



PEOPLE'S ADVOCATE



REPORT

of Activity for 2011

-Summary-

Bucharest

2012

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

1. THE PRESENT CONSTITUTIONAL AND LEGAL FRAMEWORK

According to art. 58 of the Constitution:

- (1) The Advocate of the People shall be appointed for a term of office of 5 years, in order to defend the natural persons' rights and freedoms. The Advocate of the People's deputies shall be specialized per fields of activity.
- (2) The Advocate of the People and his/her deputies shall not perform any other public or private office, except for teaching positions in higher education.
- (3) The organization and functioning of the Advocate of the People institution shall be regulated by an organic law.

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. 758 of October 27, 2011;
- 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;
- Law no. 202/2010 regarding some measures to accelerate lawsuits' settlement, published in Romania's Official Gazette, Part I, no. 714 of October 26, 2010;
- Law no. 258/2010 on the amending and supplementing Law no. 35/1997, on the organization and functioning of the People's Advocate Institution, published in Romania's Official Gazette, Part I, no. 847 of December 17, 2010.

The People's Advocate is appointed by joint session of the Chamber of Deputies and Senate.

The People's Advocate deputies are appointed by the Chamber of Deputies and Senate's permanent offices, at the proposal of the People's Advocate and they are specialized in 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.

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 necessary support for exercising his attributions.

The People's Advocate shall submit reports, in joint session of both Chambers of the Parliament, annually or at their request, reports which must contain information regarding the activity of the institution. They may contain recommendations concerning the amendment of legislation or measures, of other nature for the protection of the citizens' rights and freedoms. 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.

According to the present legal and constitutional regulations, 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.

Furthermore, the People's Advocate may notify the competent administrative court under the provisions of art. 3 of Law no. 554/2004 of the administrative disputed claims office, further modifications and completions included and also, in accordance to art. 329 of the Civil Procedure Code and art. 414² of Criminal Procedure Code, he may refer the High Court of Cassation and Justice with an appeal in the interest of law in order to provide a unitary interpretation and implementation of the law by the other courts of law.

2. AMENDMENTS OF THE LEGAL FRAMEWORK FOR THE FUNCTIONING OF THE PEOPLE'S ADVOCATE INSTITUTION

In 2011, the Regulations on the organization and functioning of the People's Advocate Institution have been modified, the new regulations, republished according to art. II of the Decision no. 1/2011 of the Standing Bureaus of the Chamber of Deputies and the Senate, expressing the natural evolution of the relationship between citizen and public administration's authorities. These regulations were published in Romania's Official Gazette, Part I, no. 758 of October 27, 2011.

The activity of the People's Advocate Institution attracts constantly the attention of the legislator, a new initiative being in legislative debate nowadays: the creation of the Ombudsman for children.

3. CONCERNS ON INTERNATIONAL LEVEL FOR DEVELOPMENT THE NATIONAL INSTITUTIONS AIMED TO PROTECT AND PROMOTE HUMAN RIGHTS

On international level, in the latest twenty years, there has been an increased interest for the national institutions aimed to promote and protect human rights. The first international reunion on that subject took place in Paris, in 1991. The conclusions of the reunion have been

inserted in Resolution no. 54/1992 of the UN Commission on Human Rights, entitled "Principles concerning the status of national institutions" ("Paris Principles"). Then, the General Assembly of United Nations has approved it by Resolution no. 48/134 of December 20, 1993. According to this document, the member states are encouraged to establish or strengthen national institutions, which have to be given a generous mandate concerning the promoting and protecting of human rights.

The People's Advocate Institution is organized and functions in accordance with Paris Principles, so, in order to integrate in human rights organizations of the United Nations system, it will require accreditation of the International Steering Committee of National Institutions for the Promotion and Protection of Human Rights.

CHAPTER II

GENERAL AMOUNT OF ACTIVITY

The general presentation of the activity in 2011 includes information and statistics on the receiving telephone calls recorded at the dispatcher, the granting audiences and the solving of the petitions.

There are presented:

Activity carried out during the hearings

During 2011, it was granted a number of **16282** hearings, through which the petitioners claimed infringements of the rights of physical entities (**Enclosure No. 1**).

Activity of receiving the telephone calls registered at the dispatch service

During 2011, the central office and the territorial offices of the People's Advocate Institution registered a number of **6498** telephone calls (**Enclosure No. 1**).

Activity of solving the petitions

During 2009, the central office and the territorial offices of the People's Advocate Institution registered a number of **7559** petitions (**Enclosure no.1**).

From the total number of the petitions addressed to the institution, **1279** petitions are related to property, labor, social protection, taxes and fees; **1080** petitions were registered in the field of army, justice, police and penitentiaries; in the field related to the rights of children, family, youth, pensioners, individuals with disabilities were registered **678** petitions in the field of human rights, equality of chances between men and women, religious cults and national minorities were registered **709** petitions. The territorial offices registered **3801** petitions. Also, **12** petitions were distributed to the General Secretariat of the institution and to the counselors of the People's Advocate.

Comparing these data with those of 2010, it can be noticed a decrease in the number of petitions recorded in each field of activity of the People's Advocate Institution, decrease which could be explained by the fact that public authorities and institutions fulfilled their tasks and duties.

From 27 September 2011, when the new People's Advocate was appointed, the approach of the institution's management has been changed, so, instead of expecting citizens to lodge the complaints to the People's Advocate Institution, it was adopted the principle according to which the People's Advocate should act in order to meet people's expectations.

