work period (art. 164 of Law no. 19/2000) and the different increasing percentages of the score for the contribution to the additional pension (art. 165 of the same Law).

Furthermore, recalculation the pension of persons who cannot present document reflecting their income and for which they have paid contribution during the work period, in the situations where many of the units no longer exist or they do not keep archives, should be performed by taking into account the average wage for the activity branch, and not of the minimal wage. The law corrected this situation only for the period anterior to the year 1963, whereas the situation in question covers a longer work period.

Considering that the financial resources for pension payments are limited, we believe that the legislation for social security should be modified so that only those who have entirely lost the ability to work, either due to age, or because they have become crippled, should benefit from pension. To this sense, we mention some of the possible modifications: excluding from pension payment of persons with invalidity of the third degree, under the conditions that this category of beneficiaries from labour conscriptions of social security are able to perform a lucrative activity and can realize subscription stages, rigorous measures regarding the reactivation of those retired for invalidity and are revisable (apt for work), by developing the system for work rehabilitation, including the compulsory programs of medical rehabilitation.

As for the other pension systems (army, justice), we have been notified with respect to dissatisfactions regarding the method for calculating and granting the work pension for judges and military, the refusal of the pension house of the Ministry of Administration and Internal Affairs to grant military pension by crossing from a pension granted in the public pension system, not granting the pension entitled to a descendant of a military cadre etc.

With respect to the problems notified by the pensioners, the field of rights of the child, families, youth, pensioners and the disabled individuals has intervened in numerous cases with the territorial pension houses and with the National Pension House and Other Rights to Social Security and has performed **6 investigations** of the pension houses.

CASE FILES

File no. 9344/2008. The People's Advocate initiated an ex-officio investigation as a result of an art. published in the press. In order to clarify this case, an investigation was performed at the Local Pension House in Sector 1, Bucharest. The art. mentioned the fact that a pensioner was receiving a much lower pension than the one he was entitled to, because of the disregarding of the certificates registered in the pension file by the Local Pension House of Sector 1, Bucharest.

As part of the **investigation**, explanations were requested from the management of the Local Pension House of Sector1, Bucharest, regarding the situation of the pensioner in question. By analyzing the information received

and the documents presented, it resulted that the pensioner had filed a request for pension recalculation, along with the documents proving the obtained income.

Furthermore, we have found that the decision to recalculate the pension as per Emergency Government Ordinance no. 4/2005 had been issued late by the pension house. At the same time, the decision regarding the recalculation as per Emergency Government Ordinance no. 19/2007 was also issued late. As a result of pension recalculation, the petitioner received remaining rights in quantum of 52,988 lei.

File no. 8067/2008. Cristina (fictive name) notified the People's Advocate Institution in reference to the delaying in solving her request regarding the certifying of the subscription stage realized in Romania, sent to the National Pension House and of Other Rights of Social Security by the competent authority in Austria. From the content of the request, it results that during the time the petitioner lived in Romania, she was a scientific researcher for 7 years. At the age of 60 years, she was retired in Austria in compliance to the regulations of this state. In order to valorize the time she spent in Romania as a scientific researcher, the Austrian pension service has addressed the National Pension House and of Other Rights of Social Security in numerous occasions, beginning with January of 2007, and they have not received a concrete answer.

From the investigations performed, it results that in order to solve the petitioner's request National Pension House and of Other Rights of Social Security sent the files to the Pension House of Bucharest City.

The Bucharest Pension House informed the People's Advocate Institution of the fact that in order to solve this case, a new Personal Number had to be issued because the petitioner was not registered in their database. Also, the public institution in questioned mentioned the fact that in July of 2008 they issued and transferred the E 205 RO form, entitled "Certificate regarding the career of the insured person in Romania", and that for the time the petitioner studied at University, the Bucharest Pension House requested the Polytechnic University in Bucharest, Faculty of Physics and Industrial Chemistry, to issue a certificate mentioning the study period, as well as the education form attended by the petitioner.

V. THE RIGHTS OF THE PEOPLE WITH DISABILITIES

In the content of the **92 petitions** referring to the rights of the people with disabilities, addressed to the field of the rights of the children, family, pensioners and people with disabilities, the petitioners expressed dissatisfactions in reference to: faulty categorizing of disabled individuals regarding the degree of the handicap, not granting the rights due to the disabled individuals, the unjustified reevaluation of the handicap degree and placing the person in the category of inferior handicap degree compared to the anterior level, the refusal of the authorities of the local public administration to employ personal assistant for individuals with severe handicap, who were granted the right to benefit from a social assistant, delaying the issuing of certificates for being placed in a handicap degree category, overreaching the term for providing accessibility for these devaforized persons, lack of funding for paying personal assistants.

Furthermore, in the spirit of the interest and concern that the People's Advocate Institution has constantly shown towards the problems this social category is confronted with, the institution has organized meetings with the representatives of the National Authority for the Disabled People in view of finding solutions to these problems.

During the meetings, discussions addressed the issue of the deficiencies identified by the People's Advocate Institution regarding the dispositions of art. 54 of the Methodological Rules for enforcing Law no. 448/2006, which stipulates the possibility of the non-governmental organizations working in the field of protecting the rights of disabled individuals to receive subventions from the state budget only after having exhausted their own income, fact which creates a series of financial blockages for the aforementioned organizations. The representatives of the National Authority for the Disabled People have considered these critiques to be well founded and declared that they will be remembered in the context of future legislative modifications in the field.

Other problems debated with the public authorities competent in the field of protecting the rights of disabled individuals, referred to the credit limit granted to these individuals, whose interest is supported by the state

budget, through the budget of the National Authority for the Disabled People and the taxes for pensions which is to be paid by the disabled pensioners.

Moreover, the representatives of the field of the rights of the child, families, the youth, pensioners and the disabled individuals and the representatives of the National Authority for the Disabled People debated the problem of the indemnity quantum granted to the disabled individuals, the possibility of granting social residences for persons with handicaps, and also other aspects which imply steps of salary nature for the disabled individuals.

CASE FILES

File no. 27/2008. Despina (fictive name) notified the People's Advocate Institution in reference to the fact that she addressed the National Direction for Assistance and Protection of the Child (DGASPC) - the Commission for adult disabled individuals, requesting the decision for the placing in the handicap degree category issued by the Superior Evaluation Commission for Adult Disabled People; this decision solved her complaint regarding placing her father in the appropriate handicap degree category, suffering from severe handicap, permanent and unreviewable, in view of granting payment rights retroactively, beginning with October 2007. The petitioner mentioned the fact that before notifying the People's Advocate Institution, her father had not received the rights he was entitled to, as per the dispositions of the Superior Evaluation Commission for Adult Disabled People. Actions were undertaken in view of the aspects highlighted by the petitioner. From the response received from the accountant public institution, it resulted that the disabled person was entitled to receiving payment rights retroactively, and the payment for labour conscription was started in the month following that of acknowledging the legality of the decision, respectively November 2007. The delay of the payment was due to the fact that DGASPC Constanta had not requested the supplementing and approving for financing the funds of the state budget for granting these labour conscriptions.

File no. 2114/2008. Darie (fictive name), a person with a disability addressed the People's Advocate Institution and requested support in view of obtaining a social residence from the state locative fund, from the Town Hall of Avrig City.

The institution addressed the Town Hall of Avrig City in reference to the highlighted aspects, as per art. 59 paragraph (2) of the Romanian Constitution, respectively art. 4 and art. 23 of Law no. 35/1997 on the organizing and functioning of the People's Advocate Institution.

As a result of the actions undertaken, the Town Hall of Avrig City responded and mentioned the fact that based on the criteria for drawing a priority list for the assigning of a residence, criteria established by the Local Council, the petitioner only achieved 34 points, and the score for granting a residence from the locative fund in the year 2008 was 46 points. Moreover, the Town Hall of Avrig City mentioned the fact that as per dispositions of Law no. 114/1996, access to social residences for the purpose of renting was granted to families or to persons with an average monthly income, for the anterior 12 months, of at least 20% lower than the level of the monthly net income per family member or, depending on the case, per person. Having an income much larger than the level stipulated by law, the petitioner did not fulfill the legal terms for benefiting from a social residence from the state lucrative fund. The Town Hall will try to find other legal possibilities in order to solve the petitioner's problem.

CHAPTER VII. THE FIELD OF ARMY, JUSTICE, POLICE AND PENITENTIARIES

During the year 2008, a number of **1104 petitions** were registered in the activity field of army, justice, police and penitentiaries, representing 13.75% of the total number of **8030 petitions** registered with the People's Advocate Institution. The percentage of petitions registered in the field of army, justice, police and penitentiaries in view of which the People's Advocate Institution intervened is of **5%**.

One of the aspects- subject of activity of this specialization field is the respecting of the Romanian citizens' right to free movement abroad, taking into account the measures imposed by several European states in order to control migration. In view of this aspect, the People's Advocate addressed (as it results from Chapter XIV point 3 of the present report) an "*Open Letter*" to the Ombudsmen of the European Union, the European Ombudsman, the Regional Ombudsmen in Italy and the president of the Ombudsman's International Institute – the European Region, requesting their cooperation in view of protecting the Romanian citizens' right to free movement abroad. To this sense, the People's Advocate mentioned the fact that it is the duty of the Ombudsmen to make efforts for imprinting an attitude of respect and tolerance in the public opinion and the behaviour of the public authorities, favourable to the free movement of persons and for the elimination of any forms of discrimination between the citizens of a state member of the European Union and the citizens of the other states that are members.

Also, the *Special Report* was drawn during the year 2008, regarding the regulations issued by the ministry of justice and the general manager of the National Administration of Penitentiaries, in the matter of enforcing punishments and of the educational measure of entering underage felons in re-education centres, to which we will refer in the penitentiary section.

Also, in the specialization field of army, justice, police and penitentiaries, a number of **31 requests** were registered and solved, regarding the petitioners' invoking of the non-constitutionality of some legal stipulations, such as: Law no 35/2008 for electing the Chamber of Deputies

and the Senate and for modifying and completing Law no. 67/2004 for electing the authorities of the local public administration, the Law of local public administration no. 215/2001 and Law no. 393/2004 regarding the status of the local elects; Law no. 4/2008 regarding the prevention and combating of violence under the occasion of competitions and sports games; Law no. 317/2004 regarding the Superior Council of Magistracy; the project of Law for modifying and completing the Government Ordinance no. 39/2005 regarding cinematography, as well as modifying Law no. 328/2006 for approving the Government Ordinance no. 39/2005 regarding cinematography.

Therefore, a petitioner requested the People's Advocate Institution to lift the exception of non-constitutionality of dispositions of art. 1 of the Decree-Law no. 118/1990 regarding the granting of some rights to the persons persecuted, for political reasons, by the dictatorship installed on March 6th 1945, as well as for those deported abroad or taken prisoners, republished, with the ulterior modifications and additions. Regarding this aspect, the petitioner mentioned the fact that the legal stipulations indicated are unconstitutional to art. 15, paragraph (1) and art. 16, paragraph (1) of the Romanian Constitution, claiming that because of an omission of the Law, art. 1 of the Decree-Law no. 118/1990 with the stipulations under letter (f) and letter (g) was not modified and completed with the stipulations of art. 3 of the Emergency Government Ordinance no. 214/1999, and this generated the presence of an inadvertence between the two normative documents.

In this context, the petitioner invoked the omission of the Law, it not mentioning the fact that the categories of persons mentioned in art. 3, letters f) and g) of Emergency Government Ordinance no. 214/1999 also benefit from the rights stipulated in art. 1 of the Decree-Law no. 118/1990.

According to art. 1 of the Decree-Law no. 180/1990: “(1) It constitutes in length of service and is to be considered when establishing pensions and other rights granted, depending on the length of service, the period of time when a person, after the date of march 6th 1945, based on political reasons: a) executed a punishment involving incarceration based on a judicial decision remained permanent or based on a warrant of preventive arrest for political crimes; b) was incarcerated based on administrative measures or a result of investigations performed by the repression organs; c) was committed to a

psychiatric hospital; d) had a mandatory residence established; e) was moved to another town. (2) The same rights are granted to the person who: a) was deported abroad after August 23rd 1944; b) was taken prisoner by the Soviet side after August 23rd 1944 or was held captive before this date, after signing the truce”;

According to art. 3 of Emergency Government Ordinance no. 214/1999, regarding the granting of the fighter quality in the anticommunist resistance to persons condemned for crimes of political reasons, as well as to the persons against who abusive administrative measures were taken for political reasons, as well as for persons who were part of actions of resisting with weapons and the overthrowing by force of the communist reign installed in Romania, “ by abusive administrative measures, we understand any measures taken by the organs of the former militia or security or by other organs as a result of committing an action for the purposes mentioned in art. 2, paragraph (1), based on which the following were ordered: a) incarcerating in holding facilities or for research purposes; b) committing in psychiatric hospitals; c) establishing mandatory residence; d) moving to another town; e) deportation abroad, after August 23rd 1944, for political reasons; f) expelling from schools, high schools and universities; g) ceasing labour contracts or demoting, based on political reasons and proven by written documents, administrative or juristic, at the mentioned date”.

According to art. 7 of the Emergency Government Ordinance no. 214/1999, individuals with the quality of fighters in the anticommunist resistance, as well as those in the armed resistance who have been part of resistance actions with weapons and the overthrowing by force of the communist reign, benefit from: b) the rights stipulated in art. 1 of Decree-Law no. 118/1990 regarding the granting of some rights to individuals persecuted for political reasons during the dictatorship installed on March 6th 1945, as well as those deported abroad or taken prisoners, with the ulterior modifications.

Regarding the mentioned legal stipulations, it was proven that the persons who have gained the quality of fighters in the anticommunist resistance, based on art. 3, letters f) and g), of the Emergency Government Ordinance no. 214/1999, cannot benefit from the rights granted by Decree-

Law no. 118/1990. The situations of persons expelled from schools, high schools and university, and of those whose labour contract was annulled or they were demoted, on political reasons and proven with written documents, administrative or juristic, **is not set to rights** by the Decree-Law no. 118/1990, so that these categories of individuals can also benefit from the rights stipulated in this normative document. Due to the case presented, it was possible to draw the conclusion that uncorrelations exist between the two normative documents.

Regarding the omission of the Law to refer to the fact that the categories of persons mentioned in art. 3, letters f) and g) of the Emergency Government Ordinance no. 214/1999 also benefit from the rights mentioned in this normative document, it was concluded that, it is not possible for the control of constitutionality to regard omissions, because then the Constitutional Court would transform into a positive legislator, which is exclusively the nature and function of the Parliament, as sole legislating authority of the country, as it is stipulated in art. 61 paragraph (1) of the Constitution (Decision of the Constitutional Court no. 76/1996).

Furthermore, it was assessed that the uncorrelations between the stipulations of art. 1 of the Decree-Law no. 118/1990 and the stipulations of art. 3, letters f) and g) of Emergency Government Ordinance no. 214/1999, can lead to arbitrary understandings of the text regarding the granting of rights acknowledged for persons who have obtained the quality of fighter in the anticommunist resistance, ending with denying them.

In this context, the People's Advocate Institution has presented the created situation for the analysis of the President of the Senate - the Parliament of Romania (request no. 755/2008).

I. ARMY

During 2008, in the army field, the People's Advocate was notified with a number of **5** petitions, having the following subjects: the contesting of some orders issued by the ministry of defence, referring to making some military cadres available, as a result of the fact that they are investigated or tried; the solving method of the requests for obtaining some certificates referring to the information enclosed in the documents held in the archives of

the Pitesti 02405 Military Unit, subalternated to the Ministry of Defence, necessary for calculating military pensions; invoking some exceptions of non-constitutionality of some legal stipulations referring to the performance of the military service.

Thus, a petitioner notified the People's Advocate Institution invoking the unconstitutionality of art. 2 of Law no. 395/2005, regarding **the suspending of the mandatory military service during times of peace** and crossing to voluntary military service. As per the legal dispositions criticized, "Since January 1, 2007, the performing of the mandatory service, as military in the field and military with reduced term is suspended. The final drafting of recruits for soldiers within term will take place in October 2006, and for the soldiers with reduced term, January 2006". Therefore, in the petitioner's opinion, the mentioned legal stipulations were contrary to art. 55 of the Constitution, which stipulates that the citizens have the right and obligation to defend Romania. Regarding this aspect, the petitioner requests the reviewing of this law, and the reinstalling of the mandatory military service for a period of 3-4 months, necessary for the military training of young men with ages between 18 and 30 years.

The petitioner was informed of the fact that there are no significant reasons for the People's Advocate Institution to notify the Constitutional Court, because of the fact that the disposition regarding the renouncing of the mandatory military stage was taken after consulting the population by means of referendum and modifying the Constitution, taking into account the characteristics of the international military environment, Romania's international alliances and agreements, the experience of other states that have optimized their armed forces. Furthermore, when considering renouncing to the mandatory military stage, the need for maintaining an adequate military ability was taken into account, which would respond to the army's missions in the current geostrategic context, and of the International Obligations accepted by Romania according to the security interests and objectives. Moreover, by the complete professionalizing of the army, Romania will benefit from a greater stability of the military organism, and the personnel will be more motivated, thus reducing problems of military discipline. Also, the petitioner was informed of the stipulations of art. 3 of Law no. 395/2005, according to

which, “for the duration of the state of war, mobilization as well as for the duration of the state of siege, the performing of the military service becomes mandatory, in compliance with the law”. Therefore, during times of peace, when reaching 20 years of age, young men have to present at the military centres in order to be taken into military evidence (request no. 9070/2008).

CASE FILE

File no. 4783/2008. Costin (fictive name) notified the People’s Advocate Institution, in the context of art. 51 and 52 of the Constitution, regarding the right to petition and the right of a person aggrieved by a public authority, in view of not receiving a solution to the requests addressed to Pitesti 02405 Military Unit, regarding the issuing of a copy of the registry book for years 1946-1948, time when he was a soldier with the Graniceri Regiment number 8 Iasi.

As a result of the action of the People’s Advocate Institution, the Military Unit in question informed us that they do not possess the petitioner’s registry book, and that the certificate issued to him in the year 2000 (based on documentary sources other than the registry book, respectively, based on the contingent registry of nominal evidence control 1946 from the archive fund of the Territorial Circle in Iasi) reflects the very mutations realized to his party, therefore it can give a punctual response regarding the content of the request’s subject addressed by the petitioner.

II. JUSTICE

Referring to the dispositions of art. 21 of the Constitution, regarding free access to justice, during 2008, a number of **862 petitions** were registered in the field of army, justice, police and penitentiaries; the objects of the petitions regarded: contesting solutions issued by the Public Ministry; not informing the interested parties, by the organs for penal prosecution, regarding the solving stage of the formulated penal complaints; the method for assessing conclusion and utility of the evidence by the judicial courts; contesting a juristic decision; not communicating judicial decisions issued during the penal trials as well as during the civil trials; disfunctionalities in organizing the administrative activity of the judicial courts; complaints against the activity of some magistrates; difficulties regarding the enforcing of

the judicial decisions by the judicial enforcers, respectively the impossibility of enforcing of some executor titles, which establish the payment obligations in the responsibility of the public institutions; information regarding the necessary stages for internal right, prior to notifying the European Court for Human Rights.

176 of the **petitions** addressed to the field, had the following objects: granting judicial consultations referring to the penal or civil trials in the judicial courts; assisting and representing petitioners in trials they are involved in. Regarding this category of requests, the petitioners were informed of the fact that, as per Law no. 51/1995 for the organizing and functioning of the lawyer profession, republished, with the ulterior modifications and additions, legal council, assisting or representing petitioners in justice represent attributions of lawyers registered in the Bar. Furthermore, the petitioners were informed in reference to the stipulations of the Emergency Government Ordinance no. 51/2008, regarding public judicial assistance in civil matters, according to which the request for public judicial assistance, under the term of this normative document, can come from any physical entity, in the situation where they cannot withstand the expenses of a trial or the expenses implied by obtaining a legal consultation in view of defending a legitimate right or interest in justice, without endangering supporting themselves or of their family.

a) The Public Minister

A number of **112 petitions** regarding the activity of the prosecutor's office were addressed to the field of army, justice, police and penitentiaries.

CASE FILE

File no. 1717/2008. Alina (fictive name) notified the People's Advocate Institution in the context of the stipulations of art. 21 of the Constitution (free access to justice), in reference to the delay in the legal prosecuting regarding the facts surrounding her daughter's death, by not completing the new technical revision of automobiles by the National Institute of Criminal Expertise.