A new mandate, a new orientation requires that People's Advocate Institution gives the same attention to complaints received from individuals, but pays more attention to ex officio investigations, recommendations and special reports. Thus, comparing the statistics from January - September to those from October - December, we can find out as following:

- if during the period January - September 6 investigations were conducted, during the period October-December were conducted 20;
- if during the period January – September no recommendation was formulated, during the period October-December 9 recommendations were issued;

- if during the period January – September there were not any ex-officio investigations, during the period October-December, at the People’s Advocate Institution were registered 20 ex-officio investigations;
- during the period October-December, 2 special reports were submitted: Special Report on violation of consumers` rights; Special Report regarding the payment of salaries of the personal assistants, under the Law. no. 448/2006 on the protection and promotion of rights of the disabled persons. Also, 20 special reports are in progress.

We note that, since October 1, 2011, the People's Advocate activity has been improving significantly compared to the January-September 2011, which is due, on the one hand, to the openness of the institution to dialogue and transparency and, on the other hand, to the increased attention paid to ex/officio investigations, recommendations and special reports.

CHAPTER III
INVESTIGATIONS AND RECOMMENDATIONS - MEANS OF INTERVENTION
SPECIFIC TO THE PEOPLE’S ADVOCATE INSTITUTION

In order to clarify the issues raised by the petitioners, the People's Advocate Institution undertook a number of **26 investigations**. Thus, it were performed:

- 4 investigations related to the right to petition and the right of a person aggrieved by a public authority, provided by art. 51 and 52 of Constitution, at the National Authority for Consumer Protection, the Ministry of Education, Innovation, Youth and Sports and the Bucharest City Hall - Legal Department.
- 1 investigation related to the right to information, provided by art. 31 of Constitution, at the General Department for Child Protection of the Ministry of Labour, Family and Social Protection.
- 4 investigations in reference to the right regarding the protection of children and young people, provided by art. 49 of Constitution, at the Ilfov General Department for Social Services and Child Protection, the General Department for Social Services and Child Protection in the 6th District of the Bucharest City Hall, at Coarnele Caprei City Hall in Iasi County, at Constanța General School Inspectorate.
- 10 investigations related to the observance of private property right, provided by art. 44 of Constitution, at the National Authority for Returning Property, Buftea City Hall in Ilfov County, Lisa commune City Hall in Teleorman county, Poiana Lacului City Hall in Arges county, Stoina commune City Hall in Gorj county, Horlesti commune City Hall in Iasi county, Mangalia City Hall in Constanta county, Miercurea – Ciuc City Hall in Harghita county, Sibiu City Hall in Sibiu county, Ploiesti City Hall in Prahova county;
- 1 investigation related to free access to justice, provided by art. 21 of Constitution, at Brancovenesti commune City Hall in Mures county;
- 4 investigations related to the observance of the right to a decent living standard, provided by art. 47 of Constitution, at Strehaia commune City Hall in Mehedinti county, at the National Pension House - International Relations Department, the Local Pension House of the 5th District in Bucharest and at Targu-Jiu City Hall in Gorj county,
- 1 investigation related to right of the citizens, provided by art. 5 of Constitution, at the National Authority for Citizenship;
- 1 investigation related to right to life, to physical and mental integrity and to right to individual freedom, provided by art. 22 and 23 of Constitution, at Local Police in Constanta County.

Comparing statistics from January to September and those from October to December, we notice that in the period January-September 6 investigations were conducted and that since 1st of October, their number has increased significantly, as 20 investigations were performed.

During 2011, the People's Advocate Institution issued **9 recommendations**, which all have been formulated after the 1st of October:

- Recommendation no. 1 of October 19, 2011, related to the observance of the right regarding the protection of children and young people and the right to life, to physical and mental integrity, provided by art. 49 and 22 of Constitution, addressed to Ilfov General Department for Social Services and Child Protection.
- Recommendation no. 2 of November 15, 2011, related to the observance of private property right and the right of a person aggrieved by a public authority, provided by art. 44 and art. 52 of Constitution, addressed to the National Authority for Returning Property.
- Recommendation no. 3 of November 18, 2011, related to the observance of private property right and the right of a person aggrieved by a public authority, provided by art. 44 and art. 52 of Constitution, addressed to Lisa commune City Hall, Teleorman County.
- Recommendation no. 4 of November 22, 2011, related to the observance of the right to a decent living standard, provided by art. 47 of Constitution, addressed to Strehaia commune City Hall in Mehedinti County.
- Recommendation no. 5 of November 23, 2011, related to the observance of art. 5, art. 31 and art. 52 of Constitution, regarding the right of the citizens, the right to information and right of a person aggrieved by a public authority, addressed to the National Authority for Citizenship.
- Recommendation no. 6 of December 6, 2011, related to the violation of consumer rights, addressed to the National Authority for Consumer Protection.
- Recommendation no. 7 of December 9, 2011, related to the reconstruction of property rights in Stoina commune, Gorj County.
- Recommendation no. 8 of December 15, 2011, related to the observance of the right to intimate, family and private life and right of a person aggrieved by a public authority, provided by art. 26 and 52 of Constitution, addressed to the Ministry of Health and to “Constantin Opris” Baia Mare Emergency County Hospital.
- Recommendation no. 9 of December 22, 2011, related to the observance of the right regarding the protection of children and young people, provided by art. 49 of Constitution, addressed to Ministry of Labour, Family and Social Protection.

CHAPTER IV

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

During the year 2008, the field of human rights, equality of chances between men and women, religious cults and national minorities received and solved a number of **709 petitions** (number fairly similar comparing to 2010). In this field, the People's Advocate exercised his powers ex officio in 16 cases, conducted 5 inquiries and submitted 2 special reports.