According to the petitioner's request, initially, by resolution, the penal prosecuting of the drivers of the auto vehicle involved in the accident was not

ordered. Against the resolution of the Prosecutor's office near the Drobeta Turnu-Severin Court, the petitioner formulated a complaint, as a result of which, the Drobeta Turnu-Severin Court decided that the resolution of the prime-prosecutor of the Prosecutor's office near the Drobeta Turnu-Severin Court and the resolution of the Prosecutor's office near the Drobeta Turnu-Severin Court were to be annulled and the file was to be sent to the prosecutor once again, for further investigations. Also, the petitioner stated that, even though the auto vehicle technical expertise had been ordered by the organ of penal prosecuting during the year 2005, and the fee necessary for performing it had been paid, the case was still **in development** at the National Institute for Criminal Expertise.

Regarding the mentioned aspects, as per art. 18 of Law no. 35/1997, republished, the People's Advocate Institution addressed the General Prosecutor of the prosecutor's office near the High Court of Cassation and Justice, in view of a competent solving of the petitioner's demand.

b) The Superior Council of Magistracy

In view of stipulations of art. 133 of the Constitution, as per which the Superior Council of Magistracy is the guarantor of the justice's independence, the People's Advocate Institution sent a number of **3 requests** formulated by the petitioners to the Council in question.

Regarding this aspect, we reiterate the proposal for introducing, at a future revisal of Law no. 35/1997, a text regarding the possibility for notifying the Magistracy's Superior Council by the People's Advocate Institution.

CASE FILE

File no. 5289/2008. George (fictive name) notified the People's Advocate Institution in reference to the actions undertaken for performing penal investigations connected to the facts surrounding his wife's death, in 1995, after she had been repeatedly committed to the medical units in Buhusi, Bacau and Bucharest. In 1997, by the resolution of the prosecutor, the penal prosecuting of the medical staff was not ordered, for committing the crime of third degree murder. During the same year, the former Prosecutor's Office near the Supreme Court of Justice approved the complaint formulated by the

petitioner, annulled the resolution for the absence of penal prosecution for the accusation of third degree murder and decided returning the file to the Prosecutor's Office near the Bacau Justice Court.

Due to the fact that the petitioner claimed to have undertaken 76 actions regarding the solving of the cause (addressing the former Prosecutor's Office near the Supreme Justice Court, the Magistracy's Superior Council, the Ministry of Justice, the prosecutor's office near the Bacau Court of Appeal, the Bacau Court, the Bucharest Sanitary Direction, the President of Romania, the Buhusi police, the Bucharest Police Inspectorate, the Ministry of Internal Affairs and Administrative Reform, the National Anticorruption Direction and the Ministry of External Affairs), the People's Advocate sent the petition to the Magistracy's Superior Council, for a competent solving.

c) Judicial courts

During 2008, a number of **452 petitions** regarding the actions and facts of judicial courts addressed the field of army, justice, police and penitentiaries.

CASE FILE

File no. 8508/2008. Andreea (fictive name) notified the People's Advocate Institution, in the context of art. 31 and 51 of the Constitution, regarding the right to information and the right to petition, in view of the petition addressed the Bucharest Court, requesting the correcting of a material error in a civil sentence. Also, the petitioner mentioned that fact that, although she asked the court to inform her of the final Ruling of the cause by mail, she has not received any answers.

As a result of the actions of the People's Advocate Institution, the Information and Public Relations Office in Bucharest informed us of the fact that the request was solved, and the Ruling was sent to the petitioner by mail.

Regarding the enforcing of judicial decisions, as part of the civil trial, the field of army, justice, police and penitentiaries received a number of **100 petitions** referring to the enforcing of judicial decisions issued in the matter of property and pensions.

d) The Ministry of Justice

A number of **5 petitions** involving the intervention of the Ministry of Justice were registered with the field of army, justice, police and penitentiaries, in 2008.

CASE FILE

File no. 1282/2008. Gina (fictive name) notified the People's Advocate Institution, in the context of stipulations of art. 31 of the Constitution (the right to information), related to the difficulties met for finding the home address and the current civil state of her husband (Turk citizen), in view of initiating the action of divorce. Also, the petitioner mentioned the fact that she notified the International Consulate of the Turk Republic in Constanta and Romania's General Consulate in Istanbul, and she has not received any answers.

As a result of the actions undertaken, Romania's General Consulate in Istanbul informed us of the fact that, anterior to the request addressed to the People's Advocate Institution, the petitioner had addressed this Consulate over the telephone, and the consul on duty explained to her the procedures for regulating her current civil state. Therefore, the petitioner could not have initiated the divorce action with a Romanian institution, because of the fact that the transcribing of the marriage that took place in Turkey had not been realized in Romania. As a result, she was advised to transcribe the Turkish document of marriage to Romania, in order for her to be able to address the Romanian courts in the matter of initiating the divorce action in Turkey based on the Turkish marriage certificate. Moreover, according to the received information, the Consulate addressed the authorities in Istanbul and requested the home address of the petitioner's husband, and she is to be notified of the response, as soon as it arrives.

The Ministry of Justice informed us of the fact that, as per the stipulations of the Convention for judicial assistance in civil and penal matters, signed between Romania and Turkey (signed at Ankara in 1968), corroborated with stipulations of Law no. 189/2003 regarding the international judicial assistance in civil and commercial matters, the Ministry of Justice requests international judicial assistance from the international authorities, only when requested by the Romanian judicial courts. Therefore,

the Ministry of Justice is able to transmit a possible request for assistance regarding the obtaining of information referring to the residence in the Turk Republic and to the current civil state of the petitioner's husband, only if the request is formulated by a judicial court, in connection to an undergoing trial. Moreover, according to the address motioned, in the experience of the Direction for International Right and Treaties within the Ministry of Justice, the Romanian authorities have solved, in turn, numerous such requests coming from the Turkish judicial authorities.

III. POLICE

During 2008, the field of army, justice, police and penitentiaries received a number of **127 petitions** regarding the activity of the police organs, which refers, for instance, to: the lack of informing petitioners in reference to the solving methods of their formulated complaints; delaying, by the organs of penal investigation, of the solving of penal complaints; the disciplinary investigation of some police cadres; complaints against official reports of assessing contraventions. Also, a series of petitions have addressed the issue of the police activity as an organ of penal prosecution. In this context, the petitioners were informed of the fact that the monitoring of the penal prosecution organs' activity is in compliance with stipulations of art. 209 of the Code of Penal Procedure, in the responsibility of the prosecutor.

CASE FILE

File no. 2774/2008. Radu (fictive name) notified the People's Advocate Institution, in the context of art. 21 and 52 of the Romanian Constitution, regarding the free access to justice, respectively the right of a person aggrieved by a public authority, in connection to the two penal complaints registered in April 2007 with the Police Department no. 9 in Bucharest, to which he has not received any response. Also, the petitioner mentioned the fact that he addressed the Prosecutor's Office near the Court in Sector 2, Bucharest, a no. of 2 requests for the speeding up of the solving process for the complaints filed, and he was notified of the fact that the penal file had been sent for investigation to the Police station of Sector 2, since May 3rd 2007.

As a result of the People's Advocate Institution's actions, the Police of Sector 2, Bucharest informed us of the fact that the two penal complaints registered with the number 9 Police Department, in April 2007, had been connected together and the penal work was presented to the Prosecutor's office near the Court of Sector 2, Bucharest, with the proposal for not initiating penal prosecution. Also, we were notified of the fact that the petitioner had been informed of the result of the investigations performed by the workers of the Police Department no. 9.

IV. PENITENTIARIES

During 2008, the field of army, justice, police and penitentiaries registered a number of **51 petitions** formulated by incarcerated individuals, referring to: dissatisfaction regarding the quantum of punishments; granting legal council; conditions for detention, granting medical assistance; the right to petition; contesting the rulings of judges appointed for the enforcing of the incarcerating punishments regarding the solving of the complaints formulated by the inmates against measures taken by the penitentiary's administration; the right of incarcerated persons to receive visits and the right to correspondence; the right to nourishment in compliance with religious beliefs; violations of the right to intimate, family and private life, regarding the processing of personal information by the penitentiary personnel; transferring to other penitentiaries.

During the year 2008, as a result of analyzing the normative documents adopted in the area of enforcing the incarcerating punishment after the drawing of the special report, regarding executing sentences in penitentiaries of 2003, by the People's Advocate, ***the Special Report regarding the rules issued by the minister of justice and by the general manager of the National Administration of Penitentiaries in the matter of executing sentences and of the educational measure of entering underage felons in re-education centers.***

This Special Report wishes to determine the creating by the competent public authorities of the legal frame corresponding to executing sentences involving incarceration and educational measures, as per the obligations established in their responsibility by the dispositions of Law no. 275/2006

regarding the executing of sentences and measures issued by the judicial organs during the penal trial and the international regulations regarding the enforcing of educational measures in re-educational centers.

In its content, the Special Report approached: the areas for which the legal stipulations of Law no. 275/2006 were not issued, or by its enforcing Regulations, by reporting to the public authorities responsible for issuing them, meaning: the orders of the Minister of Justice and the decisions of the General Manager of the National Administration of Penitentiaries; the obsolete character of the Decree no. 545/1972 regarding the enforcing of the educational measure of entering underage felons in re-educational centers; practical aspects referring to the right of individuals in the midst of executing incarceration sentences, in reference to the notification addressed by a group of inmates at Vaslui Penitentiary to the People's Advocate Institution.

Also, the Special report enclosed proposals of the People's Advocate regarding the creating of the legal frame corresponding to a smooth functioning of the system of penitentiaries and of the re-educational centers:

1. Completing Law no. 275/2006 with express stipulations referring to: the right to a certain type of nourishment for the inmates, in compliance with their religious beliefs, and with the exigencies demanded by art. 29 of the Constitution, regarding the guaranteeing of the freedom of conscience;
2. Issuing by the ministry of justice of orders referring to: the minimal mandatory rules of food for incarcerated individuals, as per art. 35, paragraph (2) of Law no. 275/2006; the minimal mandatory rules regarding the conditions for hosting incarcerated individuals, as per art. 33, paragraph (4) of Law no. 275/2006; the rules based on which the administration of the holding place provides the inmates with a number of news papers, pr other publications as per art. 184, paragraph (4) of the Regulations for enforcing Law no. 275/2006.
3. Finding a way to allow concordance between Law no. 275/2006 regarding the executing of sentences and the measures issued by the judicial organs during the penal trial and Law no. 24/2000 regarding the legislative technique rules for drawing normative documents, republished, with the ulterior modifications and additions, in view of

insuring transparency of the decisional action of the General Manager of the National Administration of Penitentiaries and knowing them by the incarcerated individuals, civil society, and the institutions with attributions in protecting the rights and freedoms of incarcerated individuals of the decisions issued in the field of executing sentences, by the general manager of the National Administration of Penitentiaries.

4. Adopting a new normative document to regulate the educational measure of entering underage felons in re-educational centers, as per the international stipulations in the field, reoriented towards the **child's superior interest**, for highlighting the function of education and reintegration into society.

As a result of the Special Report written by the People's Advocate Institution, the Ministry of Justice formulated a response, according to which:

1. A collective of specialists was formed at the level of the Ministry of Justice , working on a new law project regarding the enforcing of sentences, who have centralized the points of view expressed by the habilitated public institutions, among which we also find the People's Advocate Institution.
2. The suggestion formulated in the Special Report by the People's Advocate regarding the right to nourishment of the inmates as per their religious beliefs was taken into account at the writing of the new law project regarding the execution of sentences. It is currently in the order project of the minister of justice regarding the introducing of minimal mandatory rules for inmates, normative document which will also enclose express stipulations regarding providing of proper food for the religious creed of the inmate.
3. The National Administration of Penitentiaries wrote and the presented to the Ministry of Justice, for approval, the order project regarding the minimal mandatory rules for hosting incarcerated individuals, which regulates the surface and minimal volume of air which is to be provided for each incarcerated individual, equipping the dormitory rooms, bathrooms, providing natural light, artificial light and heat.

4. The order for the administration of the holding place to provide free of charge number of news papers or publications had not been issued until the present.
5. On July 22nd 2008, the management of the National Administration of penitentiaries ruled that all normative documents issued were to be published in Romania's Official Monitor, Part I.
6. The law project regarding the executing of sentences and the measures issued by the judicial organs during penal trial, being in development with the Ministry of Justice, encloses one title (title VI- Dispositions regarding the enforcing of educational measures applied to minors), which regulates the educational measures for minors, so that when this project becomes legally active, Decree no. 545/1972 will be abrogated. The law project: no longer encloses the sanction of separating minors in sections with restrictive regimen; it stipulates the minor's right to contest the disciplinary sanctions applied, as well as the measures involving him; encloses dispositions regarding the individualizing of the educational measures and establishes the age when minor are fit to work.

CASE FILES

File no. 767/2008. The People's Advocate Institution was notified by an anonymous request of a group of inmates mentioning the irregularities and illegalities committed by the management of the Vaslui Penitentiary, respectively: the accident suffered by an inmate in the garden near the property of the vice-manager of the Penitentiary; the riot caused by the inmates, determined by the abusive behavior of the management of the penitentiary; the inmates provide services for private persons, by using materials in the penitentiary.

As per art. 14 paragraph (1) and art. 22 of Law no. 35/1997, republished, corroborated with the stipulations of art. 24 (1) of the Regulations for enforcing the law, the People's Advocate notified from office in connection to the aspects highlighted and ordered an **investigation** of the Vaslui Penitentiary.

As a result of the investigation performed at the Vaslui Penitentiary, it was ascertained that a work accident had occurred, however it was not

registered by the penitentiary. From the statement of the doctor of the penitentiary, the injured inmate needed 10-14 days of medical care.

In the statements recorded during the investigation, there was no mentioning of the fact that the accident occurred on the property of the penitentiary's vice-manager, but on the field of the penitentiary's agro-zootechnic farm.

As per art. 50 of Law no. 319/2009 regarding the security and health of work, the National Administration of the Penitentiaries organizes coordinates and controls the security and health of work activity within its units, by means of the prevention and protection services created and assigned to enforce the stipulations of the law. Investigating, recording and keeping track of the work accidents and of the professional diseases caused in the units subordinated to the National Administration of the Penitentiaries is the responsibility of the organs proper to these units. The institutions mentioned in paragraph 1 can issue their own rules for enforcing Law no. 319/2006, for completing the ones existing on national level.

In compliance with art. 168, paragraph 2 of the Regulations for enforcing Law no. 275/2006 regarding the executing of sentences and the measures issued by the judicial organs during the penal trial, the legal regulations referring to the organizing and functioning of labour, are also applicable for incarcerated individuals, including those referring to the prevention of work accidents, professional diseases and other hazardous situations etc.

Also, in view of the investigation, the inmates gave statements regarding the improper behavior of the vice-manager, consisting in abusive attitudes, injuries, insults, threats (which represent violations of art. 3 of Law no. 275/2006) and applying disciplinary sanctions with the suspending of the right to perform a certain type of work, over a period of a month, maximum (art. 153 of the Regulations for enforcing Law no. 275/2006).

Regarding the inmates' nourishment, the investigation revealed the fact that it did not correspond qualitatively or quantitatively (they did not use the entire quantity of ingredients necessary for preparing the food), in the sense that in the "potato and meat stew", there were only pieces of fat, without meat and the potatoes were very few, water being the main "composition"-more

than three quarters of the food. Thus, the penitentiary held over 500 inmates, which implied the use of at least 50 kilograms of meat (100grmas of meat each, the daily quantity recommended by nutritionists). At the same time, the investigation revealed the total absence the medicine usual and necessary for the emergency intervention and strictly necessary in the situations when inmates are sick or injured. The most frequent medicine used in the penitentiary was “paracetamol, sulphur (unguent) and iubifem”.

Another aspect revealed by the investigation referred to the visitation schedule, it was not respected, and also there was no possibility for conjugal visits due to the lack of maintenance of the necessary spaces.

The People’s Advocate Institution notified the National Administration of the Penitentiaries and the Ministry of Justice, and they have not yet given a response.

File no. 6538/2008. Horia (fictive name) addressed the People’s Advocate Institution in compliance with the terms of art. 47 of the Constitution, regarding the right to a decent living standard, requesting support in order to benefit from nourishment corresponding to his religious belief.

The People’s Advocate Institution addressed the Penitentiary in Satu Mare, invoking the stipulations of art. 35 of Law no. 275/2006 regarding the executing of sentences and the measures issued by the judicial organs during the penal trial, corroborated with art. 86 of the 2006 Regulations for enforcing Law no. 275/2006 for insuring the freedom of conscience. Based on the mentioned legal dispositions, the Ministry of Justice issued order no. 2713/C/2001, in compliance with which nourishing of incarcerated individuals, adepts of a cult or religion, can be provided in a proper manner, by replacing, as much as possible, the products which are not indicated for these conscience objectors, with others. Therefore, the Order of the Minister of Justice stipulates the fact that incarcerated physical entities, adepts of a cult or religion are nourished in compliance with the Nourishment rule mo. 17, the alimentary products not indicated for these persons (fat, pork meat, pork products) are eliminated.

As a result of the actions of the People's Advocate Institution, the Satu Mare Penitentiary informed us of the fact that the petitioner's food request (according to the Muslim culture) was granted.

File no. 1313/2008. Andrei (fictive name), inmate of the Bucharest-Rahova Penitentiary notified us, under the terms of art. 34 of the Constitution (the right to health protection) corroborated with art. 50 of Law no. 275/2006 regarding the executing of sentences and measures issued by the judicial organs during the penal trial (the right to medical help), in view of the refusal of the head-doctor of the penitentiary to "provide" him with the urinary probes recommended by specialist doctors within the Ministry of Public Health.

As a result of the action undertaken by the People's Advocate Institution, the Bucharest-Rahova Penitentiary informed us of the fact that the petitioner was "accommodated" in the penitentiary's infirmary, with recommendation for urinary probing, which could also be performed with clean probes, not necessarily sterile. Considering the medical recommendation issued in November 2007 and the fact that the penitentiary unit did not possess the required product, at the time, a request was issued for purchasing 45 urinary probes, and the purchase took place on December 20th 2007. The following purchase, of 300 pieces, took place on January 31st 2008. Until the first purchase, the urinary probes were provided by the Bucharest-Rahova Penitentiary.

According to the address of the Buchrest-Rahova Penitentiary, the urinary probes are issued daily to the inmate by the medical office, and he signs for receiving them, in the unit's consultations registry. Also, it is mentioned that the penitentiary unit provided the inmate with the urinary probes during the time he was committed to "prof. dr. Bagdasar- Arseni" hospital.

File no. 6490/2008. Andra (fictive name) notified the People's Advocate Institution, under the terms of art. 31 and art. 51 of the Romanian Constitution, regarding the right to information and the right to petition, in view of obtaining information in reference to her concubine, arrested in Italy. Thus, the petitioner mentioned the fact that she addressed the General Italian

Consulate in Timisoara and Romania's General Consulate in Milan, without receiving any answers.

As a result of the actions undertaken by the People's Advocate Institution, Romania's General Consulate in Milan requested the complete identification information of the Romanian citizen arrested in Italy (date and place of birth, the number of his identity card or passport), because of the fact that the existing information "*were not sufficient for identifying the Romanian citizen in question, in the Italian databases, which have the minimum request of the name and date of birth in order to access them*". After communicating the information requested, provided by the petitioner for the People's Advocate Institution, Romania's General Consulate in Milan informed us of the fact that the Romanian citizen had been arrested based on the charges of "inducing minors to slavery" and was waiting for the first court term. Furthermore, Romania's General Consulate in Milan also mentioned the fact that the arrested citizen benefited from legal council during trial.

CHAPTER VIII. THE FIELD OF PROPERTY, LABOUR, SOCIAL PROTECTION, DUTIES AND TAXES

In 2008, the petitions submitted to the People's Advocate Institution that were analyzed in the field of property, labour, social security, duties and taxes were in number **1615**, representing a percentage of 20.11% out of a total of 8030 petitions registered within the institution, that were claiming problems such as: the right to a private property, the right of a prejudiced person by a public authority, the right to make a petition, the right to work and to the social security of labour, the right of setting up fiscal charges, the right to inheritance, the right to a proper living standard. In a percentage of 25.69%, that is 415 petitions analyzed within the field of activity, notifications were made to the authorities of public administration in view of solving the aspects notified by the complainers. In a percentage of 78.31%, the problems showed by the complainers were clarified. A significant number of petitions had in view problems that exceeded the legal competence of the People's Advocate Institution. Most of the problems referred to solving litigations arisen between physical entities and legal entities; between physical entities regarding the right to property, the right to inheritance; between legal entities and homeowners' association; between physical entities and CEC regarding of non-application of some complainers of provisions of the Emergency Government Ordinance No. 156/2007 referring to compensation of physical entities that made deposits at Romanian Savings Bank C.E.C. – S.A. for acquiring automobiles. In these cases, in order to sort out the problems, the complainers were informed regarding the legal procedures to follow.