Depending on the specialization of the field, the 709 petitions were structured as follows:

1. Human rights, especially civil and political rights and also, the guarantee-rights: **698 petitions**.

2. Equality of chances between men and women, religious cults and national minorities: **11 petitions**.

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 and solving those which did fit the institution's object of activity, performing investigations and, making proposals finally approved on ex-officio procedures, recommendations and special reports. Also, when referring to protecting human rights in general, the collaborations that the field had with several authorities during the year 2011, the seminars attended on this subject, the meetings with several Non-Governmental Organizations' representatives and the cooperation protocols cannot be omitted.

For 129 of the petitions distributed to the field, we undertook actions to the public authorities in order to solve the problems notified by the petitioners and for a number of 580 petitions, the problems were clarified on the field's level, without an intervention to authorities. Thus, some of the petitioners thanked us for the operative and competent way of solving their complaints.

As a large number of petitions were focused on aspects that did not fit the institution's object of activity, the petitioners were directed towards the authorities with legal competences to solve their problems, by indicating the legal procedure to be followed. The aspects notified in the petitions were mainly related to violations of equality of rights, the right to petition, the right to information correlated with violations of the right of the individual injured by a public authority and, in a lesser degree, violations of other fundamental rights and freedoms.

When public authorities did not answer our requests or the answers received did not clarify the problems, 5 investigations were performed: 2 investigations at the National Authority for Consumer Protection, 1 investigation at the National Authority for Citizenship, 1 investigation at the Ministry of Education, Innovation, Youth and Sports and 1 investigation at Bucharest City Hall, investigations which ended with solving the claims of the petitioners. **3 of those investigations were performed after the 1st of October**.

Also, the field of human rights, equality of chances between men and women, religious cults and national minorities has promoted **16 ex-officio investigations**, all of them performed after the 1st of October, 2011 (in 2010 this field of activity proposed 1 ex-officio investigation, without being approved), of which 9 were favorable solved and 7 are pending. The investigations referred to: the case of a 30 years patient from Baia Mare, Maramures County, who was wounded on a crosswalk and died in hospital, as doctors were unable to act because the women,

religiously affiliated to the organization "Witnesses Jehovah", refused the blood transfusion; maintaining the partition wall between blocks of social apartments (situated on Horea street where Rom families live) and the main road in Baia Mare - our institution considered that this case was about a discrimination; the case of the mayor of Brad town in Hunedoara County, who went on a hunger strike because the city had no heat and hot water, because of the lack of funds; the violation of consumers' rights regarding the concordance of the products, the contractual clauses relating to guarantees and the compensatory sums for hidden defects; the problems caused by lack of the specific drugs for cancer patients in the closed-circuit hospital pharmacies having contracts with the health insurance societies; issues related to the kindergartens in Balan city, Harghita County, which were no longer warmed, because the city hall had debts to the gas supplier, etc.

After 1st of October, 2011, the field of human rights, equality of chances between men and women, religious cults and national minorities has proposed and issued **2 recommendations** (Recommendation no. 5 of November 23, 2011 and Recommendation no. 6 of December 6, 2011) and submitted **2 special reports**: the Special Report addressed to the Prime Minister regarding the violation of some consumer rights; the Special Report addressed to the President of the Chamber of Deputies regarding the violation of some consumer rights, report also forwarded for information to the President of the Senate (in 2010, the People's Advocate Institution issued only a recommendation, proposed by this field of activity and presented one special report).

1. HUMAN RIGHTS – ESPECIALLY CIVIL AND POLITICAL RIGHTS AND GUARANTEE-RIGHTS

Human Rights section, according to the distribution established in the People's Advocate Institution, comprises mostly civil and political rights and guarantees-rights, namely 20 articles of the Romanian Constitution, as follows: equality of rights (art. 16); the right of foreign and stateless citizens (art. 18); the right to life and to physical and mental integrity (art. 22); freedom of movement (art. 25); secrecy of correspondence (art. 28); freedom of expression (art. 30); the right to information (art. 31); the right to education (art. 32); the access to culture (art. 33); the right to protection of health (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 be elected in the European Parliament (art. 38); freedom of assembly (art. 39); the right of association (art. 40); right to strike (art. 43); economic freedom (art. 45); the right to petition (art. 51); the right of a person injured by a public authority (art. 52). As 2011 was not an election year, some of these rights, such as: the right to vote, right to be elected and the right to be elected in the European Parliament, have not been claimed by petitioners.

Through the petitions assigned to this field, in 2011 individuals notified violations of the following fundamental rights and freedoms: unity of people and equality of rights (art. 4 and 16); the right of foreign and stateless citizens (art. 18); right to intimate, family and private life (art. 26); freedom of expression (art. 30); the right to information (art. 31); the right to health security (art. 34); the right to a healthy environment (art. 35); right to a living standard (art. 47); the right to petition (art. 51); the right of a person injured by a public authority (art. 52).

Among the petitions assigned to this field, notifying violations of the fundamental rights and freedoms, we underline the petitions related to the right to petition, in number of **365** and those related to the violation of the right to information, in number of **281**, representing the overall percentage of more than **92%** of the petitions solved by the personnel in the field.

In the second place, with a number of **26**, representing **4%** of the petitions solved, there are the petitions notifying the violations of rights by the public authorities and institutions related to the right of a person injured by a public authority, provided by article 52 of Constitution.

Although they do not fit in art. 16 of the Constitution because they are not Romanian citizens (but they enjoy a special condition), citizens from Moldova addressed our institution in a higher number comparing to 2010 (over 60 people), complaining that they were discriminated because of the way they were handled applications for granting the Romanian citizenship. Taking into consideration the various approaches that we made to the National Authority for Citizenship, we appreciate that our institution has contributed to solving the complaints, in accordance with the legal provisions.