In some cases, because the informed authorities did not give an answer to the requests of the People's Advocate Institution or the answers got from their side were not relevant to sort out the aspects informed by the complainers, The People's Advocate approved to carry out 9 inquiries that took place at the National Authority for the Properties Restitution, Bucharest Municipality City Hall, Bucharest Sector 5 City Hall and Mihailesti

Commune Hall, Giurgiu County. At the same time, 5 recommendations were issued to the Bucharest Municipality City Hall, Mihailesti Commune Hall, Giurgiu County and Ardasat Commune Hall, Maramures County.

I. PROPERTY

Regarding the non-observance by the public administration authorities of the right to private property, guaranteed by art. 44 of the Constitution, within the field of property, labour, social security, taxes and fees a number of **968** petitions were registered. As during the previous years, the People's Advocate Institution was notified about the delay in elaborating the documentation necessary to reconstitute the property right by the local commissions of setting out the private property rights on lands, with entering in possession and issuing property deeds.

Mainly, the petitions solved out in the field of property, labour, social security, taxes and fees were the ones regarding the application way of the following normative acts: Law no. 18/1991 related to the land fund, republished; Law no. 10/2001 regarding the judicial regime of certain real estate abusively taken in the period March 6, 1945 – December 22, 1989, republished; Law no. 9/1998 regarding the conferring of compensations to Romanian citizens for the goods that were past in the property of the Bulgarian state, as a result of the enforcement of the Treaty between Romanian and Bulgaria that was signed in Craiova on September 7, 1940, republished; Law no. 290/2003 regarding the conferring indemnifications or compensations to the Romanian citizens for their property goods, confiscated, retained or remained in Bessarabia, North Bukovina and Hertza Region, as a consequence of state of war and of application of Peace Treaty between Romania and Allied Powers, signed in Paris on February 10, 1947, modified and completed; Law no. 247/2005 regarding the reform in the field of property and justice, as well as some adjacent measures; Emergency Government Ordinance no. 81/2007 for acceleration of procedures of granting compensations related to abusively taken real estate.

Regarding the application of Law no. 18/1991 related to the land fund, republished, the complainers informed the People's Advocate Institution on the following aspects connected to the public administration authority activity:

- The refusal to analyze or to work out the necessary documentation for reconstitution of property right;
- The delay of issuing and releasing property deeds;
- The refusal to carry out 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 deeds of property with the infringement of the legal provisions;
- The refusal to reconstitute the property right on the old placements.

Regarding the aspects informed by the complainers, the People's Advocate Institution has notified the local and county commissions to set up the right of private property on lands, requesting the legal measures to be taken for the solving of their problems and the informing of the People's Advocate on what they decided.

Regarding the application of Law no. 247/2005 regarding the reform in the field of property and justice, as well as some adjacent measures and of Emergency Government Ordinance no. 81/2007 for acceleration of procedures of granting compensations related to abusively taken real estate, the complainers have requested support in connection with the difficulties faced regarding the reconstitution of their property right.

Following the carried out notifications, it was found out that although more than three years have passed since the act have been enforced, some local commissions had not finalized the elaboration of the necessary documentation and its submission to the county commissions regarding the issuing of property deeds.

The problems informed by the complainers were related to the following aspects:

- The delay of sorting out the requests submitted in compliance with Law no. 247/2005;

- The refusal of local commissions to submit the contestations worked out against validation/invalidation proposals of reconstitution of property right to the county commissions in view of competent solving;
- The unfounded exceeding of the term provided by the Regulations regarding the constitution procedure, commission assignments and functioning for the setting up the right to private property on lands, of the model and the way of conferring the property deeds as well as putting in possession the owners, approved by the Government Decision no. 890/2005 to sort out contestations by the county commissions.

Likewise, many complainers have expressed their dissatisfaction regarding the provisions of the Decision no. 2/February 28, 2006 of the Central Commission for Setting Up Indemnifications within the National Authority for Properties Restitution according to which the solving order of files registered at Technical Secretariat of Central Commission, as well as the selection of evaluators should be randomly made with the help of a computer software.

On September 16, 2008, the Central Commission adopted the Decision no. 2815, setting out that the files should be analyzed in a chronological order. Regarding the decision of the Central Commission to change the way of setting the order of solving these files, an important role was also played by the interventions of the People's Advocate Institution in this respect.

As for the enforcement way of the Law no. 10/2001 regarding the judicial regime of some real estate abusively taken in the period March 6, 1945 – December 22, 1989, republished, the complainers have pointed out, mainly, the failure to observe by the component public institutions and authorities of the term set up by the law to sort out 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 it found out that some notifications formulated on the basis of the Law no. 10/2001, republished, were not solved within the legal term of 60 days, although more than six years have passed since the expiry of the term for submitting the notifications. In this respect, the non-sorting out in the term provided by the law of the files

based on Law no. 10/2001, republished, represents a delay regarding the granting repair measures by equivalence, in case the restitution in kind of the real estate was not possible.

Regarding the exceeding legal term of solving the notifications by competent public authorities and institutions, it was found out that at their level, there are wrong functionalities because of the great amount of notifications submitted on the basis of Law no. 10/2001, republished, as well as because of non-proper cooperation between various competent departments and services in solving the notifications.

Likewise, the competent public institutions and authorities informed us that in most of the cases 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 this respect, following the actions taken by the People's Advocate Institution regarding the solving of problems notified by the complainers, they were requested to complete their files formulated based on the Law no. 10/2001, republished.

Likewise, the complainers also notified issues related to the refusal of public administration authorities to enforce ultimate and irrevocable judgments regarding the application of Law no. 10/2001, republished. As a consequence of the intervention of the People's Advocate Institution, some cases of such kind were solved in favor of the complainers.

By approaching the public administration authorities, the People's Advocate Institution estimates that the attitude of some authorities is inadmissible because although they are obliged by their legal competence to assure the observance of laws and legal order, they do not observe them. In this respect, in October 2008, the representatives of People's Advocate Institution who were empowered to carry out an inquiry at Bucharest Sector 5 City Hall, they were restrained to do their legal duties by the employees of this institution.

Regarding the enforcement of Law no. 9/1998 regarding the conferring of compensations to Romanian citizens for the goods that were past in the property of the Bulgarian state, as a result of the enforcement of the Treaty

between Romanian and Bulgaria that was signed in Craiova on September 7, 1940, republished; Law no. 290/2003 regarding the conferring indemnifications or compensations to the Romanian citizens for their property goods, confiscated, retained or remained in Bessarabia, North Bucovina and Hertza Region, as a consequence of state of war and of application of Peace Treaty between Romania and Allied Powers, signed in Paris on February 10, 1947, modified and completed, the petitions analyzed within the field of property, labour, social security, taxes and fees have arisen, mainly, the issue of delaying the sorting out of the files, of granting compensations according to the law and payment of these compensations.

In 2008, a large number of physical entities requested the Department in charge with the enforcement of Law no. 9/1998 and the Department in charge with the enforcement of Law no. 290/2003 within the National Authority for Property Restitution, claiming problems related to:

- The analyses of the decisions received from the county commissions and Bucharest municipality;
- The submissions of the validation/invalidation proposals of the decisions of county commissions and by those from Bucharest municipality to the Chief of the Prime-Minister Chancellery who will decree by order;
- Dissatisfaction of the complainers regarding the answers submitted by the Department in charge of the enforcement of Law no. 9/1998 and Law no. 290/2003, being in a standard format, not corresponding to the complainers' requests;
- Not paying back the compensations granted according to these standard instruments in legal term.

As the memoirs submitted to the National Authority for Property Restitution got no answer, the individuals who considered being prejudiced in their rights, complained to the People's Advocate Institution. In this respect, the People's Advocate Institution informed the National Authority for Property Restitution in order to clarify the generated situation. Out of the received answers from the National Authority of Property Restitution, there was revealed the fact that a great number of files were resent to be reanalyzed and completed to city halls or prefectures, other being already finalized.

CASE FILES

File no. 6772/2008. Nicolae (fictive name) has informed the People's Advocate Institution in the context of an alleged violation of the private property right and of the right of a person aggrieved by a public authority, provided by art. 44 and art. 52 of the Constitution of Romania by the Arduşat Commune Hall, Maramureş County.

By the content of the submitted documents by the complainant results that the Arduşat Commune Hall, Maramureş County refused to enforce the decisions of the instance judgments, ultimate and irrevocable, by which the Local Commission for enforcing the Law of the Arduşat Land Fund, the Mayor of Arduşat Commune and the County Commission of enforcing the Law of the Land Fund were obliged to effectively put in possession of the complainant a land of 0.58 ha inside of built-up areas, located in Colţirea village and issuing of the property deed.

In the Civil Decision no. 308/2001 of Maramureş Law Court, passed in the appeal against the civil sentence no. 5688/2000, the instance estimated that if, in the period when the petition was on the cause list of the instance of the Law of the Land Fund, documents were issued by the commune hall on the name of the complainant's brother, these are not legal, because the commission could not dispose the above mentioned land (0.58 ha), as soon as the County Commission Decision no. 7542/1995 was under judicial control.

Therefore, in this situation, a guilt of the Commune Hall can be identified, that although knew the disputing situation between the two brothers, a contestation formulated by the complainant was on the cause list of the instance against conferring to his brother the land of 0.58 ha, land inside of built-up areas, the Commune Hall worked out the instruments for issuing the property deed, with area in litigation, exclusively on the name of the complainant's brother.

All the sentences obtained by the complainant acknowledge his right on the 0.58 ha land area, land inside of built-up area and oblige the commune hall to the effective putting in possession of the complainant.

In this case, it was issued the People's Advocate Recommendation no. 10 of October 31, 2008, regarding the observance of the private property right

and the right of the person aggrieved by a public authority, provided by art. 44 and art. 52 of the Constitution of Romania.

File no. 7259/2008. Luca and Alin (fictive names) have informed the People's Advocate Institution in the context of an alleged violation of the private property right and the right of the person aggrieved by a public authority, provided by art. 44 and art. 52 of the Constitution of Romania, by the Stefanesti City Hall, Arges County.

The complainers were claiming the delaying of solving the requests of restitution of land differences that remained non-restituted by the mayor of Stefanesti city, Arges County.

In spite of the fact that the complainers carried forward the city hall request and moreover made written approaches, by a lawyer, asking the mayor to set a date for the parties to be present for putting in possession, but their requests were not solved out.

Following the approaches carried out, the People's Advocate Institution received from the Stefanesti City Hall the letter no. 22112 of September 23, 2008, registered at People's Advocate Institution under the no. 8060 of September 29, 2008, informing us that the complainers should be present at the city hall.

Since the city hall's answer did not clarify the situation, in compliance with art. 22 of Law no. 35/1997 regarding the organization and functioning of the People's Advocate Institution, republished, an inquiry was carried out at the Stefanesti City Hall, Arges County.

The conclusions of this inquiry showed up the fact that if, the city hall should have not limit itself to simply communicate letters with the same content to the complainers, but would inform them about the necessity of finishing the cadastral works by the company which the city hall had a contract with, or the possibility of presenting own cadastre documentation and, at the same time, the necessity to work out a schedule, for any Tuesday and Thursday of the month, when the specialists of Stefanesti City Hall use to make measurements in the field, the request of the complainers could solved much faster.

In our opinion, we consider that if the said public authority provided proper information to the complainers regarding the matters related to solving

the applications making the cadastral documentations, the misunderstandings and dispute would not appear.

In this respect, the People's Advocate issued the Recommendation no. 8 of October 16, 2008, regarding the observance of the right to information provided by art. 31 of the Constitution of Romania.

File no. 1873/2008. Florica (fictive name) informed the People's Advocate Institution, being dissatisfied by the fact that the National Authority for Property Restitution delays the solving of file no. 891CC/2007 regarding the granting of reparatory measures by equivalence based on Law no. 10/2001 regarding the judicial regime of real estate abusively taken over during the period March 6, 1945 – December 22, 1989, republished. Also, the complainant mentions that the file was selected by the Central Commission for Setting Compensations on May 24, 2007.

Considering the above mentioned facts by the complainant, the People's Advocate Institution informed the National Authority for Property Restitution, requesting to clear up the situation presented by the complainant.

As a result of the approach, the complainant's request was sorted out, so that, the National Authority for Property Restitution by the letter no. 4291 of May 14, 2008 informed the People's Advocate Institution that the estimation report worked out in file no. 891/2007 was approved in the meeting of the Central Commission for Setting Compensations from March 27, 2008, and the Commission Decision, representing the compensation title, was edited and it follows to be communicated to the complainant as soon as it should be approved and signed.

II. LABOUR

In this activity field, **82** petitions were analyzed related to non-observance by the public administration authorities of the labour right and labour social protection, provided by art. 41 of the Constitution.

The complainants invoked alleged violations related to employing, granting payment rights and exceeding the legal hours of working schedule without granting compensations by the employers – legal persons, refusal of

issuing the work records after ceasing the work contract, granting legal leaves.

In exercising its duties conferred by Law no. 35/1997, republished, the People's Advocate Institution can intervene only in cases where physical entities are harmed in citizen rights and liberties by the public administration authorities, so that the complainers were directed to approach either the labour territorial inspectorates or the competent law courts, in legal term.

CASE FILE

File no. 5106/2008. Magda (fictive name), national expert detached to the European Commission and employed within the Ministry of Education, Research and Youth informed the People's Advocate Institution related to an alleged violation of her right to work and labour social protection, respectively, the right of the person aggrieved by a public authority. In this respect, during the detachment period to the European Commission, her working contract was suspended by the Ministry of Education, Research and Youth and consequently the complainer did not benefit anymore from the rights recurred in her position of expert detached to the European Commission (wage payment and social contribution pay).

Considering the above mentioned situation, we approached the Ministry of Education, Research and Youth, requesting to clear the matters informed by the complainer. Following the approaching, by letter no. 6547 of July 28, 2008, the Ministry of Education, Research and Youth informed the People's Advocate Institution that, "she will receive the wage and the social contributions incurred during the period she was detached to the European Commission."

III. SOCIAL PROTECTION

In 2008, in the field of property, labour, social security, duties and taxes, **61** petitions were analyzed in the field of social protection, regarding issues related to distribution of social houses and 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 local public administration authorities it has revealed the fact that, in most cases, they are in the

impossibility of solving in a favorable way the requests for social houses because of their absence.

CASE FILES

File no. 3127/2008. Bogdan (fictive name) addressed on February 5, 2008 a request to the Public Department of Social Assistance of Sector 5 City Hall, Bucharest Municipality, requesting exemption from paying the charges of using the national road networks for his automobile he was transporting his 7 years old son which has an advanced degree of handicap. The complainer sustains that he did not received any answer in legal term from the informed institution. Considering the above situation, the People's Advocate Institution addressed to the General Directorate of Social Assistance and Child Protection, Sector 5, Bucharest Municipality that informed us that the complainer's request was favorably solved, so that, on March 11, 2008, the tripartite Convention between Ministry of Transport, C.N.A.D.N.R. and General Directorate of Social Assistance and Child Protection, Sector 5, Bucharest Municipality was signed, following the complainer to come and take the document.

File no. 3565/2008. Marius (fictive name) claimed the way of solving the files submitted to the Braila Municipality City Hall based on Law no. 15/2003 regarding the support granted to youth for building a personal property house, with later additions and completions.

The People's Advocate Institution informed the Braila Municipality City Hall asking information regarding the application stage of Law no. 15/2003, with later additions and completions, requesting the following:

- Total number of files submitted by citizens based on this law;
- The state of parcels in the south industrial area, respectively in the Brailita area, Eroilor street.
- a) Names of the persons these parcels were granted as well as the file number;
- b) Decision of the Local Council approving the distribution of each land;
- c) Date of enforcing this decision by the city hall.

Following the analysis of the received documentation, irregularities were found out in the way of enforcing this law, as well as discordances

regarding the delivered data. In this respect, an inquiry was decided to be carried out at the claimed public authority, that confirm the irregularities in enforcing the Law no. 15/2003 with the later modifications and completions and a set of measures was established:

- Till the end of September, to carry out a checking on the site and to precisely determine the individuals who did not appear for putting in possession of the land, as well as the individuals who did not being the construction;
- Till October 15, 2008, to initiate a draft decision to repeal the Local Council decisions conferring land to those nominated to cancel the right to use the allotted land and draft decision to allot the lands that became unavailable to those entitled to.

These measures were materialized by adopting the following decisions of the Local Council:

- Decision no. 225/August 29, 2008 regarding the adopting of additional criteria of separating the requests formulated on the basis of Law no. 15/2003, republished;
- Decision no. 226/August 29, 2008 regarding the repeal of a number of 50 decisions of the Braila Municipality Local Council referring to the free of charge use of some lands in compliance with Law no. 15/2003 in view of building personal property houses;
- Decision no. 271/September 30, 2008 regarding the approving of the complainer's request and the free of charge use of a land area, of 248.28 sq. m. in view of building personal property house in compliance with the provisions of Law no. 15/2003, republished.

IV. DUTIES AND TAXES

In 2008, a number of **92** petitions were registered in the activity field of property, labour, social protection, duties and taxes referring to non-observance by the public authorities of the right to right settlement of the fiscal charges, provided by art. 56 paragraph (2) of the Constitution of Romania.

The complainers informed the People's Advocate Institution regarding 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 issuing, the delay of issuing taxing decisions, compensation of some debits.

In order to clarify the aspects mentioned by the complainers in the field of property, labour, social protection, taxes and fees, the People's Advocate Institution addressed to the local taxes and fees directorates and to the public finance administrations.

The fundamental law provides on art. 56 paragraph (1) the duty of the citizens to contribute by taxes and fees to the public expenses. Settling this duty, the Constitution provided also its limits, representing, among others, a constitutional guarantee of the right of private property. In this respect, the contribution of the citizens to the public expenses can consist only of taxes and fees payment provided by the law; any other services are forbidden – according to art. 56 paragraph (3) – except those set in special situations. At the same time, according to art. 56 paragraph (2) of the Fundamental Law, the legal system of taxing should provide the correct settlement of fiscal charges, e.g. to be subordinated both to equity principle and to a principle of social justice, corresponding to the social character of the state.

In this respect, according to art. 16 letter e) of Law no. 44/1994 regarding war veterans, as well as some rights of disabled persons and widows, republished, with later modifications, the war veterans, as well as the widows of war veterans are exempted from payment of local taxes and fees, as well as from payment of taxes related to arable lands of a maximum area of 5 ha.

In spite of this, there are many cases in which the authorities of local public administration refuse the enforcement of these legal provisions.

CASE FILES

File no. 6864/2008. Marcel (fictive name) addressed to the Sangeorgiu de Padure City Hall, Mures County, requesting exemption from payment of taxes for the arable land of 0.5824 ha which he possesses in this city according to the Law no. 44/1994 regarding war veterans as well as some right of disabled persons and war widows, republished, with later

modifications and completion, but this exemption was not approved as it results from the answer of the Sangeorgiu de Padure City Hall, Mures County no. 1398 of May 6, 2008.

In view of the informed aspects, the People's Advocate Institution addressed to the Sangeorgiu de Padure City Hall, Mures County with the request to examine the presented case. By letter no. 2791 of October 17, 2008, the Sangeorgiu de Padure City Hall, Mures County informed us that, beginning with January 1, 2008, the complainer is exempted of tax payment for the arable land he possesses in Sangeorgiu de Padure, Mures County of 0.58 ha. We also were informed that till the respective date, the complainer had the obligation to pay the taxes related to the arable land area, so that, out of the amount of 146.59 RON paid by the complainer, it was retained only the taxes due till December 31, 2007, that means 100.09 RON, and the amount rest of 46.50 RON following to be paid back as undue amount.

File no. 7800/2008. Steriana (fictive name) addressed the Deva Local Council, Public Service of Taxes and Fees, requesting the exemption of tax payment provided by the Law no. 44/1994, republished, further modifications and completions included, for surface land of 0.47 ha arable land, but, according to the answer of the said administrative authority no. 10954 of April 4, 2008, the exemption was refused because the Deva Local Council appreciates that the provisions of the Fiscal Code are applied and not those of the above mentioned law.

Considering the above, the People's Advocate Institution addressed to the Deva Local Council, Public Service of Taxes and Fees in order to examine the presented case. By letter no. 31298 of October 14, 2008, the Deva Local Council, Public Service of Taxes and Fees informed us that it decided that the complainer was exempted from tax payment for the land of 0.47 ha in her possession, beginning with January 1, 2008.

CHAPTER IX. THE ACTIVITY OF THE TERRITORIAL OFFICES OF THE PEOPLE'S ADVOCATE INSTITUTION

In order to provide the access of citizens not living in Bucharest to the services offered by the People's Advocate Institution, beginning with 2003, territorial offices of the institution were founded. Presently, there are 14 such offices in all the cities with appeal courts, respectively: Alba-Iulia, Bacau, Brasov, Constanta, Cluj-Napoca, Craiova, Galati, Iasi, Oradea, Pitesti, Ploiesti, Suceava, Targu-Mures and Timisoara and have a personnel of 33 people, out of them 7 counselors and 26 experts, carrying out their activity under the supervision of the territorial office coordinators and of the deputies of People's Advocate Institution under the careful supervision of People's Advocate.

In this way, the territorial offices play, at local level, the constitutional and legal role of the institution, namely defending the natural person rights and liberties in their relation with the public authorities.

Their activity consists of: mediating conflicts between citizens and the public administrative authorities, directing and informing the citizens in order to solve the problems they are facing with, contribution to find out and fight against local phenomena generating violations of the citizen rights and liberties and permanent improving of public administration activity.

The efficiency of the activity of territorial offices was materialized in 2008 by solving a total number of **3517 petitions**, carrying out **22 inquiries**, granting **13858 audiences**, recording of **3882 telephone calls** to the call center, as follows:

Alba-Iulia: **625** audiences, **223** petitions, **229** telephone calls, **14** informative activities.

Bacau: **737** audiences, **180** petitions, **221** telephone calls, **8** informative activities.

Brasov: **898** audiences, **153** petitions, **236** telephone calls, **21** informative activities.

Constanta: 768 audiences, 236 petitions, 150 telephone calls, 38 informative activities.

Cluj-Napoca: 863 audiences, 239 petitions, 313 telephone calls, 14 informative activities.

Craiova: 1800 audiences, 206 petitions, 828 telephone calls, 26 informative activities.

Galati: 347 audiences, 112 petitions, 167 telephone calls, 21 informative activities.

Iasi: 950 audiences, 321 petitions, 266 telephone calls, 51 informative activities.

Oradea: 772 audiences, 168 petitions, 174 telephone calls, 6 informative activities.

Pitesti: 1194 audiences, 591 petitions, 92 telephone calls, 49 informative activities.

Ploiesti: 1045 audiences, 235 petitions, 175 telephone calls, 17 informative activities.

Suceava: 1298 audiences, 179 petitions, 345 telephone calls, 10 informative activities.

Targu-Mures: 1760 audiences, 413 petitions, 371 telephone calls, 48 informative activities.

Timisoara: 801 audiences, 261 petitions, 315 telephone calls, 22 informative activities.

In 2008, the territorial offices carried out **345 informative activities**, consisting of a broad public release of the mass-media means of the duties of the People's Advocate Institution.

In view of a quick solving of issues notified by the citizens of People's Advocate Institution, the territorial offices carried out a permanent cooperation with public administration authorities. In this respect, we mention: conclusion of cooperation between Bacau Territorial Office and Bacau County Prefect Institution in May 2008; conclusion of a Cooperation Protocol between Covasna County Prefect Institution and Brasov Territorial Office of the People's Advocate Institution; starting of a new cooperation between Cluj-Napoca Territorial Office and Labour and Social Protection

Directorate of Cluj; organization of some meetings between Craiova Territorial Office and Filiasi City Hall and the mayor of Bucovat commune on the issue of violation of the citizen rights by the local public administration; starting a permanent cooperation between Pitesti Territorial Office and Pitesti Municipality City Hall, Stefanesti City Hall, Mioveni City Hall, Arges County Council, by scheduling periodical quarterly meetings; conclusion of two Cooperation Protocols between Suceava Territorial Office and Suceava County Prefect Institution and Botosani County Prefect Institution.

The People's Advocate Institution continued during 2008 the consolidation of the territorial office activities by logistic actions of endowing the territorial offices and also by the extension of the territorial offices' duties viewed as an enlargement of the range of public administrative authorities they may inform. One of the major objectives of the People's Advocate Institution also was to guarantee the quality of services offered to the citizens by the staff of territorial offices.

The 14 coordinators of territorial offices of the People's Advocate Institution attended the International Conference on the issue "Domestic legislation and European Convention on human rights" that took place at Alba-Iulia, within which it was also celebrated the **10th anniversary since the People's Advocate Institution** was founded. This working meeting was an opportunity of carrying out exchange of experience, debating the following issues: Involvement of People's Advocate Institution in solving some issues regarding penitentiaries – cases; Inquiry running. Procedures – cases; Experience of People's Advocate Institution related to the Law no. 10/2001; Experience of People's Advocate Institution related to the Law no. 44/1994.

We also mention the participation of representatives of Alba-Iulia, Cluj-Napoca, Constanta, Craiova, Oradea and Pitesti territorial offices to the International Seminar organized on the occasion of conclusion of MATRA program "***Strengthening the organizational and institutional capacities of People's Advocate***" carried out by People's Advocate in partnership with National Ombudsman of Netherlands during 2004-2008.

Internally, it is worth mentioning the participation and presentation of paper works within many seminars, conferences, round tables and public debates: Seminar regarding "Harmonization of national legislation within the

present European context”, organized by the Faculty of Law and Social Sciences of 1 Decembrie 1918 University of Alba-Iulia; International Conference on “European Union – history, culture, civilization”, organized by the Faculty of Law and Administrative Sciences of Pitesti University; International Conference on “History, culture and citizenship of European Union”, organized by the Faculty of Law and Administrative Sciences of Pitesti University; International Conference “Justice and comunitary integration” organized by the Faculty of Law and Sociology of the “Transilvania” University of Brasov; International Conference “Realities and perspectives of the progress of European integration in globalization era”, organized by the “Simion Barnutiu” Faculty of Law of “Lucian Blaga” University of Sibiu; The 6th International Conference “Challenges in education and Research of the 21st century”, organized by the Faculty of Law and Sociology of “Transilvania” University of Brasov and “Technical University” of Sofia; International Conference “Pollution effects and its impact on population health”, organized by the Academia Balkan Environmental and “Transilvania” University of Brasov; Public Debate on “International Adoption”, organized by Asociatia Catharsis of Brasov; Annual Session of teaching staff and student scientific circles of Dimitrie Cantemir Christian University – Faculty of Law; The seminar on “Realities and perspectives of Romania’s integration process in the European Union”, organized by the Paul Negulescu Administrative Science Institute, Cluj-Napoca; the annual scientific session of Socio-Human Research Department of the “George Baritui” History Institute of Cluj-Napoca; the Seminar on “Anti-corruption national strategy” organized by the National Center of Integration; Conference on “Improving the fight against corruption”; the seminar on “Decisional transparency at the level of local public administration”, organized by Dolj County Prefecture; Meeting of Local Working Group, Phar Program 2005 “Victims” Component and “Delinquency prevention week”, organized by the Probation Service of Suceava Law Court; Official Opening of the “Resource Center for Parents and Children”, organized by Suceava Branch of “Salvati copiii” NGO and “Miron Costin” Primary School; “European day of fight against trafficking in human beings”, organized by the National Agency Against Trafficking in Persons – Suceava

Regional Center; “Access to culture – a constitutional right of the Romanians” within the Global Education Week, organized by the Ministry of Education, Research and Youth and the Brasov County School Inspectorate; International Conference on “We are the children of Europe”, organized by the Penitentiary for Minors and Youth of Craiova, Dolj County School Inspectorate, Dolj Teacher Training Center, Dolj County Center of Resources and Educational Assistance and “Sfantul Mina” Special School; the seminar on “Challenges against the Christian family in contemporary world”, organized by the Pitesti University and the Faculty of Orthodox Theology; Round Table on “Psychic-social assistance of liberty deprived persons. Preparation for liberty” and opening of “Steps towards liberty” exhibition with works made by liberty deprived persons, organized by the Probation Service of Suceava Law Court and Botosani Penitentiary in partnership with the Probation Service of Botosani Law Court and “Stefan cel Mare” University of Suceava, Faculty of History and Geography – Philosophy, Social and Political Sciences CHAPTER; Debate on “Power and life alongside HIV-positive persons”, organized by Pro Karma Targu-Mures, National Council for Fight against Discrimination and Noi si Ceilalti Association of Bucharest; the seminar on “60th anniversary of signing the Universal Declaration of Human Rights”, organized by the Timis League for the Defense of Human Rights; the seminar on “Constitution and religion”, organized by the Center of Constitutional Right and Political Institution of the Faculty of Law in cooperation with People’s Advocate Institution; Round Table on “Promotion and defending the children rights”, organized by the Dolj General Directorate of Social Assistance and Child Protection; the seminar on “The children rights are laws!”, organized by the Dolj General Directorate of Social Assistance and Child Protection and Dolj County Council; activities organized by the consular offices of Constanta in cooperation with Constanta Prefecture on the Day of Ethnic Minorities.

Internationally, on September 10, 2008, Mihaela Stanciulescu, expert of the Pitesti Territorial Office of People’s Advocate Institution attended the conference organized by Konrad Adenauer Stiftung Macedonia Foundation on the issue “Human rights and ethnic minorities rights in Europe” that took place at Skopje – Macedonia.

Regarding other performed activities, it is worth mentioning that on June 12, August 25 and December 5, 2008, the representatives of Ploiesti Territorial Office and Alba-Iulia Territorial Office attended the action of granting **social support** from the fund made available to the People's Advocate for the children of Primary School, grades 1st – 4th of Olari commune, Prahova County, Orlat Service Complex, Sibiu County and Primary School, grades 1st – 4th Pacureti of Pacureti commune, Prahova County.

The territorial offices of People's Advocate Institution initiated **cooperation agreements** also with certain universities in view of carrying out some practice stages for students. In this respect, we mention: carrying out training activities of a number of 5 students of the "Nicolae Titulescu" Faculty of Law of Craiova University by the Craiova Territorial Office; carrying out a practice stage at Galati Territorial Office of an auditor of justice of the National Institute of Magistracy and of a student group of the Faculty of Law of the "Dunarea de Jos" University of Galati; carrying out a practice stage at Targu-Mures Territorial Office of the students of "Petru Maior" University of Targu-Mures – Faculty of Economical, Judicial and Administrative Sciences; carrying out a practice stage at Timisoara Territorial Office by two students of the Timisoara West University – Faculty of Law.

We may mention that in 2008, the territorial office activities considerably improved, both quantitatively and qualitatively compared to previous years (**from 2464 audiences granted in 2004 to 13858 audiences granted in 2008**), their cooperation with public institutions and authorities on local level recorded positive increase.

From the statistics referring to territorial office activities, we may conclude that they are enjoying an increased popularity among the citizens that corresponds to the major aim these offices were created, namely easy access to services offered by the People's Advocate Institution.

CHAPTER X. ACTIVITY OF PEOPLE'S ADVOCATE INSTITUTION IN THE FIELD CONSTITUTIONALITY CONTROL OF LAWS AND ORDINANCES

The activity of People's Advocate Institution in the field of constitutionality control of laws and ordinances, provided in Romania by the Constitutional Court – sole authority of constitutional jurisdiction, is materialized in 2008 by formulating **2090 points of view** and in the direct notification of the Constitutional Court of **6 exceptions** of unconstitutionality.

I. Points of view

A) Points of view regarding exceptions of unconstitutionality

Resulting from the provisions of art. 19 of Law no. 35/1997, republished and art. 30 paragraph (1) of Law no. 47/1992 regarding the organizing and functioning of Constitutional Court, republished, in case of a notification regarding the exception of unconstitutionality of laws and ordinances related to rights and liberties of the citizens, the Constitutional Court should also request the point of view of the People's Advocate Institution. In this respect, the People's Advocate formulated a number of **2088 points of view regarding the exceptions of unconstitutionality**, representing an activity progress in this field, compared to 1635 points of view formulated in 2007; 1375 in 2006; 1005 in 2005; 621 in 2004; 386 in 2003 and 180 points of view formulated in 2002.

The cases in which the point of view of People's Advocate was requested focused, mainly on the alleged contradicting feature of some legal provisions related to: principle of free access to justice, including the right to a fair trial (460), principle of equality of rights (391), private property right (243), principle of non-retroactive law except the penal law or more favorable contraventional law (130), restriction the exercise of some rights or liberties (110), (Annex no. 6).

The lowest percentage (under 1%) in the surveyed period was recorded in the case of points of view regarding the alleged inconsistency between

some legal provisions and constitutional regulations related to sovereignty (art. 2 of the Constitution), trade unions, employers' associations and professional associations (art. 9 of the Constitution), Superior Council of Magistracy (art. 133 and art. 134 of the Constitution), temporal conflict of laws (art. 153 of the Constitution) etc.

Provisions of art. 278 and the following from the Penal Procedure Code; art. 48 of Law no. 18/1991 regarding the land fund; some provisions of Law no. 19/2000 regarding the public pension system and other social insurance rights, with later modifications and completions, of Law no. 146/1997 regarding judicial stamp duties, with later modifications and completions, of Law no. 122/2006 regarding asylum in Romania, of Law no. 10/2001 regarding the legal status of real estate abusively taken in the period March 6, 1945 – December 22, 1989, republished, of Law no. 554/2004 of the administrative contentious, with later modifications and completions, of Government's Ordinance No. 2/2001 regarding the judicial regime of contraventions, of Law no. 85/2006 regarding insolvency procedure; art. 11 of Emergency Government Ordinance no. 50/2008 for imposing the tax on vehicles' pollution have repeatedly constitute the object of some exceptions of unconstitutionality to which the Constitutional Court requested the point of view of People's Advocate Institution.

In **case** of some exceptions of unconstitutionality, it was found out that the conclusion of informing the instance of constitutional contentious did not contain the opinion of the law court regarding the invoked exception. There were also cases in which, by conclusion of informing the Constitutional Court, the law court indicated that "should not express its point of view on the invoked exception of unconstitutionality as it appreciates, in this way, it can prejudice regarding the merits of the case".

At the same time, in some **cases**, in sustaining the unconstitutionality of some legal provisions, the author of the exception did not indicate the alleged violation of the provisions of the Constitution to the text under criticism.

In this respect, we observe that according to the imperative stipulations of art. 29, paragraph (4) of Law no. 47/1992 regarding the organizing and functioning of the Constitutional Court, republished, "The notification of the Constitutional Court is order by the instance before which the exception of

unconstitutionality has been initiated, through a resolution that shall include the opinions of the parties, the instance 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' support and the required evidences." At the same time, 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.

In other **cases**, the support of the exception author did not raise constitutionality issues but only issues of interpretation and enforcement of the law which solving comes to the competence of the law courts.

At the same time, in the resolution of the notification of Constitutional Court, the law court retained in some cases that, by invoking the exception of unconstitutionality, its author followed only the delay of the trial resolution.

We mention some **examples** of practice of the People's Advocate Institution in formulating points of view, requested by the Constitutional Court.

In a **case**, the Constitutional Court requested a point of view of the People's Advocate regarding the exception of unconstitutionality of provisions of art. 50 paragraph (2) 2nd thesis of the **Law of cadastre and real estate advertising** no. 7/1996, regulating the contestation procedure of registry or rejection resolution of the registry request in the land register. In this respect, according to the criticized law text, the petition is submitted by the concerned person at the territorial office within the territorial branch. In its point of view, the People's Advocate estimated that the criticized legal provisions were unconstitutional, because they excluded the citizen possibility to directly and immediately address to court, to request evidence approval and to unrestrictedly prevail all the guarantees incurred in a fair trial. By Decision no. 467/2008, published in the Official Gazette of Romania, Part 1, no. 422 of June 5, 2008, the Constitutional Court founded out that the indicated legal provisions are unconstitutional in the way not allowing the direct access of the contestor also to the competent law court.

A similar point of view was expressed also in the **case** of exception of unconstitutionality of the provisions of art. 281 of the Emergency Government Ordinance no. 34/2006 regarding the **assigning of public**

procurement contracts, of public work concession contracts and of service concession contracts, meaning that as soon as the petition is set up for submitting it to the National Council for Contestation Resolution, under its nullity sanctions, creates an administrative difficulty that has no objective reason and is in opposition with the free access to justice. By Decision no. 569/2008, published in the Official Gazette of Romania, Part 1 no. 537 of July 16, 2008, the Constitutional Court admitted the exception of unconstitutionality of the provisions of art. 281, paragraph (1) of the Emergency Government Ordinance no. 34/2006 and found out that the text is unconstitutional as soon as does not allow the petition to be also directly addressed to the competent instance.

In a different **case**, in which the Constitutional Court requested a point of view on the exception of unconstitutionality of art. II of Law no. 288/2007 for modification and completion of Law no. 4/1953 – Family code, the People’s Advocate appreciated that the legal provisions under criticism according to which “the provisions of the current law regarding the action of paternity denial as well as the action of setting the child paternity outside marriage are applicable also the children born before enforcing the law even though the application is on the cause list” are detrimental to the fundamental principle of non-retroactivity of the law except the penal law or more favorable contraventional law. By Decision no. 755/2008, published in the Official Gazette of Romania, Part I, no. 537 of July 16, 2008, the Constitutional Court admitted the exception of unconstitutionality of the provisions of art. II of Law no. 288/2007, retaining that the regulation of unconstitutionality resulted of the fact that the new law is applied also to the children born before enforcing it even though the application is pending resolution.

In another **cause**, the People’s Advocate point of view regarding the exception of unconstitutionality of the art. 34, paragraph (1²) of the Law no. 76/2002 **regarding the insurance system for unemployment and stimulation of employment** in the sense that to condition the unemployment allowance on achieving a contribution period of at least 12 months in the last 24 hours before making the request of granting the unemployment allowance is in opposition to the principle of rights equality of the citizens that

concluded an individual employment contract and pay contributions to the unemployment fund as well as art. 47, paragraph (2) of the Constitution. By Decision no. 664/2008 published in the Official Gazette of Romania, Part I, no. 559 of July 24, 2008, the Constitutional Court rejected the exception of unconstitutionality of the provisions of art. 34, paragraph (1²) of the Law no. 76/2002, retaining that, according to the constitutional provisions, the legislator is in the position to set the content, limits and conditions of granting the social insurance rights.

Likewise, the People's Advocate has expressed its point of view regarding the exception of unconstitutionality of the art. 11 of the Emergency Government Ordinance no. 50/2008 for instituting **the vehicle pollution tax** in the sense that the criticized legal provisions related to restitution based on the procedure set in the methodological norms of enforcing the current urgency ordinance of the tax resulted as a difference between the amount paid by the taxpayer during January 1, 2007 – June 30, 2008, under the title of special tax for motorcars and vehicles and the amount resulted by enforcing the current provisions regarding pollution tax for motorcars are detrimental to the constitutional principle of law non-retroactivity. In the opinion of the People's Advocate, the criticized legal provisions for unconstitutionality dispose for the past, setting up a compensation between the vehicle first registration tax, already paid, and the pollution tax that was later introduced. Consequently, the enforcement of the pollution tax also in the case of some judicial situations that appeared previously to enforcement the Emergency Government Ordinance no. 50/2008 is in opposition to the fundamental principle according to which the law disposes only for the future, except the penal law or the more favorable contraventional law.

By Decision no. 1344/2008, published in the Official Gazette of Romania, Part I, no. 866 of December 22, 2008, the Constitutional Court rejected as inadmissible the exception of unconstitutionality of art. 11 of the Emergency Government Ordinance no. 50/2008.

B) Points of view regarding the notifications (objections) of unconstitutionality

As it results from the provisions of art. 16, paragraph (3) and art. 17, paragraph (1) of Law no. 47/1992 regarding the organizing and functioning of the Constitutional Court, republished, if the notification of unconstitutionality of a law, previously promulgated by the President of Romania was carried out by president of one of the Parliament Chambers, the Constitutional Court should communicate it to the president of the other Chamber, to the Government as well as to the People's Advocate, and if the notification was carried out by the Government, the Court should communicate it to the presidents of the two Parliament Chambers, as well as to the People's Advocate. Until the date of debates, the presidents of the two Parliament Chambers, the Government and the People's Advocate can present in written form their point of view.

The People's Advocate presented **2 points of view regarding the notifications (objections) of unconstitutionality** formulated by the Government of Romania related to the Law of modification and completion of Law no. 19/2000 regarding the public pension system and other rights of social insurances and of Law for approving the Government Ordinance no. 15/2008 regarding the wage increases to be granted in 2008 to the education staff.