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

The section Equality of chances between men and women, religious cults and national minorities regards 3 articles or paragraphs of the Romanian Constitution, as follows: equality of rights (art. 16 paragraph 3), freedom of conscience (art. 29), unity and equality among citizens (art. 4).

In 2011, the field of human right, equality of chances between men and women, religious cults and national minorities did not receive any petitions regarding the equality of chances between men and women and few issues were claimed on the freedom of conscience or freedom of organizing religious cults (and those were not focused on substantive issues), a total of 11 petitions.

For 2012, we intend to develop cooperation with the two specialist committees of Parliament, namely the Commission for equal opportunities for men and women of the Chamber of Deputies and Equal Opportunities Commission of the Senate, given the fact that in 2011 we did not receive from these committees any petition or complaint relayed to a competent solution to our institution.

We consider that the small number of petitions in the field of equality of chances between men and women and religious cults is explained by the existence at the state level of some public authorities with competences in these fields. Thus, we refer to: the National Council for Combating Discrimination; the Romany National Agency (that we intend to build a partnership with); the Romany National Culture Center; the Department for Interethnic Relations; the National Minorities Council; the Commission for equality of chances between men and women within the Chamber of Deputies; the Commission for equality of chances within the Senate.

In addition, regarding complaints from the national minorities or ethnic groups, they were recorded separately only if they were related to discrimination based on ethnic differences.

According to art. 58 paragraph (1) of the Constitution, the People's Advocate defends the natural persons' rights and freedoms so, the petitions are registered taking into consideration the violated right and freedom, not the ethnic origin of the petitioner, of course, except the discriminations.

In the same context, we mention that, from the total number of individuals who notified the People's Advocate Institution on alleged violations of the provisions of art. 4 of the Romanian Constitution, the Romany origin individuals rank on the first place (3 petitions). The object of their petitions was mainly based on: alleged indifference, silence or hostility manifested by the authorities towards issues caused by violations of the right to life and physical and mental integrity. Most of the complaints were clarified and for the rest we indicated the procedures to be followed or the competent institutions, by providing guidance and explanations.

In the last two months, the People's Advocate has ordered an investigation related to the membership of a minority social groups, issued by the maintaining of the partition wall raised in Baia Mare, aspect qualified by our institution as discriminatory, so the investigation is pending.

Taking into consideration the aspects mentioned above, in order to understand the problems of the national minorities in our country and to establish the means for their support, our institution continued its actions in view of establishing some partnerships between the People's Advocate Institution and the organizations of various national minorities (with the 20 national minorities and ethnic groups established by Law no. 282/2007 ratifying the European Charter for Regional or Minority Languages, adopted in Strasbourg on November 5, 1992).

Also, in 2011, cooperation protocols were agreed with: National Union of the Roma, Romanian Foundation for Assisting Victims of Accidents, Traffic Accident Victims Association, the National and International League Association for Human Rights Protection (all negotiated and signed after October 1st, 2011).

In this context, we note the importance of the project started on December 23, 2011 with the National Union of Roma communities, which could end with submitting a special report presented to the Presidents of both Chambers of Parliament or, if the case may be, to the Prime - Minister.

CHAPTER V

THE FIELD OF THE RIGHTS OF CHILDREN, FAMILY, YOUTH, PENSIONERS, INDIVIDUALS WITH DISABILITIES

The field of the Rights of the children, family, youth, pensioners and the people with disabilities received a number of 677 petitions, from the total number of 3758 complaints registered at the headquarters of the institution.

Depending on the specialization field, the 677 petitions were structured as follows:

1. **Rights of the children:** 55 petitions.
2. **Rights of the family:** 24 petitions.
3. **Rights of the youth:** 13 petitions.
4. **Rights of the pensioners:** 458 petitions.
5. **Rights of the people with disabilities:** 87 petitions.

1. RIGHTS OF THE CHILDREN. In the field of protection of the child's rights in Romania, the People's Advocate found some malfunctions, which we present you synthetically, following the logic of analysis made by the UN Committee on Rights of the Child:

A. The civil rights and freedoms of the child (art. 7, art. 8, art. 13-17, art. 37 para. (a) of the UN Convention on the Rights of the Child).

As regards the phenomenon of children without identity, the People's Advocate is concerned about the percentage of the births non registered, although the legislation provides the registration of the children within 30 days of becoming aware of their abandonment. Also, the People's Advocate is concerned about the extremely long procedure of belated registration of birth, especially in the case of the children born at home or those whose parents don't have themselves a birth certificate.

B. Family environment and alternative care (art. 5, art. 18 para. 1-2, art. 9-11, art. 19-21, art. 25, art. 27 para. 4, art. 39 of the UN Convention on the Rights of the Child).

In connection with the children's family, the People's Advocate finds, in last years, a high incidence of Romanian children unaccompanied or separated from their families, children who came into attention of the authorities from other countries, some of them being abused and neglected even when they are with parents or relatives and, also, finds the growing number of children left without one or both parents working abroad.

In the field of adoptions, the People's Advocate notes with concern that the procedure established in the current law for the declaration of the adopted child seems overly long and contrary to the interests of the child, when family reunification is not an option.

C. Health and welfare (art. 6, art. 18 para. 3, art. 23, art. 24, art. 26, art. 27 para. 1-3 of the UN Convention on the Rights of the Child).

Regarding children with disabilities, the People's Advocate is mainly concerned about the fact that many children with disabilities are identified, enrolled in degree of disability and directed to appropriate services only when they are enrolled in education and that many children identified with a mental handicap are directed to schools for children with special needs, although very often they have only a developmental delay, caused by social, emotional or cognitive deprivation, so they do not actually suffer of any disability.