II. Exceptions of unconstitutionality

In exercising its constitutional and legal competences, the People's Advocate directly brought to the Constitutional Court **6 exceptions of unconstitutionality**, related to the following:

- Art. 48, paragraph (3) of Law no. 67/2004 for **election** of local public administration authorities, republished in the Official Gazette of Romania, Part I, no. 333 of May 17, 2007;
- Art. 111, paragraph (6) of the Emergency Government Ordinance no. 195/2002 regarding the **traffic** on public roads, republished, in

the Official Gazette of Romania, Part I, no. 670 of August 3, 2006 with later modifications and completions

- Law no. 16/2007 regarding the organizing and practicing the profession of **geodesist**, published in the Official Gazette of Romania, Part I, no. 43 of January 19, 2007;
- The Emergency Government Ordinance no. 136/2008 regarding the setting of some measures for **payment of education staff** salaries in 2008, published in the Official Gazette of Romania, Part I, no. 739 of October 31, 2008;
- Art. 19 and art. 20, paragraph (1) of Law no. 154/1998 regarding the system of setting **the basic wages** in the budgetary sector and allowances for persons that have public office positions, published in the Official Gazette of Romania, Part I, no. 266 of July 16, 1998;
- Art 20¹ paragraph (1) let. a), b), c) and d) of Law no. 508/2004 regarding the founding, organizing and functioning within the Public Ministry of the **Directorate for Investigating Organized Crime and Terrorism**, with later modifications and completions and art. 22³ let. a), b), c) and d) of the Emergency Government Ordinance no. 43/2002 regarding the **National Anticorruption Directorate**, with later modifications and completions.
- In motivating the exception of unconstitutionality regarding **art. 48 paragraph (3) of Law no. 67/2004 for election of local public administration authorities**, the People's Advocate argued that the provisions of the criticized law, according to which "Lists of independent candidates for the position of counselor are not admitted" violate the fundamental right of citizens to associate and have a discriminatory character because they set harder conditions for independent candidates than for the candidates proposed by the political parties.

By Decision no. 606/2008, published in the Official Gazette of Romania, Part I, no. 563 of July 25 2008, the Constitutional Court **rejected** the exception of unconstitutionality of the provisions of art. 48, paragraph (3) of the Law no. 67/2004.

- In motivating the exception of unconstitutionality related to **art. 111, paragraph (6) of the Emergency Government Ordinance no. 195/2002 regarding the traffic on public roads**, republished, with later modifications and completions, essentially, it was retained that the assignment to the competence of the traffic police department chief in the area where the action of the right to dispose regarding the extension of circulation right, in case of the vehicle or tramway driver involved in a traffic accident resulting the killing or corporal wounding of a person, leaving to the prosecutor or judge only the charge of proposal, is in flagrant contradiction with the principle of separation and balance of state powers. The fact that the chief of police has, in the hypothesis of the mentioned legal norm, the competence to decide regarding to the proposal formulated by the prosecutor or judge has the significance of an encroachment of the executive power in the activity of the judicial authority. At the same time, by limiting the role of the judge on formulating a simple proposal to which the chief of traffic police department to decide, the provisions of art. 111, paragraph (6) of the Emergency Government Ordinance no. 195/2002 republished, instituted a situation improper to the judge activity, in opposition to the provisions of art. 124 of the Constitution. It was also shown that the criticized law text was violating also the constitutional norms regarding the Public Ministry role by reducing the role of the prosecutor who carries out the penal prosecution or who exercises the penal investigation supervision only on issuing a proposal related to the extension of the traffic right, the competence of deciding on the extension of this right being discretionarily assigned to the chief of traffic police department of the area where the action was committed. In the opinion of People's Advocate, the enforcement of the indicated law text could lead to the paradoxical situation in which the chief of the traffic police department, as an administrative authority, to invalidate the proposal formulated by the prosecutor that, in this case too, acts in the position of representative of general interest of the society and defender of the fundamental liberties and rights.

By Decision no. 742/2008, published in the Official Gazette of Romania, Part I, no. 570 of July 29, 2008, the Constitutional Court **admitted** the exception of unconstitutionality directly approached by the People's Advocate and found out that the provisions of art. 111, paragraph (6) of Emergency Government Ordinance no. 195/2002 regarding the traffic on public roads are unconstitutional.

Moreover, we notice that, in order to harmonize the provisions declared as unconstitutional with the provisions of the Constitution, taking into account the need for correction, in view of those stated in the decision of the Constitutional Court, and assuring the legal frame regarding the retaining of the driving license for certain facts committed by the vehicle or tramway drivers, the Emergency Government Ordinance no. 146/2008 was issued in order to modify art. 111 of the Emergency Government Ordinance no. 195/2002 regarding traffic in public roads, published in the Official Gazette of Romania, Part I, no. 754 of November 7, 2008.

- In sustaining the exception of unconstitutionality of provisions of **Law no. 16/2007 regarding the organizing and exercising the profession of geodesist**, the People's Advocate showed that the said normative act was contrary to some provisions of the fundamental Law. In this respect, it was noticed that the Law no. 16/2007 was adopted by Parliament of Romania with observing the provisions of art. 75 and of art. 76, paragraph (1) of the Constitution of Romania, republished. Therefore, the above mentioned normative act was adopted as organic law. The regulation domain of the law is organizing and exercising the **profession of geodesist**. This domain is not in the domains provided by art. 73, paragraph (3) of the Constitution for the organic laws. In contradiction with the invoked constitutional provisions, in the present case, we witness the extension of the organic law domain to a subject matter that, by its nature, is part of the regulation area of the organic law.

Likewise, it was also asserted that Law no. 16/2007 was adopted with observing the provisions of art. 75, paragraph (4) and (5) of the Constitution, referring to the way of solving the competence conflicts between the first notified Chamber and the decisional Chamber, in the sense that the next texts

of legislative proposal regarding the organizing and functioning the profession of geodesist were adopted by the decision Chamber, without being also examined by the first notified Chamber. At the same time, it was considered that the criticized law restricted the exercise of the labour right, without observing the constitutional exigencies set by art. 53, according to which it established new conditions of training skills for the profession of geodesist. The Law no. 16/2007 did not correspond to the exigencies of legislative technique, taking into account the critical way of editing. In this respect, art. 13, paragraph (2) of the law referred to the Law no. 301/2004 – Penal Code that currently is not in force.

By Decision no. 1150/2008, published in the Official Gazette of Romania, Part I, no. 832 of December 10, 2008, the Constitutional Court **admitted** the exception of unconstitutionality, directly raised by the People's Advocate and found out that the provisions of Law no. 16/2007 are unconstitutional. In grounding the mentioned decision, the Constitutional Court retained that according to the Constitution, the organic laws can be adopted only in the domains expressly provided by art. 73, paragraph (3), and the organizing and exercising the profession of geodesist, regulated by Law no. 16/2007 cannot be found among them and among, according to let. t) of the same paragraph, "the other domains for which the Constitution provides the organic law enacting".

- In motivating the exception of unconstitutionality of the **Emergency Government Ordinance no. 136/2008 regarding the setting up of some measures for remuneration of education staff in 2008**, it was claimed that the above mentioned normative act is not in compliance with the constitutional provisions of art. 1, paragraph (4) and (5), art. 20, paragraph (1), art. 41, paragraph (4), art. 61, paragraph (1), art. 102, paragraph (1), art. 111, paragraph (1) and art. 115, paragraph (6), as well as of some provisions of conventions and treaties to which Romania pertain to.

The arguments of unconstitutionality, presented by the People's Advocate had in view the fact that the executive function of the Government is obviously subordinated to and controlled by the Parliament, its role being to enforce laws, and not to restrict their enforcement. In these conditions, the

criticized ordinance showed up as an explicit refusal of the Government to enforce and execute the law voted by the Parliament and promulgated by the President of Romania. In this way, it is violated the loyal constitutional behavior, a behavior resulting out of the principle of power separation and balance. Moreover, it was evidenced that the Emergency Ordinance no. 136/2008 was in opposition to the constitutional provisions regarding the legislative devolution, being liable to affect the fundamental rights, such as labour right and social labour protection.

By Decision no. 1221/2008, published in the Official Gazette of Romania, Part I, no. 804 of December 2, 2008, the Constitutional Court **admitted** the directly raised exception of unconstitutionality and found out that the provisions of the Emergency Government Ordinance no. 136/2008 are unconstitutional. Regarding the decision considerations, the Court essentially retained that “the enacting of the Emergency Government Ordinance no. 136/2008 was not motivated by the need of regulation in a domain in which the primary law maker did not intervene, but, on the contrary, by the counteracting of a legislative policy measure in the field of education staff remuneration enacted by the Parliament” and that the Government by its later intervention is conflicting with the provisions art. 61, paragraph (1) of the Constitution, according to which “the Parliament is the supreme representative authority of the Romanian people and the sole law making authority of the country”. At the same time, the constitutional contentious instance showed that “the retained unconstitutionality prejudices the normative act in its whole, so that the abrogation of the provisions of art. 1 of the Emergency Government Ordinance no. 136/2008 by those of art. III of the Emergency Government Ordinance no. 151/2008 for modification and completion of Government Ordinance no. 15/2008 regarding the wage increases to be granted in 2008 to the education staff, after notification of constitutional instance, has no relevance for solving the exception of unconstitutionality”.

- Examining some provisions of **Law no. 154/1998 regarding the system of setting the basic wages in the budgetary sector and of allowances for persons having public dignity positions**, with later modifications and completions, the People’s Advocate estimated that

these contain norms in contradiction of art. 16, paragraph (1) and art. 41, paragraph (2) of the Fundamental Law.

The normative acts regulating the rights of staff running their activity in the central public administration contain a series of bonuses granted to this staff category. Analyzing the nature of these bonuses, it is noticed that the bonus for harmful conditions, the bonus for hard labour conditions, the bonus for dangerous conditions, the bonus for activity run under very high psychic tension have no connection with the wage received for working based on an individual employment contract. In this way, two categories of bonuses are distinguished: bonuses granted based on labour right and bonuses granted based on other law texts, for health and safety of all employees running their activity in the same working conditions.

According to art. 41, paragraph (2) of the Constitution, the employees have the right to social protection measures referring to safety and health, working under peculiar or special conditions. In this way, the criticized legal texts according to which the monthly payment represents the only form of remuneration of the activity corresponding to the job position and represents the calculation basis for setting the rights and duties determined in relation with the wage income, represents a illogic corollary of the above mentioned constitutional provisional, as the bonus for harmful conditions, the bonus for hard labour conditions, the bonus for dangerous conditions, the bonus for activity run under very high psychic tension are bonuses that are paid for the prejudice determined by health degradation.

Consequently, we estimate that the criticized law texts allow to the competent authorities to deprive certain person categories of rights proper for working in peculiar or special conditions, in the situation in which, they run their activity in the same conditions with the persons with individual labour contract and benefit of these bonuses. Likewise, the differentiated judicial treatment set by the law maker in considering some equal situations violates the principle of rights equality and non-discrimination, without any objection and rational motivation.

It follows that the constitutional contentious instance **to deliver** a deliver on the directly raised exception of unconstitutionality regarding the

provisions of art. 19 and art. 20, paragraph (1) of Law no. 154/1998, with later modifications and completions.

- By examining the texts of **art. 22³ let. a), b), c) and d) of the Emergency Government Ordinance no. 43/2002 regarding the National Anticorruption Directorate and art. 20¹, paragraph (1), let. a), b), c) and d) of Law no. 508/2004 regarding the founding, organizing and functioning within the Public Ministry of the Directorate for Investigating the Organized Crime and Terrorism**, it was found out that these provisions instituting the cases in which the prosecutors within hierarchical higher prosecutor offices can take over, in view of carrying out the penal prosecution, causes of hierarchical lower prosecutor offices competence have a **similar** content with art. 209, paragraph (4¹) of the Penal Procedure Code, declared as unconstitutional, according to Decision no. 1058/2007 of the Constitutional Court, published in the Official Gazette of Romania, Part I, no. 810 of November 28, 2007.

By taking over the arguments retained by the Constitutional Court in Decision no. 1058/2007, the People's Advocate essentially showed that the restriction of the prosecutor's tasks, by providing some limiting in law situations in which the prosecutor can take over tasks that belong by law to the hierarchical lower prosecutor, is a violation of art. 132, paragraph (1) of the Constitution.

Regarding the exception of unconstitutionality of art. 20¹, paragraph (1), let. a), b), c) and d) of the Law no. 508/2004, with later modifications and completions and of art. 22³, let. a), b), c) and d) of the Emergency Government Ordinance no. 43/2002, with later modifications and completions, the Constitutional Court **has to decide on**.

CHAPTER XI. MATERIALS AND BUDGET RESOURCES USED IN 2008

The budget of the People's Advocate Institution for 2008 is as follows:

	Initial budget	Extra budget – November 2008	Final budget - lei-	Used budget	Accomp lished %
Total, out of which:	5.439.000	1.640.000	7.079.000	6.685.339	94,44
Staff expenses	4.388.000	1.56.000	5.948.000	5.602.353	94,19
Goods and services	1.009.000	80.000	1.089.000	1.048.000	96,24
Transfers	9.000	0	9.000	4.585	55,39
Capital	33.000	0	33.000	29.999	90,91

The budget discharge on December 31, 2008 is of 94,44% and we consider it as being a very good discharge compared with the actual, peculiar working conditions of 2008.

For the year 2008, the **initial budget** was **sub-dimensioned** for the staff expenses so that from January 2008 we made the necessary approaches in order to obtain the extra budget required for covering these expenses. With all the insistences of the People's Advocate Institution, the extra budget for staff expenses and for goods and services was executed only in November 2008. The total extra budget was of 1.640.000 lei as follows: at Title I. Staff expenses amounting to 1.560.000 lei and for Title II. Goods and services amounting to 80,000 lei. This fact, together with the monthly ceiling of credit openings with interdictions to procurements imposed by the Emergency Government Ordinance no. 37 of March 2008, regarding regulation of some financial measures in the budgetary field have lead to the impossibility of entirely using of the budgetary credits and to render available the amount of 393.000 lei. The rendering was carried out for the amount of 345.000 lei at Title I. Staff expenses, 41.000 lei at Title II. Goods and services, 4.000 lei for Title VII. Other transfers and 3.000 lei at Title X. Non-financial assets.

CHAPTER XII. PEOPLE'S ADVOCATE INVOLVEMENT IN DOMESTIC AND INTERNATIONAL MANIFESTATIONS

The constitutional role of the People's Advocate Institution is to defend the rights and liberties of the individuals in their interactions with public authorities. Internally, in time, the People's Advocate Institution obviously increased and varied its actions meant to provide the fulfillment of this objective.

Externally, the People's Advocate Institution intensified its activity during 2008, both regarding the consolidation the bilateral relationships with similar institutions in Europe and other countries and increasing involvement 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 round table meetings and conferences organized by the European Union, the Council of Europe and the National Institutions for Human Rights Protection in the European Union member states.

The representatives of the People's Advocate Institution actively participated in debates related to these meetings, pointing out the activities of the People's Advocate carried out in the field of defense of citizen rights and liberties and supporting the strengthening of the dialogue at a regional and international level among the Ombudsman institutions in various countries.

Receptions, visits and other internal official events

* The most important event organized by the People's Advocate Institution in 2008 was the organization in February of the International Seminar for the conclusion of the MATRA Program "***Strengthening the organizing and institutional capacity of People's Advocate***" run by the People's Advocate in partnership with the National Ombudsman of the Netherlands during 2004-2008.

The main activities of the program were: preliminary survey; selection of a public image and increase of public receptivity; analysis of the possibility to use an efficient informal procedure of petition solving; improvement of professional training in granting audiences; estimation and improvement of

special inquiries and reports of the People's Advocate; improvement of the petition registering system.

The Dutch delegation, lead by **Dr. Alex Brenninkmeijer**, the National Ombudsman of the Netherlands was welcomed by prof. Ioan Muraru, the People's Advocate and by his deputies. Within the seminar, it were debated the institutional progresses recorded at the two partner institutions, the impact of society changes on the ombudsman activity, ombudsman relations with citizens and public authorities, sharing the experience of the two institutions, as well as future cooperation perspectives.

At Seminar participated the representatives of Embassy of the Kingdom of the Netherlands of Bucharest, representatives of Romanian Presidency, Constitutional Court, National Authority for Property Restitution, experts and counselors of the People's Advocate Institution and its territorial offices that took advantage of the exchange of experience and training of the program.

* On April 18, 2008, at the request of Romanian Senate and the Embassy of Kingdom of Morocco of Bucharest, at the People's Advocate headquarters took place the visit of Mr. **Mohamed El Ansari**, the President of the Judicial Commission for Legislation and Human Rights of the Counselor Chamber of Kingdom of Morocco.

The Romanian Senate was represented by Ms. Carmen Dinu, parliamentary counselor.

On behalf of the People's Advocate Institution participated: prof. Ioan Muraru, People's Advocate, Alexandru Balanescu, deputy of the People's Advocate, Simina Gagu, counselor of the People's Advocate, Andreea Baicoianu, counselor and Alina Dinu, expert. The talks focused on expects regarding the way of organizing and functioning of People's Advocate Institution, tasks, cooperation relationships with the Constitutional Court of Romania, judicial authority, the Parliament and the Executive Power. Also, the role and importance of the ombudsman were pointed out on domestic and international frame, in promoting and protecting human rights and liberties.

The meeting had a peculiar significance for information and expertise exchange between the two institutions as well as regarding the consolidation

of cooperation relationships between People's Advocate Institution and Ombudsman Institution of Morocco, Diwan Al Madhalim. At the same time, it was put forward the proposal to carry out exchange of official visits between the People's Advocate of Romania, the Judicial Commission for Legislation and Human Rights of Chamber of Counselor of Kingdom of Morocco and the Ombudsman Institution of this country.

* On May 22, 2008 took place at the headquarters of People's Advocate Institution the meeting with Ms. **Laura Hossu**, project coordinator in the field of human rights of the Institute of Public Policy of Bucharest. On behalf of the People's Advocate Institution participated: prof. Ioan Muraru, People's Advocate, Erzsebet Rucz, deputy of the People's Advocate, Simina Gagu, counselor of the People's Advocate, Andreea Baicoianu, counselor. The talks focused on People's Advocate Institution contribution to fight against extremism and intolerance in Romania.

* At the request of Constitutional Court on June 25, 2008, at the headquarters of People's Advocate Institution took place the visit of delegation of Constitutional Court of Republic of Moldova, lead by Mr. **Dumitru Pulbere**, president. Delegation members included also: Elena Safaleru, magistrate, Valeria Sterbet, magistrate, Ion Bot, Ion Anton and Veaceslav Zaporojan, magistrate-assistants.

The Constitutional Court was represented by Ion Predescu and Tudorel Toader, magistrates and Ruxandra Sabareanu, general secretary.

On behalf of People's Advocate Institution participated: prof. Ioan Muraru, People's Advocate, Alexandru Balanescu, deputy of the People's Advocate and Andreea Baicoianu, counselor.

The talks at the meetings focused on aspects regarding the way of organizing and functioning the People's Advocate Institution, tasks, cooperation relationships with the Constitutional Court of Romania, judicial authority, the Parliament and the Executive Power.

Likewise, it was pointed out the role and the importance of ombudsman in the domestic and international frame, in promoting and protecting the human rights and liberties.

The meeting had a special significance for information and expertise exchange between the two institutions as well as in view of consolidation of

cooperation relationships between the People's Advocate Institution and the Parliamentary Advocate institution of Republic of Moldova.

At the same time, Mr. Dumitru Pulbere, president of the Constitutional Court of Republic of Moldova expressed his hope that the cooperation relationships between the People's Advocate Institution of Romania and the Parliamentary Advocate of Moldova should be closer.

The People's Advocate of Romania expressed his availability for developing the existing relationships between the homologous institutions.

* On the initiative of Mr. **Marcin Libicki**, the President of the Committee on petitions within the European Parliament, prof. Ioan Muraru, People's Advocate participated on June 26, 2008 to a working breakfast that took place at the Palace of Parliament on the occasion of the visit of Committee on petitions of the European Parliament in Romania.

* At the request of Transparency International Romania on October 10, 2008, took place at the headquarters of People's Advocate Institution the meeting with Mr. **Victor Alistar**, executive director of Transparency International Romania. On behalf of People's Advocate Institution participated: prof. univ. dr. Ioan Muraru, People's Advocate, Alexandru Balanescu, deputy of People's Advocate and Daniela Marinescu, expert.

On the meeting, talks were carried out on the request of Superior Council of Magistracy of notification of Constitutional Court regarding the finding of unconstitutionality of the provisions of Law no. 144/2007 regarding the founding, organizing and functioning of the National Integrity Agency.

* During November 19-21, 2008, in **Alba-Iulia** took place the International Conference on "Internal legislation and European convention on human rights" – dedicated to the 90th anniversary of the Great Union of December 1, 1918 and 15th anniversary of founding the Law specialization within the "1 Decembrie 1918" University.

The conference proceedings enjoyed the presence of many rectors, deans and vice-deans of some prestigious universities and faculties of Romania and other European states.

Within the same manifestation it was also celebrated 10 years since the founding of People's Advocate Institution.

The People's Advocate Institution was represented by prof. univ. dr. Ioan Muraru, People's Advocate, Alexandru Balanescu and Mihai Gondos, deputies of People's Advocate, Cristian Cristea, general secretary, Magda Stefanescu and Andreea Baicoianu, counselors, Dorina David and Cornelia Cor, experts and the 14 coordinators of the territorial offices of People's Advocate Institution.

* On December 18, 2008, took place at the Council Room of the Faculty of Law of University of Bucharest the scientific seminar on **"Religion and Constitution"** organized by the People's Advocate Institution in cooperation with the Center of Constitutional Law and Political Institution. The seminar was attended by: prof. Ioan Muraru, People's Advocate, Erzsebet Rucz, deputy of the People's Advocate, Cristian Cristea, general secretary, as well as experts and counselors of the institution. The Faculty of Law of the University of Bucharest was represented by conf. univ. dr. Flavius Baias, the dean of the Faculty of Law, prof. Simina Tanasescu, vice-dean of the Faculty of Law and candidates for doctor's degree of law.

Participations at ceremonies:

* On June 5, 2008, the People's Advocate Institution participated to the manifestations organized for the **Heroes' Day**. At placing ceremony wreaths of flowers in Carol Park, the People's Advocate Institution was represented by Ionel Oprea, deputy of the People's Advocate, Dorel Bahrin and Andreea Baicoianu, counselors.

* On June 26, 2008, the People's Advocate Institution was invited to participate to the manifestations occasioned of the **Romanian National Flag Raising Public Ceremony**. The manifestation took place in Tricolor Flag Square in front of the National Military Circle Palace. The People's Advocate Institution was represented by Mihail Gondos, deputy of the People's Advocate and Dorel Bahrin, counselor.

* On July 29, 2008, the People's Advocate Institution was invited to participate to the manifestations organized for the **National Anthem Day of Romania**. At the festivity of the Tricolor Flag Square in front of the National Military Circle Palace of Bucharest participated Ionel Oprea, deputy of the People's Advocate and Eugen Dinu, counselor.

* On October 25, 2008, the People's Advocate Institution participated to the manifestations organized for the **Romanian Armed Forces Day**. At placing ceremony wreaths of flowers in Carol Park, the People's Advocate Institution was represented by Ionel Oprea, deputy of the People's Advocate, Dorel Bahrin and Andreea Baicoianu, counselors.

* On December 1, 2008, the People's Advocate Institution participated to the manifestations organized for the **National Day of Romania**. At placing ceremony wreaths of flowers in Carol Park, the People's Advocate Institution was represented by Erzsebet Rucz, deputy of the People's Advocate, Cristian Cristea, general secretary and Andreea Baicoianu, counselor.

Participations to international meetings, conferences, symposiums and reunions abroad

The People's Advocate Institution also continued in 2008 the consolidation of cooperation relationships with similar bodies and authorities, within the bilateral, regional and international dialogues.

The active presence of representatives of People's Advocate Institution, on a international level, to debates on protecting and promoting human rights, was supported also by distributing some reference documents among which the Activity Report of People's Advocate for 2007, an Anniversary Booklet "People's Advocate of Romania – 10 years", of Information Bulletin of People's Advocate and various specialty paper works compiled by counselors and experts.

We mention:

- Participation at Colloquiums on "Abridgement of liberty and human rights" that took place in **Paris - France** on January 18, 2008. The colloquium was organized by the Mediator of the French Republic, Mister Jean-Paul Delevoye in cooperation with the High Commissioner for Human Rights of Council of Europe, Mister Thomas Hammarberg. The People's Advocate Institution was represented by Simina Gagu, counselor of the People's Advocate and Alina Dinu, expert. The meeting reunited representatives of ombudsman type institutions of Europe, of non-governmental organizations involved in fighting against

torture and ill treatment, of the United Nations, attorneys of the Bar Association of Paris.

The talks focused on abridgement of liberty and human rights protection, European and international regulations, analysis of the optional Protocol to the Convention against torture (OPCAT) and European legislation regarding the penitentiaries, OPCAT ratification by all signatory countries, comparative study of the ombudsman mandate in the field of human rights, setting a national mechanism of preventing torture and of ill treatments in liberty privative places.

- Participation at 20th Anniversary of the High Commissioner for civil rights protection of Poland – Conference on “Liberty – Truth – Justice”, **Warsaw – Poland**, May 15, 2008. The People’s Advocate Institution was represented by Erzsebet Rucz, deputy of People’s Advocate and Alina Dinu, expert.
- Participation at the Seminar of Liaison Officers (EUOMB), **Strasbourg – France**, during June 1-3, 2008. The People’s Advocate Institution was represented by Simina Gagu, counselor of the People’s Advocate.
- Participation to the conference organized by the Konrad Adenauer Stiftung Macedonia Foundation on “Human rights and minorities rights in Europe” that took place in **Skopje – Macedonia** on September 10, 2008. The People’s Advocate Institution was represented by Mihaela Stanciulescu, expert of Pitesti Territorial Office of People’s Advocate Institution.
- At the invitation of Mister Ulco van de Pol, **Ombudsman of Amsterdam**, 3 persons of the People’s Advocate Institution carried out a training program in the Netherlands during November 3-4, 2008. The participants to the training program were: Raluca Mitrache, counselor, Elena Comsa and Ligia Craciunescu, experts.

The working visit focused on experience exchange between the representatives of the two involved institutions in the process of defending the citizens’ rights and liberties. In this respect, materials were presented regarding the organization and functioning of the two institutions, specific procedures and means of intervention, the volume of activity as well as a series of cases they confronted with.

- Participation to the Conference on “Independence and integrity of Ombudsman institutions”, organized by the Ombudsman of the Autonomous Province of Vojvodina in the period of November 6-7, 2008, in **Novi-Sad – Vojvodina**. The People’s Advocate Institution was represented by Irina Sandu, expert.
- Participation to the International Conference on “Human rights – the promised land for but also for equity” organized by the Ombudsman of Bulgaria in cooperation with the National Ombudsman of the Netherlands on November 17, 2008 in **Sofia – Bulgaria**. The People’s Advocate Institution was represented by: Ionel Oprea, deputy of the People’s Advocate, Simina Gagu, counselor and Bianca Draghici, expert.
- Participation to the International Session dedicated to the 60th Anniversary of the Universal Declaration of Human Rights – **Auschwitz Museum – Birkenau, Cracow – Poland**, organized by the High Commissioner for Civil Rights Protection (the Ombudsman) of Poland in cooperation with the Ombudsman of Israel and the Ministry of Foreign Affairs of Poland in the period December 4-5, 2008 in Cracow. The People’s Advocate Institution was represented by Erszebet Rucz, deputy of the People’s Advocate.

The approached topics within these reunions, as well as scientific materials worked out and presented by the colleagues of the similar institution, the exchange experience, materialized by talks carried out on solving certain cases, represent an important source of information and documentation and confer expertise to the People’s Advocate Institution in the continuous process of improvement the staff activity.

In 2008, the cooperation of the People’s Advocate Institution with the **European Ombudsman** continued.

At the same time, taking into account Romania’s adhesion to the European Union and gaining the position of member state, the European Ombudsman issued the Activity Report for 2007 in Romanian language too, together with a series of posters and post cards.

At the same time, we have to mention also the **26 letters** by which certain complainers that addressed to the Ombudsman of Europe in order

solve some requests, were directed to address to the People's Advocate Institution of Romania for a proper resolution of the issues.

Students' internships

In the context of the cooperation relationships with other institutions, the partnership with the Faculty of Law of University of Bucharest – ELSA Program, during which a number of 15 students carried out internships at the People's Advocate Institution (during April 7-18, 2008, June 16-July 16, 2008, November 10-21, 2008).

At the end of the internship, the students filled out evaluation forms for the program with questions and suggestions regarding the internship. The students expressed positive opinions about the activities included in the internship, some being even interested in a future career with the People's Advocate Institution.

During April 21 – May 23, 2008, 10 justice auditors within the National Institute of Magistracy carried out internships at the People's Advocate Institution.

CHAPTER XIII. LAW SUITS, JUDICIAL ISSUES OF THE INSTITUTION

Causes where the People's Advocate Institution was a party during the judicial year 2008

The People's Advocate Institution in 2008 acted as a party in a number of **26 causes**. Out of this, **4** referred to labour litigations (actions initiated by former and present employees) and **22** causes represented the actions initiated by several complainers who were dissatisfied with the actions carried out by the experts and counselors of the institution.

Out of the total of 26 causes, 12 of them received final and conclusive judicial decisions while the rest of 14 files are still under different procedures stages on the trial course pending.

As for the causes related to the complainers' discontentment with the proceedings undertaken by the experts and counselors of the institution, the point of view of the People's Advocate Institution was that the People's Advocate was a Ombudsman type institution contributes to the settlement of the disputes between individuals and the public administration authorities, on a amiable way, by mediation and dialogue.

Likewise, in a great number of files, the institution was prosecuted without being the issuer of the contested acts or did not have any connection with the alleged violated right. In these causes, in exercising the defending right, it was invoked the exception of lacking the passive law suit quality.

The persons promoting actions of prosecuting the People's Advocate Institution have not in view the fact that the People's Advocate Institution acts only as a supervising authority, having no legal means of coercion to force or sanction other public authority, fact clearly outlined both by the provisions of art. 13, letter c) of the Law no. 35/1997, republished, with later modifications and completions, according to which (the People's Advocate) **follows up the legal solution of the petitions received and requests from the public administration authorities or civil servants concerned to put at end to the respective violations of civil rights and liberties**, to reinstate the complainer

in his rights and to repair the damages thus caused, as well as from the provisions of art. 21, paragraphs (1) and (2) which stipulates that “in exercising its duties, the People’s Advocate issues recommendations that can not 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.”

Mediation, notification of authorities hierarchical higher to the one that violated the right of the complainer, granting of audiences, carrying out inquiries, formulating recommendation are procedures and means of intervention specific to the People’s Advocate Institution but no always giving the desired results, mostly 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 feedback capacity of public authorities, due to the constitutional and legal frame of the People’s Advocate Institution, strengthened in relation with the society exigencies of eliminating the critical situations where the citizens’ rights and liberties are violated.

Starting from the fact that the role of institution is to protect citizens’ rights and liberties in their relations with public authorities, the People’s Advocate should be and remain an institution of mediation, dialogue, and not an institution with power of coercion, as some discontent citizens might wish.

CHAPTER XIV. MEDIA PRESENCE, BULLETIN, RADIO, ROMANIAN ACTUALITY

In 10 years of activity, the People's Advocate Institution, founded in 1997, acquired entirely its credibility both to the citizens as well as to public authorities, being as a legal instrument for rights protection and, on a larger scale, as a defender of citizens' interests.

In November 2008, in Alba-Iulia, on the occasion of organizing the International Conference on "Internal legislation and European Convention of human rights" – dedicated to the 90th Anniversary of the Great Union of December 1, 1918 and to the 15th anniversary of founding the Law specialization within the "1 Decembrie 1918" University, it was celebrated the 10th anniversary of the People's Advocate Institution foundation.

In 10 years of activity, the People's Advocate Institution is a autonomous and independent public institution, efficient against bureaucracy and injustices severely affecting the rights and liberties of the individuals, appreciated by the citizens for its efforts in respecting their rights.

1. MASS-MEDIA RELATIONS

1.1 Television and public radio

➤ Headquarters of People's Advocate Institution

In 2008, the People's Advocate appealed to mass-media means, television and public radio in order to offer to the citizens the knowledge of the role of People's Advocate Institution in defending their rights and liberties.

Significantly in this respect, are the requests received from the television and radio stations: on BBC Romania radio station it was broadcasted the interview granted by prof. Ioan Muraru, People's Advocate, regarding the Constitutional Court Decision no. 51/2008, regarding the exception of unconstitutionality of the provisions of Law no. 187/1999 regarding the access to the own file and deconspiration of the communist

political police; also, prof. Ioan Muraru, People's Advocate, granted two interviews to the Realitatea TV television station, regarding the exception of unconstitutionality in relation to the Emergency Government Ordinance no. 136/2008, regarding the setting of some measures of education staff salaries in 2008 and the petitions formulated by the Free Trade Union Federation of Education and Spiru Haret Trade Union Federation of Education in relation with the unconstitutionality of the Emergency Government Ordinance no. 151/2008 for modification and completion of the Government Ordinance no. 15/2008 regarding the wage increases to be granted in 2008 and, respectively, an interview for making a documentary about the Constitutional Court. B1TV station invited prof. Ioan Muraru, People's Advocate, in the TV transmission on the specific tasks of People's Advocate Institution, cooperation with state institutions, relations with the constitutional contentious court.

Likewise, interviews were granted by the representatives of the People's Advocate Institution, in which it were presented its tasks, role and relations with public administration authorities at: national television station – TVR1, within “TeleMatinal” program, Vocea sperantei radio station, Realitatea TV – within “Tax on the wall” program, TV N-24 station – within “Cause and effect” program, Radio Romania Actualitati – within “Antena on the phone”, “Show in Hungarian language”, “Good morning, Bucharest” programs where information was transmitted referring to the provisions of Emergency Government Ordinance no. 51/2008 regarding the judicial public help on civil subjects.

➤ **Territorial offices of People's Advocate Institution**

In territory, the large number of requests received from televisions and radio stations demonstrated the citizens' interests in engaging the People's Advocate Institution in solving issues they are facing with.

Radio Atlas Alba-Iulia station broadcasted an interview regarding the legal frame of organizing and functioning of People's Advocate Institution and the main activity aspects of the *Alba-Iulia Territorial Office*.

Bacau Territorial Office granted an interview to TV CNS Roman station and the Radical FM Bacau radio station presented in the “Lucrare de control” program the People's Advocate Institution and office activities.

Nova TV Brasov local station broadcasted the program regarding the tasks and activity of **Brasov Territorial Office** as well as a press release with information referring to the Emergency Government Ordinance no. 51/2008 regarding the judicial public help on civil subjects.

Radio Constanta station broadcasted “In gura lumii” program where aspects regarding the activity of **Constanta Territorial Office** were presented; Radio Constanta station broadcasted “Agenda cetateanului” program, where the activity of the People’s Advocate Institution was mediated; TV Constanta broadcasted the interactive program, live, “Reporter – Who is the People’s Advocate?”.

TVS – Craiova, Radio Craiova, Radio Oltenia, Televiziunea Romana – Studioul Teritorial Craiova local stations presented the People’s Advocate Institution and the activities of **Craiova Territorial Office**.

The activity of **Iasi Territorial Office** was presented at the TV Tele M station, Radio Iasi station – in two programs with direct contact with listeners; TV Total Vaslui station – in the “Legea are cuvantul” program; Radio Iasi – in the “Agenda publica” program; Radio Smile – in the “Drepturi si libertati inculcate de autoritati” and “Ajutor public judiciar” programs.

TV Transilvania station in the “Stirile de la ora 18” and “Analiza din redactie” programs presented aspects of **Oradea Territorial Office** activity.

The activity of Pitesti Territorial Office was presented by Arges TV station – in the “How the People’s Advocate can help you?” and “Hypermarket” programs, Radio 21 – in morning news broadcasted the contact data of Pitesti Territorial Office, Televiziunea “Etalon” Rm. Valcea station – in the “In sprijinul cetateanului” interactive program.

At local stations Alpha TV – in the program “Povara Libertatii” and Prahova TV station the tasks of **Ploiesti Territorial Office** were presented, it were debated the provisions of the Emergency Government Ordinance no. 51/2008 regarding the judicial public help on civil subjects and it was presented the aim of the action of granting social allowances carried out by the People’s Advocate Institution and General School of Olari, Prahova, while the Antena 1 local station, in the news, the activity of the Office in 2008 was presented.

The tasks of *Suceava Territorial Office* were presented at the local station Plus TV.

The tasks of the *Targu-Mures Territorial Office* were presented at the following stations: Antena 1 Targu-Mures, Televiziunea Targu-Mures, Radio Targu-Mures. The TVR 1 Targu-Mures station also broadcasted in the news the press released edited by Targu-Mures Territorial Office referring to the Government Urgency Ordinance No. 51/2008 regarding the judicial public help on civil subjects.

Radio Timisoara and Kiss FM stations presented the People's Advocate Institution and broadcasted information on *Timisoara Territorial Office*. On Timisoara radio station broadcasted the interview "The 60th Anniversary of signing the Universal Declaration of Human Rights".

1.2 Written press

➤ Headquarters of People's Advocate Institution

Within the media program "La masa Adevarului", in Adevarul newspaper was published the art. "Romanians feel the demagogues", interview with prof. Ioan Muraru, the People's Advocate.

On December 24, 2008, prof. Ioan Muraru, the People's Advocate, granted an interview for the Guide in Law Career "Drum in drept" addressed to the students of the Faculty of Law.

It were also published art.s edited by the representatives of People's Advocate Institution: in Evenimentul Zilei newspaper "Legal state help", referring to the provisions of the Emergency Government Ordinance no. 51/2008.

Jurnalul National, Curentul, Gandul, Cronica Romana, Evenimentul, Romania Libera and National newspapers as well as a number of daily newspapers of local press have presented the position of People's Advocate regarding the unconstitutionality of the ordinances issued by the Government of Romania for postponing the increase of education staff salaries.

As for the written press is worth mentioning "Actualitatea Romaneasca – Ziarul romanilor de pretutindeni" which published the answers, edited by the experts and counselor of People's Advocate Institution, to the questions submitted by the Romanians from abroad. Likewise, also the "Actualitatea

Romaneasca” newspaper published art.s of general concern for citizens: the People’s Advocate in the service of citizens; Mediation through the People’s Advocate Institution, a means of solving the social issues; European Institution in the City of Money; In between the legal principle and the good administration; National minorities without rights?; Tutelary Authority takes legal measures following the notification of People’s Advocate Institution; Violation of health care right of the beneficiaries of Law no. 416/2001 regarding the minimum income guaranteed by the local public administration authorities; Non-observance of the private property right in the context of enforcing property laws.

➤ **Territorial offices of People’s Advocate Institution**

The territorial offices of the People’s Advocate Institution of Alba-Iulia, Bacau, Brasov, Constanta, Cluj-Napoca, Craiova, Galati, Iasi, Oradea, Pitesti, Ploiesti, Suceava, Targu-Mures and Timisoara received many requests from the local press.

The Informatia de Alba newspaper published the art.s “***Alba-Iulia Territorial Office*** of People’s Advocate Institution in the service of the citizens”; “Delaying the solving of the complaints of pension recalculation was stopped”; “Favorable solved approach”; “The error was corrected”; “Request solving was unblocked”; “A prompt reply”; “A thrilling recalculation; the newspaper Ulpia Jurnal published the art. “The activity run in 2008 by the Alba-Iulia Territorial Office of People’s Advocate Institution in the field of child, family, youth, pensioner and disabled persons rights”.

Ziarul de Roman and Monitorul de Bacau newspapers published press releases edited by the ***Bacau Territorial Office***, referring to the Emergency Government Ordinance no. 51/2008 regarding the judicial public help in civil subjects.

Transilvania Expres and Cuvantul Nou daily newspapers published a press release regarding the activity of ***Brasov Territorial Office*** and information referring to the Emergency Government Ordinance no. 51/2008, regarding the judicial public help in civil subjects; in Monitorul Expres daily newspaper of Brasov it was materialized the cooperation between Brasov

Territorial Office and Gil Corona Association of Brasov, in which the Brasov Territorial Office has the status of permanent guest.

Constanta Territorial Office published in Ghimpele de Constanta and Scoala Constanteana weeklies and Replica, Obiectiv de Tulcea, Observator newspapers a series of art.s, of which we mention: “The People’s Advocate in the service of the citizen”; “Property restitution, long sickness of county mayors”; “The People’s Advocate requests the modification of the Fiscal Code”; “The Constanta People’s Advocate defends the children and youth rights”; “The Constanta People’s Advocate – four years of serving the citizens”; “ANRP and files regarding compensation granting”; “CAP pensioners on the road”; “People’s Advocate can start an inquiry in order to clarify the reason of a petition”; “275 of petitions addressed to People’s Advocate”; “People’s Advocate celebrates 10 years of existence”; “Cases solved by the People’s Advocate”; “Additional points to pensions for the workers in radiation areas”; “The People’s Advocate inquires the Constanta City Hall”; “More money for the political persecuted persons”; the press release transmitted by the Constanta Territorial Office referring to the Emergency Government Ordinance no. 51/2008 regarding the judicial public help in civil subjects.