D. Education, recreation and culture (art. 28, art. 29, art. 31 of the UN Convention on the Rights of the Child).

In education, including vocational and professional orientation, the People's Advocate is concerned about the fact that enrollment in primary school has declined, while the number of students who leave school increased significantly in the last years and that most of the children with disabilities do not have access to any form of education and special schools do not accept children with severe mental disabilities.

E. Special protection measures (art. 22, art. 30, art. 32-26, art. 37 para. b-d, art. 38, art. 39, art. 40 of the UN Convention on the Rights of the Child).

Concerning the exploitation and sexual abuse of children, the People's Advocate is concerned especially about the large number of sexually exploited children and about the increase of the number of children trafficked from Romania to other European countries.

The main aspects highlighted by the petitioners in the 55 petitions addressed to the field of the rights of the child referred to right of information and, also, to right of the children and youth to a special system of protection and assistance in achieving their rights. Thus, a great number of petitions referred to the request of information regarding the parents rights and duties to minors resulted from their marriage or other marriage, the payment or increase of alimony, the allowance for children, the legal status of adoption, establishing the paternity, the transcription of Romanian children's birth certificates born abroad, issues of the legality of emergency placement, the conditions for medicines and free medical services, the legal possibilities of granting parental support.

2. THE RIGHTS OF THE FAMILY

In the **24 petitions** received by the field of the rights of the child, families, youth, pensioners and disabled individuals, regarding the protection of the family rights, the petitioners requested information in reference to: obtaining an inheritor pension, granting the veteran widow indemnity, the legal regime of property acquired during marriage or the right of inheritance.

There were also petitions containing complaints against the public institutions authorized to allocate social housing or to establish certain rights related to social protection of the family and, also, containing critics regarding the unconstitutionality or the application of provisions of Government Emergency Ordinance no. 111/2010 on parental leave and childcare monthly indemnity, approved by Law no. 132/2011.

3. THE RIGHTS OF THE YOUTH

In this field, petitions were analyzed, particularly in the context of the right to education, the right to information and the right of young people at a special protection. The **13 petitions** addressed by young people concerned especially the studying conditions and youth rights protected by specialized public services for child protection. Also, young people have requested information on granting inheritor pension after the age of 18 years.

4. THE RIGHTS OF PENSIONERS

The **458 petitions** regarding pensions were in reference to obtain information on conditions and procedure for granting different types of pensions and, on the other hand, to the dissatisfaction of the pensioners with:

- refusal of the pension houses to give information on legal conditions for granting pensions or explanation about calculating pensions or about withholding money from pension, after issuing debit decisions which are usually caused by incorrect calculations made by employees pension houses, not the fault of pensioners;
- 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 manner some territorial pension houses calculated or recalculated pensions;
- the impossibility to obtain a disability degree;
- the impossibility of obtaining certificates to attest the quantum of salaries and increases with permanent character required for the recalculating pensions;
- delays in payments of the rights to pension;
- the refusal of the pension houses to enforce permanent and irrevocable judicial decisions for establishing the rights to pension;
- mistakes and omissions oh the pension houses in calculating pension rights or not taking into consideration all the documents submitted by petitioners for recalculation;
- difficulties in recalculating pensions as a result of the contribution stages obtained after retiring date for old age;
- abusive behavior of some employees pension houses in relation to pensioners;
- the way of determining the amount of pension to persons who worked in special conditions;
- illegal suspension of payment of pensions;
- difficulties in restoring seniority or impossibility of developing all periods worked, for example, the period worked in agriculture;
- wages taken into account in the recalculation of pensions, the periods for which incomes were not included in his employment record and can not be proved by certificate;
- retention of health insurance contributions;
- withholding contributions to Single National Health Insurance for those pensioners of public pension system in Romania who said residence or domicile in another state under the provisions of Order no. 1.285/437/2011.

Another aspect revealed by petitions from pensioners concerns required contribution stage

- the time required by Law. 263/2010, according to age, the insured had made the contribution period for obtaining a disability pension. Thus, there are situations in which, although the disease affecting the person concerned is deeply serious and disabling (stroke resulting in paralysis or myocardial infarction), those persons are required to achieve full contribution period, while for other diseases, also serious (cancer, schizophrenia and AIDS), there is provided the right to disability pension, regardless of length of contribution period.

Another issue that held our attention refers to the impossibility of reconstruction of the entire stage of contribution by negligence of the employer or the pension house, so, although the insured was retained social security contribution, it has not been paid by the employer to pension house who did not intervene to correct this situation.

5. RIGHTS OF PEOPLE WITH DISABILITIES

In the field of protection of disabled people, the People's Advocate has received **87 petitions**, which dealt with: issues concerning the degree of disability classification, not granting the rights to disabled persons, unjustified revaluation degree of disability, obtaining a degree of

disability lower than previous, refusal of local authorities to employ personal assistants for people with severe disabilities who have been established entitlement to a social assistant, delayed issuance of certificates of employment in a degree of disability, overcoming time to achieve accessibility for the disabled persons, lack of funds to pay personal assistants, competent public authorities' refusal to evaluate the disability application to change the initial classification.

There can be found differences between disease classification, depending on the degree and type of disability, regulated by Law no. 448/2006 on protection and promotion of disabled persons, republished, with subsequent amendments and International Classification of Functioning, Disability and Health, adopted and approved by the World Health Organization, as Law. 448/2006 refers to the disease while International Classification focus on participation and position held, not on disability and restriction, take account of environmental factors and include the areas of health and health related fields.