The activity of **Cluj-Napoca Territorial Office** was published in the Foaia Transilvana newspaper in the art.s: “The People’s Advocate supports the putting into possession of Cluj-Napoca people”; “the People’s Advocate works for young convincts”; in the Gazeta de Cluj newspaper it was published the art. “According to People’s Advocate, the lacunary laws hit the Cluj-Napoca dissidents”; on Agerpress website the press release was posted: “Cluj: Violation of property rights, in the most of the petitions addressed to People’s Advocate”.

Panoramic Mehedintean and Gorjanul daily newspapers published the art. “About the activity of **Craiova Territorial Office** of the People’s Advocate”, “Gazeta de Olt” – in the permanent column allotted to the People’s Advocate Institution, art.s were published regarding the activity of institution.

Monitorul de Galati newspaper published art.s edited by **Galati Territorial Office**: “the People’s Advocate informs about the right to

information”; “the Pensioners leading the petitions addressed to People’s Advocate”; “Our mission is to mediate”; “How the People’s Advocate defends you”; “New protection forms of elderly”.

Iasi Territorial Office showed a great interest in local press. *Orizontul din Pascani*, *Ziarul de Iasi*, *Obiectiv de Vaslui*, *Ieseanul* and *Ziua de Iasi* newspapers published art.s among which we mention: “How the People’s Advocate helps you”; “Taxation of disabled people pensions”; “Property or use right versus payment or tax exemption”; “Refugees, beneficiaries of Law no. 290/2003 and their petitions”; “Public services and homeowners’ association”; “People’s Advocate – Answers of the Iasi Territorial Office for those who addressed letters to the editorial board”; “Compensations granted by the National Authority for Property Restitution”; “Pensions for the Romanian citizens domiciled abroad”; “Judicial public help in civil subjects”; “Pensions of war veterans and their rights”; “Rights to pension according to former 1st and 2nd working groups”; “State military pensions”; “Rights of revolutionaries, recognized only by the law?”; “Debates on Law no. 10/2004”; “Child protection between maternal assistance and adoption”; “Can the foreign citizens gain the right of property on lands in Romania?”; “Is the last hope for Romanian the European Court of Human Rights?”.

Crisana newspaper published the art.s “Busy day at **Oradea Territorial Office** of the People’s Advocate” and “Wave of petitions at Oradea Territorial Office of People’s Advocate”.

Pitesti Territorial Office noticed the publication in *Ancheta*, *Ghidul locatarilor*, *Orizont Economic Argesean*, *Evenimentul Muscelan*, *Argesul* newspapers and in the *Curierul Zilei* daily newspapers of art.s, among which we mention: “2007 balance of Pitesti People’s Advocate”; “A new year serving the citizens of People’s Advocate”; “When can we address to the People’s Advocate and against who?”; “Trustingly appeal to People’s Advocate”; “Find out when the People’s Advocate can help you”; “Between the disciplinary commission of PSD and People’s Advocate”; “The conclusion of People’s Advocate of Arges: Pension Fund and the city halls, the most appealed institutions”; “A real case solved by People’s Advocate”; “Exceptions of unconstitutionality directly raised by the People’s Advocate solved by the Constitutional Court”; “Relationships of citizens with Pitesti

territorial ombudsman”; “Aspects of the practice of the People’s Advocate Institution regarding ex-officio notifications”; “What we have to know about the People’s Advocate?”; “Pitesti Territorial Office of People’s Advocate organized cooperation activities with authorities of the local public administration”; “Audiences at People’s Advocate”; “It is imperative a fair relationship with the citizens at public administration level”; “Arges People’s Advocate in Macedonia”; “Judicial public help in civil subjects”; “The People’s Advocate should mediate your conflicts with public institutions”; “People’s Advocate Office – 2 years in Pitesti”; “Local representatives of the People’s Advocate act in support of the citizens”; “Act of faulty administration, a concern of Pitesti Territorial Office of People’s Advocate”; “The point of view of People’s Advocate regarding the informing of European Council on the situation of disabled persons in European Union and the European action plan 2008-2010”; “The People’s Advocate at the service of the Arges people”; “Notifications sorted out by the People’s Advocate”.

The activity of **Ploiesti Territorial Office** was pointed out by art.s published in *Telegraful de Prahova*, *Actualitatea Prahoveana*, *Sansa Buzoiana*, *Prahova*, *Monitorul de Prahova*, *Prahova Libera* and *Observatorul Prahovean* newspapers: “People’s Advocate defends the citizens’ rights”; “Ploiesti Territorial Office activity of People’s Advocate in the 1st quarter of 2008”; “Judicial public help”; “The approaches of People’s Advocate Institution can avoid the law way”; “the People’s Advocate defends the citizens’ rights”; “Ploiesti Territorial Office activity of People’s Advocate in the 1st semester of 2008”; information regarding the way of addressing and competence”; “In support of citizens”; “Ploiesti Territorial Office activity of People’s Advocate from opening to nowadays”; “People’s Advocate, mediator in citizens’ litigations with state institutions”.

Suceava Territorial Office granted an interview published in the *Crai Nou* newspaper under the title “The People’s Advocate does not substitute to law courts, tribunals and prosecutor offices”.

Targu-Mures Territorial Office sent to publication in daily newspapers: 24 ore muresene, *Cuvantul Liber*, *Punctul*, *Kozpont*, *Vasarhely Hirlap*, *Nepuysag*, *City News MS* art.s, among which we mention: “Territorial Office of People’s Advocate in service of the citizens of Mures”; “The

People's Advocate obtained the suspension of decisions that forbid disconnection"; thanking letters of complainers addressed to the Targu-Mures Territorial Office of People's Advocate; thanking art. of a pensioner group for the support given by the territorial office regarding the pension recalculation and the press release referring to the Emergency Government Ordinance no. 51/2008 regarding judicial public help in civil subjects; "Forbidding of disconnection is illegal"; "It's not ok when people do not know their rights"; "In the name of the citizens"; "Pension delayed with two years"; "60th anniversary of the Universal Declaration of Human Rights"; "Human Rights Day".

Timisoara Territorial Office sent to publication art.s relating the institution casuistry to Renasterea Banateana and Agenda Zilei daily newspapers, Opinia Timisoarei newspaper, Agenda Consiliului Judetean Timis newspaper: "Mocking of pensioners is still going on"; "Offside to the Tormac City Hall"; "Subscriptions to People's Advocate"; "People's Advocate – last salvation"; "We help the citizens having troubles in country"; "Pensioners"; "People's Advocate, one year of activity as defender of citizens".

2. COOPERATIONS WITH OTHER AUTHORITIES AND NGOs

2.1 MATRA Program

During 2004-2008, the National Ombudsman of the Netherlands and the People's Advocate Institution were engaged in a cooperation materialized by organizing some mutual actions on specialty themes, within the Matra Program "Strengthening the organizational and institutional capacity of People's Advocate".

The seminar of February, 2008, organized in Bucharest, with the participation of the National Ombudsman of the Netherlands, Mister Alex Brenninkmeijer, of People's Advocate, prof. Ioan Muraru, of the People's Advocate deputies, of some experts and counselors of the two ombudsman institutions, as well as some representatives of the Presidential Administration, Constitutional Court, National Authority for Property Restitution, Embassy of the Kingdom of Netherlands marked the closing of this project.

The aim of this project was to consolidate the institutional capacity of People's Advocate, and one of the means for reaching this objective was the professional training improvement of the staff in the field.

The increase of citizens' and authorities' receptivity towards the activity and role of the People's Advocate Institution – another objective of the project – is pointed out by the statistical data marking a quantitative and qualitative increase of the activity.

2.2 Cooperation initiated by the territorial offices of the People's Advocate Institution with other authorities

Bacau Territorial Office concluded cooperation with the institution of Bacau County Prefecture.

Brasov Territorial Office concluded Cooperation Protocols with the institution of Covasna County Prefecture, with the institution of Brasov County Prefecture, with Transilvania University and with Gil Corona Association.

Cluj-Napoca Territorial Office accomplished cooperation with Cluj Social Protection and Labour Directorate.

It was carried out an instruction activity by the Craiova Territorial Office addressed to a number of 5 students of the "Nicolae Titulescu" Faculty of Law of Craiova University, who selected as a theme of their diploma paper the People's Advocate Institution.

Beginning with January, 2008, actions of popularization of Galati Territorial Office tasks took place through the mayors of Galati and Vrancea county communes.

Iasi Territorial Office set a permanent cooperation with mass-media – Ziarul de Iasi – for publishing of 4 art.s every month. Likewise, a meeting took place with the members of Vaslui County Council occasioned by its formation.

In June 2008, at Pitesti University, Faculty of Judicial and Administrative Sciences took place the meeting with the dean and vice-deans regarding cooperation in student internships at Pitesti Territorial Office and promoting the institution in the university medium. Likewise, Pitesti Territorial Office initiated permanent cooperation with Pitesti Municipality

City Hall with Stefanesti City Hall, with Mioveni City Hall, with Arges County Council and Pitesti Municipality City Hall.

Suceava Territorial Office concluded a cooperation protocol with the institution of Suceava County Prefecture and with the institution of Botosani County Prefecture.

Targu-Mures Territorial Office initiated a cooperation agreement with “Petru Maior” University of Targu-Mures – Faculty of Administrative, Judicial and Economic Sciences, in order to run, during July-September 2008, activities of university practice by the students of the said faculty within the Targu-Mures Territorial Office.

2.3 Cooperation between People’s Advocate and European Ombudsman

Regarding the cooperation between People’s Advocate Institution and the European Ombudsman in 2008, the specific issues the People’s Advocate of Romania is confronted with were treated in materials published in the Information Bulletin of European Ombudsmen and edited by the experts and conselors of the People’s Advocate Institution. Among them we mention: Signals in public administration; Procedure of ex-officio notification of the ombudsman; The right to a decent living standard; Audiences, an efficient way of communicating with citizens; Possible contradictions between legal provisions and Constitution; Access to information for persons executing liberty privative punishments.

3. PUBLICATIONS

3.1 Annual report of People’s Advocate Institution, institution brochure, informative materials

Likewise, in order to facilitate the relations between the public and the institution, the People’s Advocate made available for the complainers, the annual report addressed to the Parliament, statistics regarding the institution activity, the brochure of the institution. The informative materials on People’s Advocate Institution are available also in electronic format on the website of the People’s Advocate Institution: www.avp.ro.

3.2 Quarterly informative bulletin of People's Advocate Institution

The People's Advocate Institution made its own financial efforts this year too, in order to make sensitive and responsible the public administration authorities compared to the institution activity, by editing the Quarterly informative bulleting comprising detailed aspects of the carried out activity, appreciations sent by the complainers and public authorities to the People's Advocate Institution, cases solved by People's Advocate intervention.

3.3 Press releases, interviews

The People's Advocate Institution, being more transparent to the mass-media, notified the press about its activity, both through the **23 press releases** transmitted and also by interviews about carrying out some peculiar events on internal and external levels.

Considering that it is the Ombudsman duty to make efforts for printing in the public opinion in the public authorities conduct and in the conduct of public authorities of a respect and tolerance attitude favoring free circulation of persons and to eliminate any forms of discrimination between the citizens of a member state and citizens of other member states, the People's Advocate Institution formulated an ***Open Letter*** addressed to the European Ombudsman, the President of International Institute of Ombudsman – European Region, Ombudsmen of European Union, focusing on the cooperation between ombudsman institutions of member states of European Union in order to protect the right to free circulation of Romanian citizens abroad. The People's Advocate Institution distributed also a press release on July 1, 2008.

Likewise, the People's Advocate Institution sent the open letter regarding the Romanians situation in Italy also to the 19 local ombudsmen of Italy.

The notified ombudsmen highly appreciated the appeal of People's Advocate regarding the human rights observance regarding the Romanian citizens living and working abroad. They shared the fears of our institution, considering that the spreading of stereotypes to the public opinion should be stopped, that could lead to the development some forms of intolerances, racist and xenophobic behaviors that could harm the rights of all citizens.

At the same time, the ombudsmen were impressed by the People's Advocate appeal, assuring support for the institution regarding the discriminations encountered by certain Romanian citizens exercising the right to free circulation.

3.4 Online communications

The internet page of People's Advocate Institution contains information regarding the presentation and structure of the institution, statistics, contact data, legislation and a chapter with useful links of the European Commission, facilitating the access to a large variety of consultations and debates.

On the institution website in the heading "From the casuistry of People's Advocate Institution", cases clarified by the People's Advocate Institution were posted.

4. ACTIONS CARRIED OUT BY PEOPLE'S ADVOCATE INSTITUTION REGARDING THE GRANTING OF SOCIAL ALLOWANCES

Another aspect of the mediation activity is an already well known practice of the People's Advocate Institution, granting social allowances, actions organized in the field of child, family, youth, pensioners and disabled persons rights and presented in CHAPTER VI of the current Report.

In conclusion, in 2008, we noticed a considerable increase of the concern manifested both by the citizens and by the mass-media towards the People's Advocate Institution activity and to the actual supporting ways of solving cases of violation of fundamental rights and liberties.

The People's Advocate Institution was concerned by strengthening its place and role of defender of individuals' rights, citizens' knowledge of the instruments by which the People's Advocate can intervene with promptness and professionalism in their support.

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

Crt. No.	Indicator	Total performed works
1.	Audiences granted to the citizens at the head office of the People's Advocate Institution and at territorial offices	17783
2.	Petitions submitted to the People's Advocate Institution and the territorial offices, regarding the violation of some citizens' rights and liberties	8030
3.	Telephone calls received by the call center of People's Advocate Institution and the territorial offices	5820
4.	Inquiries conducted by the People's Advocate Institution	42
5.	Recommendations issued by People's Advocate Institution	12
6.	Points of view regarding the exceptions of unconstitutionality of the laws and ordinances regarding the citizens' rights and liberties expressed on the Constitutional Court's request	2088
7.	Exceptions of unconstitutionality directly raised by the People's Advocate	6

ANNEX NO. 2

**STATISTICS OF THE REGISTERED PETITIONS RELATED TO
THE VIOLATION OF RIGHTS AND LIBERTIES**

Crt. No.	Name of the right (art. of the Constitution)	Registered petitions
1.	Equality of rights (art. 16)	217
2.	Aliens and stateless persons (art. 18)	-
3.	The right to asylum, extradition and expulsion (art. 19)	-
4.	Free access to justice (art. 21)	689
5.	Right to life and physical and mental integrity (art. 22)	18
6.	Individual liberty (art. 23)	9
7.	Right to defense (art. 24)	18
8.	Right to free circulation (art. 25)	8
9.	Right to intimate, family and private life (art. 26)	13
10.	Inviolability of domicile (art. 27)	-
11.	Secrecy of correspondence (art. 28)	5
12.	Liberty of conscience (art. 29)	1
13.	Liberty of expression (art. 30)	10
14.	Right to information (art. 31)	1031
15.	Right to education (art. 32)	8
16.	Access to culture (art. 33)	1
17.	Right to protection of health (art. 34)	32
18.	Right to a healthy environment (art. 35)	22
19.	Right to vote (art. 36)	6
20.	Right to be elected (art. 37)	8
21.	Right to be elected in the European Parliament (art. 38)	-
22.	Liberty to meetings (art. 39)	-
23.	Right to associate (art. 40)	1
24.	Right to labour and social protection of labour (art. 41)	124
25.	Right to strike (art. 43)	-

26.	Right to private property (art. 44)	1685
27.	Economic liberty (art. 45)	7
28.	Right to inheritance (art. 46)	27
29.	Right to a decent living standard (art. 47)	1044
30.	Family and right to marriage (art. 48)	3
31.	Protection of children and youth (art. 49)	41
32.	Protection of disabled persons (art. 50)	101
33.	Right to petition (art. 51)	1462
34.	Right of a person aggrieved by a public authority (art. 52)	850
35.	Restriction of certain rights or liberties (art. 53)	12
36.	Right to a fair trial (art. 6 of CEDO)	39
37.	Other rights	538
	TOTAL	8030

**Out of the total petitions addressed to People's Advocate Institution, 5158 petitions were formulated by men; 2872 petitions were formulated by women.*

ANNEX NO. 3**STATISTICS OF PETITIONS PER COUNTY**

Crt. No.	COUNTY	No. of petitions
1.	Alba	181
2.	Arad	134
3.	Arges	675
4.	Bacau	202
5.	Bihor	128
6.	Bistrita-Nasaud	30
7.	Botosani	66
8.	Braila	69
9.	Brasov	187
10.	Bucuresti	1573
11.	Buzau	69
12.	Caras-Severin	51
13.	Calarasi	28
14.	Cluj	269
15.	Constanta	288
16.	Covasna	20
17.	Dambovita	90
18.	Dolj	215
19.	Galati	119
20.	Giurgiu	32
21.	Gorj	59
22.	Harghita	30
23.	Hunedoara	97
24.	Ialomita	21
25.	Iasi	352

26.	Ilfov	105
27.	Maramures	63
28.	Mehedinti	41
29.	Mures	417
30.	Neamt	96
31.	Olt	72
32.	Prahova	299
33.	Salaj	20
34.	Satu-Mare	19
35.	Sibiu	76
36.	Suceava	215
37.	Teleorman	40
38.	Timis	284
39.	Tulcea	47
40.	Vaslui	71
41.	Valcea	53
42.	Vrancea	43
	TOTAL*	6946

***Remarks:** To the total number of petitions submitted to the People's Advocate Institution from the country on hard copy, a number of 997 petitions submitted by e-mail should be added

ANNEX NO.4**STATISTICS OF PETITIONS RECEIVED FROM ABROAD**

Crt. No.	COUNTRY	No. of registered complaints
1.	Argentina	1
2.	Austria	3
3.	Belgium	7
4.	Canada	2
5.	Switzerland	6
6.	Germany	39
7.	Greece	5
8.	Israel	7
9.	Italy	4
10.	Principality of Monaco	1
11.	Republic of Moldova	1
12.	Sweden	1
13.	Hungary	7
14.	France	2
15.	Republic of Serbia	1
	TOTAL	87

ANNEX NO. 5

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

Crt. No.	Territorial Office	Audiences	Registered petitions	Telephone calls	Activities of mediating of the institution
1.	Alba-Iulia	625	223	229	2 – radio-TV broadcasts 10 – art.s published in newspapers 2 – cooperation with NGOs and other authorities
2.	Bacau	737	180	221	3 – radio-TV broadcasts 1 – art. published in newspapers 4 – cooperation with NGOs and other authorities
3.	Brasov	898	153	236	3 – radio-TV broadcasts 5 – art.s published in newspapers 13 – cooperation with NGOs and other authorities
4.	Cluj-Napoca	863	239	313	5 – art.s published in newspapers 9 – cooperation with NGOs and other authorities

5.	Constanta	768	232	150	8 – radio-TV broadcasts 25 – art.s published in newspapers 5 – cooperation with NGOs and other authorities
6.	Craiova	1800	206	828	4 – radio-TV broadcasts 8 – art.s published in newspapers 14 – cooperation with NGOs and other authorities
7.	Galati	347	112	167	11 – art.s published in newspapers 10 – cooperation with NGOs and other authorities
8.	Iasi	950	321	266	10 – radio-TV broadcasts 36 – art.s published in newspapers 5 – cooperation with NGOs and other authorities
9.	Oradea	772	168	174	3 – radio-TV broadcasts 21 – art.s published in newspapers 1 – cooperation with NGOs and other authorities
10.	Pitesti	1194	591	92	7 – radio-TV broadcasts 30 – art.s published in

					newspapers 12 – cooperation with NGOs and other authorities
11.	Ploiesti	1045	235	175	3 – radio-TV broadcasts 11 – art.s published in newspapers 3 – cooperation with NGOs and other authorities
12.	Suceava	1298	179	345	1 – radio-TV broadcasts 1 – art.s published in newspapers 8 – cooperation with NGOs and other authorities
13.	Targu- Mures	1760	413	371	16 – radio-TV broadcasts 29 – art.s published in newspapers 3 – cooperation with NGOs and other authorities
14.	Timisoara	801	261	315	4 – radio-TV broadcasts 16 – art.s published in newspapers 2 – cooperation with NGOs and other authorities
	TOTAL	13858	3517	3882	345

ANNEX NO. 6

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

Crt. No.	Field of point of view	No. of points of view
1.	Constitutional state (art.1)	44
2.	Sovereignty (art. 2)	1
3.	Right to identity (art. 6)	1
4.	Universality; Principle of non-retroactivity of law; penal law or more favorable contraventional law (art. 15)	130
5.	Trade unions, employers' associations and professional associations (art. 9)	1
6.	Principle of equality of rights (art. 16, art. 4)	391
7.	Romanian citizens abroad (art. 17)	1
8.	Foreign citizens and stateless persons (art. 18)	3
9.	Priority of international regulations (art. 11, art. 20)	44
10.	Free access to justice; Fair trial (art. 21)	460
11.	Right to life, physical and mental integrity (art. 22)	30
12.	Individual liberty (art. 23)	62
13.	Right to defense (art. 24)	73
14.	Free circulation (art. 25)	4
15.	Right to intimate, family and private life (art. 26)	20

16.	Secrecy of correspondence (art.28)	1
17.	Liberties of opinion (art.29, art. 30, art. 40)	9
18.	Right to information (art. 31)	5
19.	Right to education (art. 32)	2
20.	Right to health protection (art. 34)	3
21.	Right to a healthy environment (art. 35)	2
22.	Right to vote (art. 36); Right to be elected (art. 37); Right to be elected in the European Parliament (art. 38)	9
23.	Right to labour and social protection of labour and prohibition of forced labour (art. 41, art. 42)	36
24.	Right to strike (art. 43)	5
25.	Right to property (art. 44, art. 136)	243
26.	Right to inheritance (art. 46)	12
27.	Right to a decent living standard (art. 47)	14
28.	Family (art. 48)	8
29.	Protection of children and youth (art. 49)	4
30.	Right to petition (art. 51)	12
31.	Right of a person aggrieved by a public authority (art. 52)	40
32.	Restriction of some rights or liberties (art. 53)	110
33.	Exercising rights and liberties (art. 57)	1
34.	Public authorities (art. 61 – art. 72)	18
35.	Law categories (art. 73); Legislative initiative (art. 74); Law enforcement (art. 78)	27
36.	Legislative delegation (art. 115)	36
37.	Local public administration (art. 121 – art. 123)	18
38.	Justice making (art. 124)	43
39.	The judge's status (art. 125)	3
40.	Courts of law (art. 126 – art. 127)	33
41.	Use of appealing ways (art. 129)	21
42.	Prosecutor's status (art. 131 – art. 132)	24
43.	Superior Council of Magistracy (art. 133, art.	1

	134)	
44.	Economy liberty (art. 45)	17
45.	Economy (art. 135)	24
46.	Financial contributions (art. 56); Taxes, fees and other contributions (art. 139)	11
47.	Court of Accounts (art. 140)	2
48.	Constitutional Court tasks (art. 146); Constitutional Court decisions (art. 147)	7
49.	Integration in the European Union (art. 148)	2
50.	Initiative of revision (art. 150)	1
51.	Temporary conflict of laws (art. 154)	1
52.	Exceptions where the violated constitutional text was not specified	18
	TOTAL	2088

**In the case of 1551 points of view several fields are approached, and for the statistics, the significant field was taken into account.*

*ANNEX NO. 7***INVESTIGATIONS**

Crt. No.	Subject of inquiry	No. of inquiries	Public administration authority where the inquiry was carried out	Results of the inquiries
1.	Observance of the right to private property	13	<p>Prefect Institution of Bucharest Municipality – Commission for enforcing the provisions of Law no. 290/2003</p> <p>Bucharest Municipality City Hall</p> <p>National Authority for Property Restitution – Service of enforcing the Law no. 9/1998</p> <p>Bucharest Municipality City Hall - Service of enforcing the Law</p>	<p>Settlement of mentioned aspects and issuing of a recommendation</p> <p>Settlement of mentioned aspects</p> <p>Request settlement of many complainers</p> <p>Settlement of the complainer's request</p>

			no. 10/2001	
			Constanta Municipality City Hall - Service of enforcing the Law no. 10/2001	Settlement of the complainer's request
			Petresti Commune Hall, Dambovita County	Settlement of the complainer's request
			Ocnele Mari City Hall, Valcea County	Settlement of the complainer's request
			Eforie City Hall, Constanta County	Settlement of the complainer's request
			Comarnic City Hall, Prahova County	Settlement of the complainer's request
			Braila Municipality City Hall, Braila County	Settlement of the complainer's request
			Dolj County Commission for enforcing the Law no. 18/1991	Settlement of the complainer's request
			Gornet-Cricov	Settlement of

			Commune Hall, Prahova County	the complainer's request
			Fulga Commune Hall, Prahova County	Settlement of the complainer's request
2.	Observance of the right to private property and the right to petition	5	National Authority for Property Restitution (2)	Request settlement of many complainers
			Fagaras Municipality City Hall, Brasov County	Clarifying aspects and submitting the answer to the complainer
			Sector 5 Bucharest City Hall	Settlement of complainer's request and proposal of issuing a recommendation
			Bucharest Municipality City Hall – Judicial, Contentious, Legislation Directorate	Clarifying aspects and submitting the answer to the complainer
3.	Observance of the right to private property and the right of a	5	Bucharest Municipality City Hall	Settlement of petitions and issuing of a recommendation

	person aggrieved by a public authority		<p>Mihailesti City Hall, Giurgiu County</p> <p>Oncesti Commune Hall, Bacau County</p> <p>Farcasesti Commune Hall, Dolj County</p> <p>Bradu Commune Hall, Arges County</p>	<p>Settlement of complainer's request</p> <p>Petition settlement</p> <p>Settlement of complainer's request</p> <p>Settlement of complainer's request</p>
4.	Observance of the right of disabled persons and the right of a person aggrieved by a public authority	2	<p>National Authority for Disabled Persons</p> <p>Bacau Public Service of Social Assistance</p>	<p>Settlement of complainer's request</p> <p>Settlement of complainer's request</p>
5.	Observance of the right to a decent living standard, the right to petition and the right of a person aggrieved by a public authority	2	<p>Local Pension Fund Sector 1 Bucharest</p> <p>Local Pension Fund Sector 6 Bucharest</p>	<p>Settlement of complainer's request</p> <p>Settlement of complainer's request</p>
6.	Observance of	3	Local Pension	Request

	the right to a decent living standard and the right to petition		Fund Sector 1 Bucharest (2)	settlement
			Local Pension Fund Sector 6 Bucharest	Settlement of complainer's request
7.	Observance of the right of disabled persons and the right to a decent living standard	1	Brasov Municipality City Hall, Brasov County	Settlement of complainer's request
8.	Observance of the right to petition and the right of a person aggrieved by a public authority	3	Dr. Constantin Gorgos Psychiatry Hospital Titan	Submitting the answer to the complainer and issuing of a recommendation
			Sector 5 Bucharest City Hall	Submitting the answer to the complainer and issuing of a recommendation
			Timis County Office of Consumer's Protection	Settlement of complainer's request
9.	Observance of the right to information	1	Stefanesti City Hall, Arges County	Submitting the answer to the complainer and issuing of a recommendation
10.	Observance of the right	1	Vaslui General Directorate of	Settlement of complainer's

	regarding child and youth protection		Social Assistance and Child Protection and “Elena Farago” Placement Center Barlad, Vaslui County	request
11.	Checking the way in which the right regarding child and youth protection is observed, following the aspects mentioned in the press	1	Vaslui General Directorate of Social Assistance and Child Protection and Dr. I. T. Nicolaescu Hospital of Tutova, Vaslui County	Settlement of mentioned aspects and issuing of a recommendation
12.	Observance of the right to a decent living standard	2	Pension Fund of Mures County Pension Fund of Prahova County	Settlement of complainer’s request Settlement of complainer’s request
13.	Observance of the right of a person aggrieved by a public authority	2	Pension Fund of Arges County Buzau County Council	Settlement of complainer’s request and issuing of the requested certificate Settlement of complainer’s request and

				starting the requested constructional works
14.	Observance of the right of a person aggrieved by a public authority, of the right to a decent living standard and the right to a intimate, family and private life	1	Vaslui Penitentiary, Vaslui County	Working out and submitting a special Report to the Parliament of Romania
	TOTAL	42		

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

Crt. No.	No. and date of issuing the recommendation. Recommendation object	Public Authority the recommendation was addressed	Brief content of the recommendation
1.	1/January 11, 2008 Violation of provisions of art. 50 related to art. 15, paragraph (2) of the Constitution that sets the protection of disabled persons, respectively of law non-retroactivity	President of the National Authority for Disabled Persons	-examining the situation created by delaying the elaboration of Methodological Norms of enforcing the provision of Law no. 448/2006 regarding protection and promotion of the disabled persons rights and the proposal of medico-psycho-social criteria based on which the handicap degree is established, according to art. 85 paragraph (5) of Law no. 448/2006, republished. -taking legal measures necessary for: *exercising an active role in controlling the

			observance of disabled persons rights *informing the People's Advocate about the taken measures
2.	2/February 11, 2008 Violation of provisions of art. 50 of the Constitution regarding disabled persons protection	President of the High Commission of Disabled Persons Evaluation – Adults	-carrying out an active role of the activities of county commissions of disabled persons evaluation for establishing the handicap degree corresponding to the reality, in view of observing the right to special protection of disabled persons -informing the People's Advocate about the taken measures
3.	3/March 24, 2008 Violation of the right to private property provided by art. 44 of the Constitution and the right to compensation according to Law no. 290/2003 regarding the granting of compensations or indemnifications to the Romanian	Bucharest Municipality Prefect, in the position of President of the Commission of enforcing the Law no. 290/2003	-examination of the situation created by the delaying of solving the request formulated based on Law no. 290/2003 -taking legal measures necessary for: *elimination of organizing and functioning deficiencies at the level of the Commission of

	citizens for their property goods, confiscated, retained or remained in Basarabia, Northern Bucovina and Herta Region following war state and enforcing the Peace Treaty between Romania and Allied Powers, signed in Paris on February 10, 1947 with later modifications and completions		enforcing the Law no.290/2003 in order to observe the legal term of solving the requests and avoiding any delays *observance of provisions of art. 8, paragraph (2 ¹) of Law no. 290/2003 according to which the county commissions, respectively the Bucharest Municipality, have the obligation to call the complainers when irregularities exist; *informing the People's Advocate about the taken measures
4.	4/May 26, 2008 Violation of private property right provided by art. 44 of the Constitution and right of a person aggrieved by a public authority provided by art. 52 of the Constitution in case of solving the request formulated	Mayor of Constanta Municipality	-examining the situation created by fact that it was not solved, in legal term, the request formulated based on the Law no. 10/2001 regarding the judicial regime of some abusively taken real estate during March 6, 1945 – December 22, 1989;

	based on Law no. 10/2001 regarding the judicial regime of some abusively taken real estate during March 6, 1945 – December 22, 1989 with later modifications and completions		-taking legal measures necessary for: *speed up the solving of the situation related to the requested real estate restitution *informing the People's Advocate about the taken measures
5.	5/June 19, 2008 Violation of the right to petition and of the right to private property, provided by art. 51 and art. 44 of the Constitution	Mayor Eforie City, Constanta County	-examining the situation created by the existing dysfunctions regarding registering and solving the requests of property right reconstitution on lands; -taking legal measures necessary for: *observance of the right to petition and of the right to property right reconstitution of individuals; *informing the People's Advocate about the taken measures
6.	6/July 1, 2008 Violation of the right to petition and the right to private property provided by	Mayor of Bucharest Municipality	-analyzing the situation created by not solving in legal term of requests of property right reconstitution on

	art. 51 and art. 44 of the Constitution		lands -taking legal measures necessary for: *observance of the right to petition and of the right to property right reconstitution of individuals; *informing the People's Advocate about the taken measures
7.	7/August 7, 2008 Violation of the right to petition and of the right of a person aggrieved by a public authority provided by art. 51 and art. 52 of the Constitution in case of solving the request formulated based on Law no. 18/1991 of Land Fund, republished	Mayor of Sector 5 Bucharest	-examining the situation created by delaying the solving of the request formulated based on Law no.18/1991 of the Land Fund, republished, with later modifications and completions -taking legal measures necessary for: *solving the request in compliance with legal provisions *analyzing the reasons leading to this situation in order to be avoided in the future *informing the People's Advocate about the taken measures

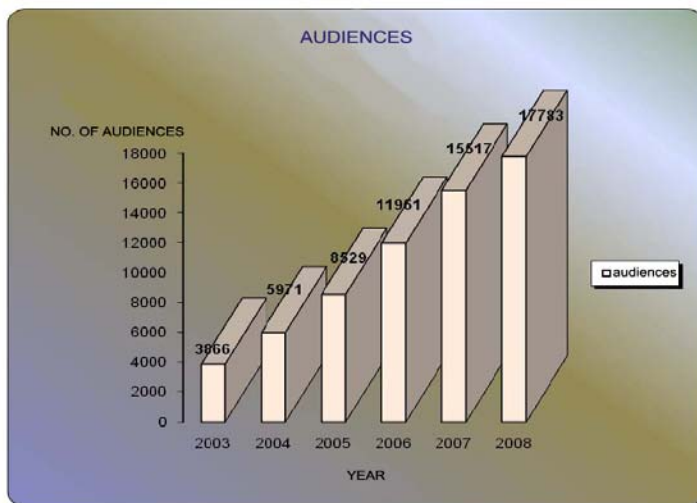
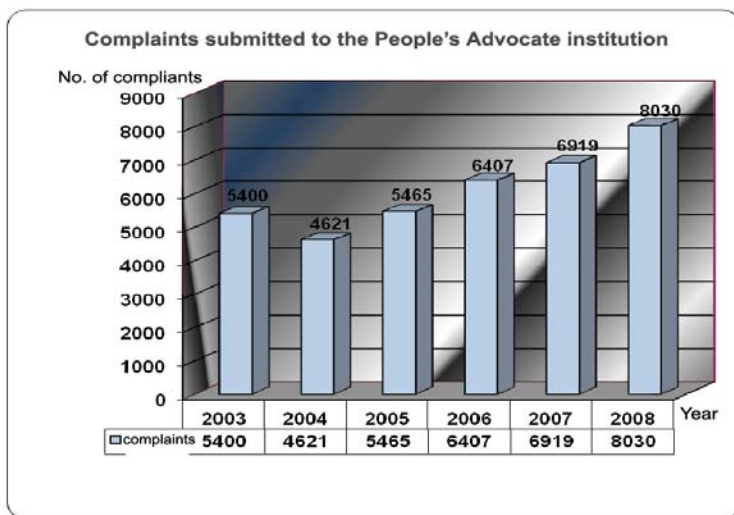
8.	8/October 16, 2008 Violation of the right to information provided by art. 31 of the Constitution in case of solving the requests of working out the cadastre documentation	Mayor of Stefanesti City, Arges County	-taking the legal measures for elimination of organizational and functional deficiencies at the level of city hall and staff, in view of observing the right to a correct information of complainers on issues related to request solving -informing the People's Advocate about the taken measures
9.	9/October 29, 2008 Violation of private property right provided by art. 44 of the Constitution in case of solving the request formulated based on Law no. 10/2001 regarding the judicial regime of some abusively taken real estate during March 6, 1945 – December 22, 1989 with later modifications and completions and of Law no. 42/2001 regarding the	Mayor of Bucharest Municipality	-taking legal measures necessary for: *observing the provisions of art. 5 of Law no. 10/2001, republished, with later modifications and completions, as well as the provisions of art. 5 ¹ of Methodological Norms of enforcing the Law no. 10/2001 in order to solve the notifications formulated by persons that emigrated in states where concluded agreements exist regarding the

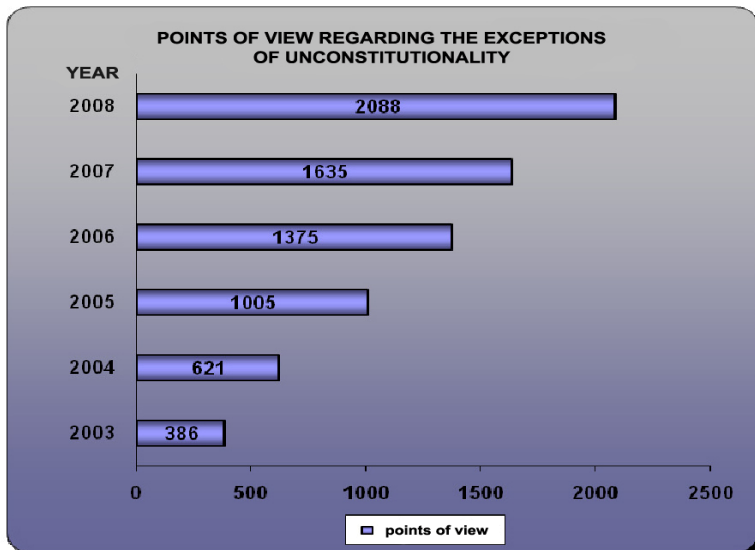
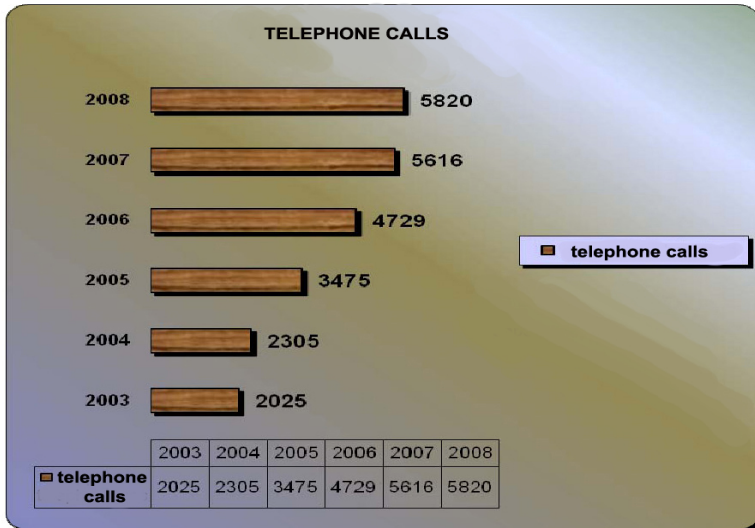
	protection of historical monuments		<p>regulation of unsolved financial issues, regarding real estate that are historical monuments</p> <p>*solving the notifications regarding the historical monuments real estate in compliance with the provisions of Law no. 422/2001 regarding the protection of historical monuments, republished;</p> <p>-informing the People's Advocate about the taken measures</p>
10.	<p>10/October 31, 2008</p> <p>Violation of private property right provided by art. 44 of the Constitution and the right of a person aggrieved by a public authority provided by art. 52 of the Constitution</p>	<p>Mayor of Ardușat Commune, Maramureș County</p>	<p>-taking legal measures necessary for:</p> <p>*elimination of organizational and functional deficiencies at the level of city hall and staff, in view of observing the right to private property;</p> <p>*observing the passed law courts' decisions regarding the land right and the obligation to protect the constitutional state, rights and liberties of</p>

			the citizens by their right and undelayed enforcing -informing the People's Advocate about the taken measures
11.	11/November 11, 2008 Violation of the right to private property provided by art. 44 of the Constitution and the right of a person aggrieved by a public authority provided by art. 52 of the Constitution	Mayor of Ilieni Commune, Covasna County	-examining the situation created by delaying the solving of requests regarding property right reconstitution on requested arable and forest land areas -taking legal measures necessary for: *carrying out and finishing the measurement works of lands, knowledge of available lands status, respectively the solving of the requests regarding property right reconstitution on arable and forest land areas on which the complainers are empowered -informing the People's Advocate about the taken measures
12.	12/November 18, 2008	The Management of Dr. Constantin	-taking legal measures and approaches

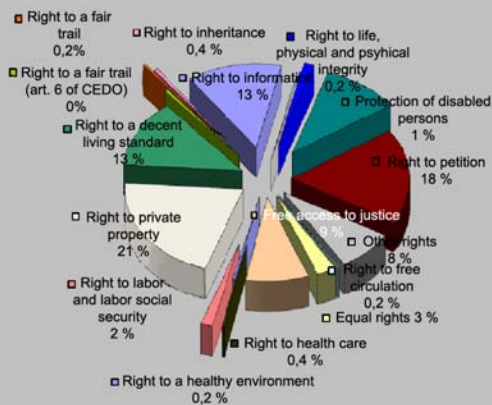
	Violation of the right to petition provided by art. 51 of the Constitution	Gorgos Psychiatry Hospital Titan of Bucharest	necessary for issuing the paper regarding the psychiatric evaluation of the complainer -disposing legal measures necessary for observing the right to petition in the institution.
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CHARTS REGARDING THE INDICATORS OF THE PEOPLE'S ADVOCATE ACTIVITY





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 labor and labor social security
- Right to private property
- Right to a decent living standard
- Right to a fair trial (article 6 of CEDO)
- Right to inheritance
- Children and youth protection
- Right to information
- Right to life, physical and psychical integrity
- Protection of disabled persons
- Right of the person harmed by a public authority
- Right to petition
- Other rights
- Right to intimate, family and private life

* For statistics, the fields with percentages greater than 0,1 % were considered

STATISTICS OF COMPLAINTS BY COUNTIES



Complaints received from the country by post mail (on hardcopy): 6946

Complaints received by e-mail : 997

Complaints received from abroad: 87

Total number of received complaints: 8030

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Note:

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