CHAPTER VI

ARMY, JUSTICE, POLICE AND PENITENTIARIES

In the activity field of Army, justice, police and penitentiaries there were registered and solved a number of 1080 complaints. The People's Advocate initiated an ex officio investigation in 4 cases, an investigation was carried out and one special report was issued.

Depending on the specialization of this department, these 1080 petitions were structured as follows: Army: 24 petitions, Justice: 956 complaints, Police: 43petition, Penitentiaries: 57 petitions.

The present report shows a favorable trend in the People's Advocate activity during the 2011. People's Advocate activity improved significantly speaking in terms of quality, compared to earlier years, aspect which is due to an increasing proactive role of the institution.

Thus, in 2011, the People's Advocate initiated an ex officio investigation of the following cases presented by the mass media: the case of a driver presented on the Antena 3 TV station regarding a possible abuse by local police in Constanta. In this case, it was carried out an investigation at Local Police in Constanta; the registration of an increasing number of car accidents produced on public roads in Romania comparative with the average of ones produced in the European Union (so, in Romania, in the last 10 years, about 25,772 people were killed in car accidents); the case of some Romanian citizens deprived of freedom, who died in detention in Italy; the case of an Iranian citizen sentenced to death by the Islamic Revolutionary Court in Tehran, whose application for asylum was rejected by the Romanian Immigration Office.

Also, at the end of 2011, it was elaborated an Special Report presenting the situation of article 5 par. 1 letter a) of Law no. 221/2009 regarding the political convictions and the assimilated administrative measures taken between March 6, 1945 to December 22, 1989, with subsequent amendments, since this article was declared as being unconstitutional by the Constitutional Court Decisions. 1354/2010, no. 1358/2010 and no. 1360/2010, published in the Official Gazette, Part I, number 761 dated November 15, 2010.

1. ARMY

Complaints received in the Army field of activity were analyzed in the context of constitutional provisions of art. 31 on the right to information, art. 47 on the standard of living and art. 51 on the right of petition and dealt with: recalculation of military pensions; lack of responses from the Ministry of National Defense; unresolved complaints on obtaining certificates on data contained in documents held by the archives of military units under the Ministry of National Defense; unresolved requests addressed to the Romanian Intelligence Service on the issue of certificates showing income of former employees of the institution.

The individuals brought to the attention of the People's Advocate that they have addressed to public authorities by petitions (complaints and notifications) for solving problems on calculating military pensions, contesting decisions on revision of the pension, granting allowances or the issuance of certificates, claiming undue delay or refusal to communicate a response to these requests.

There were also registered complaints of citizens about requesting information on how to interpret the law applicable in the military field.

During 2011, the People's Advocate continued to be seized by individuals who have experienced difficulties in obtaining certificates by military units on the wages they made when they were paid by these military units.

As in previous years, the People's Advocate received complaints of former employees of the Ministry of National Defense expressing their dissatisfaction with the way the Ministry has calculated or recalculated the amount of compensation payable as a pension.

Sometimes, the complaints sent proved to be well-founded, the errors being amended after the intervention of People's Advocate.

2. JUSTICE:

Complaints registered in the field of Justice were examined in the context of constitutional provisions of art. 21 on free access to justice, art. 24 on the right of defense, of art. 31 on right to information, art. 52 on the right person aggrieved by a public authority and dealt with: appealing on the judgments or contesting solutions issued by prosecutors; complaints about the way that judges handle the admission, management and evaluation of evidence during trials; dissatisfaction about the way prosecutors are carrying out the criminal acts; delays on solving cases by the judicial organs; refusal to inform litigants by the prosecution about the stage of solving the complaints; complaints against judges, prosecutors and bailiffs; deficiency in drafting decisions by courts or requests for an urgent motivation or communication of court decisions; inability to enforce the final and irrevocable court's decision; complaints concerning the application of Government Emergency Ordinance no. 71/2009 on payment of amounts provided in court decisions in order to confer some payment rights to personal from budgetary sector; providing legal advice; request to be assisted or represented before the judicial bodies; information on how to obtain free legal assistance.

In the field of justice, petitioners generally refer complaints regarding: the lack of celerity in judging cases, repeated delays and settlement of very long terms, lack of trust in justice and the need for rapid and profound changes of the judiciary system in order to make judges and prosecutor accountable.

According to petitioners, the delay is due mainly to the following factors: providing multiple deadlines for hiring a lawyer, failure to submit expert reports, the failure of the authorities required relations etc.

All this above leads to solving cases without a reasonable time (which is why Romania was sentenced to European Court of Human Rights in several cases, some of which are presented in this report).

3. POLICE

Complaints recorded in the field of police activity were analyzed in the context of constitutional provisions of art. 21 on access to justice, art. 31 on right to information, art. 41 labor and social protection of labor, art. 51 on the right of petition and art. 52 on the right person aggrieved by a public authority and dealt with: challenge of records on contravention, appeal against the police answers on how the complaints raised by petitioners were solved; dissatisfaction with the failure of respecting the rights of persons who are in temporary custody or detention; challenging the measures taken by the police during a criminal investigation; complaints about the time taken for the police bodies to resolution of complaints and their lack of response to the problems faced by citizens; notification about irreverent behavior of some workers in the police; the complaints of some workers of local police against the mayor's decisions that were driving back into public office and they have changed the amount of

compensation under Law no. 330/2010 regarding the remuneration unit personnel paid from public funds, without including a supplementary allowance.

Regarding complaints that were submitted to the Ombudsman and which were designed to challenge some contraventions, we mark the lack of rigor of the police officers on the occasion of the preparation of these documents, here we refer directly to the failure to comply with the substantive and procedural requirements laid down by the Government Ordinance no. 2/2001 on the legal regime of contraventions.

Regarding petitions dealing with failure of respecting rights of persons who are in temporary custody or detention, issues that were actually brought to the attention of the Ombudsman at hearings provided at the institution, it refers to the fact that police did not make known to suspects or defendants about rights they have during the criminal procedure, with strict reference to the right to receive legal advice from a lawyer of their choice or by default, as well the right to be informed of the reasons for accusation or proceedings in case.

4. PENITENTIARIES Petitions by detainees solved within the Penitentiary field of activity were analyzed in the context of the constitutional provisions of art. 21 on access to justice, art. 22 on the right to life and to physical and mental integrity, art. 24 on the right to defense, art. 31 on the right to information, art. 34 on the right to health, art. 51 on the right of petition and art. 52 on the right person aggrieved by a public authority and dealt with: complaints regarding the sentences; challenging the Commission's decision for individualization of penalties; transfer to other prisons; challenging incident reports upon which disciplinary sanctions were applied; complaints about the lack of impartiality of delegated judges for the execution of custodial sentences in prisons; obtaining parole, motivated by poor health of the person deprived of liberty; requesting information on existing regulation about the possibility of detainees to contribute with an income at social security found as a result of work performed in state prison, so they can receive a pension; complaints about the solutions issued by courts; complaints about mistreatment in prison; prison management's failure to file an application for refusal of food; dissatisfaction with the conditions of detention; clarifying aspects regarding the deduction of the pension received in prison; lack of involvement of prison personnel in resolving issues related to medical review; requesting transfer from foreign prison in prisons from Romania; difficulties in receiving medical treatment recommended by medical specialists in penitentiaries.

Many complaints dealt with detainees' dissatisfaction about the measure of transfer from one prison to another, measure that prisoners have appreciated it as abusive.

In these situations, following the steps we taken, it was found that the measure ordered by the director of the National Administration of Penitentiaries was justified by the existing overcrowding in some prisons, or by the change of penalty regime or the urge of presentation of the detainee during the court case pending.

Another category of petitions dealt with the unresolved complaint regarding the medical review and payment of pensions to persons serving a custodial sentence and complaints about conditions in prison.

Also, inmates continued in 2011 to bring the People's Advocate some aspects on which the Ombudsman can not intervene because their resolution is in the law courts, for example: dissatisfaction with the sentences handed down by courts; challenging the Commission's decision for individualization of penalties, challenging incident reports upon which disciplinary sanctions were applied; complaints about the lack of impartiality of delegated judges for the execution of custodial sentences in prisons.

CHAPTER VII
PROPERTY, LABOR, SOCIAL SECURITY, DUTIES AND TAXES

Within the field of activity: property, labor, social security, taxes were distributed and analyzed 1279 petitions, out of 3758 complaints registered at the headquarters of the institution, and compared with 2010, which were recorded 1617 complaints, we note a decrease.

With the appointment of the new Ombudsman, the work in this area has grown significantly on the investigations conducted, ex officio investigation, issued recommendations and special reports prepared, because of his new vision, "the Ombudsman to the people and not necessarily people to the Ombudsman".

In this regard, we note that as beginning with October 1, 2011, there were made five inquiries, were issued five recommendations (4 of these were issued as a result of irregularities in inquiries), and a special report was made.

Particular emphasis was given to ex officio inquiries, based on articles presented in mass - media, thus 4 cases of ex officio inquiries within this field of activity.

There were also complaints on issues going beyond limits of the Ombudsman institution, especially regarding disputes arising between individuals, and those arising from natural and legal persons or between individuals and associations of owners. In these cases, in People's Advocate answers were found information on applicable legal rules and guidance on public authorities competent in solving problems encountered.

1. PROPERTY In 2011 there was a total of **942 petitions** regarding compliance by public authorities of the right of private property guaranteed by art. 44 of the Constitution, which often has been linked to art. 31, art. 51 and art. 52 of the Constitution, the right to information, the right to petition and the right of the person aggrieved by a public authority.

The main issues brought to the attention of the Ombudsman institution focused on law enforcement in the matter of restitution ownership of agricultural land and forestry, restitution of buildings, payment of money under Law no. 9/1998 and Law no. 290/2003, the delay in solving compensation cases registered at the National Authority for Property Restitution and the refusal of this authority to communicate the stage of solving the files, but also of folders pending in Bucharest City Hall.

In order to clarify the issues raised by petitioners, the People's Advocate took steps both to local commissions and the county commissions to establish private ownership of land, and the land registration offices and asked for legal measures to be taken and inform the Ombudsman about it. Following our intervention it was found that public authorities involved in the restitution of ownership of land does not comply with the Regulation on the procedure for establishing the constitution, powers and functioning of commission on private ownership of land, the model and the award of title deeds and giving possession to owners, approved by Government Decision no. 890/2005.

Regarding the application of Law no. 10/2001, republished, the petitioners complained People's Advocate mainly about the failure of the competent public authorities and institutions to respect the term established by law for the settlement of notifications submitted by the persons entitled.

Most complainants accuse, often in a right way, deficiencies in the organization and administration of municipalities, lack of communication or unwillingness, sometimes going up to the refusal to implement court decisions.

The main problems identified during the steps taken by the People's Advocate refer to: ignorance and lack of provisions regarding land laws by some local and county commissions; delay in implementation of court decisions; manifestation of a lack of demand on the part of the chairmen of the county committee, pursuant to Law no. 247/2005.

2. LABOR AND SOCIAL SECURITY.

As for the right to labor and social protection of labor, in 2011, **154 complaints** were analyzed in the context of a possible violation of labor rights and social protection of labor, provided by art. 41 of the Constitution.

Among the issues raised by petitioners were found: alleged abuses related to employment and redundancies made on the basis of laws, granting labor rights and overcoming the legal hour of program without compensations due by employers, the refusal to release a proof of previous employment after the cease of job, granting legal holidays or a cash compensation of leave not taken.

Since the institution of People's Advocate has a mediating role and its purpose is to protect the rights and freedoms of individuals in relations with public authorities, only in some cases were taken steps.

It was noted that most people have noticed infringement of labor rights and social protection of labor by companies and these injured persons were advised to seek intervention of competent courts of law or to address to the labor inspectorates and after that, if necessary, to return to the People's Advocate.

We mention that among the cases we solve it was emphasized a problem of a petitioner, who asked to be euthanized, along with her daughter because they did not have enough money to live.

In this case it was made an investigation, issued a recommendation, and prepared a special report. Following the recommendation, the People's Advocate was informed that the salaries of personal assistants for disabled persons and allowances due to persons with disabilities for 2011 were fully paid.

The special report was not only to highlight the problems faced by a special category of employees, namely personal assistants, but also to determine, through the recommendations we proposed, a coherent legal and administrative framework designed to ensure mainly the fundamental right of personal assistants to labour.

3. SOCIAL PROTECTION. During 2011, in the context of the constitutional provisions of art. 31 on the right to information, art. 47 on the standard of living, art. 51 on the right of petition and art. 52 on the right of person aggrieved by a public authority were recorded and analyzed a number of 122 complaints concerning: the allocation of social housing, providing minimum income guaranteed aid for heating during winter.

4. DUTIES AND TAXES.

In 2011, 61 complaints were analyzed in the context of art. 31, art. 52 and art. 56 of the Constitution on the right to information, the right of person aggrieved by a public authority and the right to a fair assignment of fiscal duties. There was been highlighted the following problems: wrong calculation of taxes by central and local public administration authorities; the calculation of the contribution paid to National Fund For Health Insurance; tax claim compensation; transmission of payment orders by health insurance funds on contributions due to income from renting property without previous payment notices.

CHAPTER VIII

THE ACTIVITY OF TERRITORIAL OFFICES OF PEOPLE'S ADVOCATE

In order to ensure the access of all citizens to their rights, their exercise and to prevent all forms of infringement by local and central public administration authorities, supporting the constitutional principles underlying the rule of law, the Ombudsman institution has expanded its territorial activity by establishing since 2003 of 14 regional offices functioning of the 15 regulated: Alba Iulia, Bacău, Braşov, Cluj, Constanţa, Craiova, Galaţi Iaşi, Oradea, Piteşti, Ploieşti, Suceava, Târgu Mures Timişoara. Slobozia Territorial Office has not yet been established because of budgetary restrictions.

Compared to 2010, the regional offices' activity in 2011 continued to increase especially after October 1, 2011 when appeared change in the conduct of the institution's activity and, therefore, of regional offices.

The effectiveness of regional offices has resulted in 2011 in solving of a number of 3801 complaints, conducting 10 investigations, granting 13,948 audiences, answering at 4583 phone calls at dispatch service, especially after October 1, 2011.

A special place in the work of regional offices they held in 2011 for the promotion of activities and inter-institutional cooperation materialized in 259 newspaper articles, 116 radio-tv shows, 128 press conference and 159 cooperation agreements with public authorities.

In order to solve quickly problems of citizens, regional offices of People's Advocate have developed a continuous collaboration with public authorities, consisting of interviews and draw-up cooperation agreements, participation in events organized by local authorities.

On 20-21 June 2011, at the headquarters of the People's Advocate it was held the sixth annual training of territorial offices of the People's Advocate, and on November 25, 2011 a meeting was held in Brasov between p. Dr. Gheorghe Iancu, the Ombudsman, the management of the institution and the regional offices' staff, this being the first meeting attended by all experts and advisors from regional offices not only by their coordinators.

A novelty regarding territorial offices was the enactment, in November 2011, of a Regulation on organization and operation territorial offices that did not exist before the appointment of the new Ombudsman, Mr. Gheorghe Iancu.

Also note the participation of territorial offices of the People's Advocate at over 70 seminars, conferences, round tables and public debates. During this activity the representatives of regional offices presented dissertation.

The People's Advocate granted social aid for children from the special fund he has.

CAPITOLUL IX

THE ACTIVITY OF PEOPLE'S ADVOCATE IN THE FIELD OF CONSTITUTIONALITY CONTROL OF LAWS AND GOVERNMENT ORDINANCES. THE APPEAL IN THE INTEREST OF LAW

1. THE ACTIVITY OF PEOPLE'S ADVOCATE IN THE FIELD OF CONSTITUTIONALITY CONTROL OF LAWS AND GOVERNMENT ORDINANCES.

This activity materialized through the formulation of **471 points of view related to the exceptions of unconstitutionality** upon the request of the Constitutional Court and through the direct submission to the Constitutional Court of **2 exceptions of unconstitutionality and** analyzing a number of 401 draft laws in order to exercise the right of appeal to the Constitutional Court before promulgation.

In the exercise of its constitutional and legal role, People's Advocate directly raised before the Constitutional Court a number of 2 exceptions of unconstitutionality, concerning the unconstitutionality of art. 121, art. 124, art. 125, art. 128 par. (5), art. 207 par. (1), art. 209, art. 215 par. (1), art. 288 par. (1) and art. 289 par. (1) and (2) of Law no. 1/2011 of national education, with reference to constitutional provisions guaranteeing university autonomy and economic freedom as well as unconstitutionality of art. 196 lit. j) of Law. 263/2010 on the unitary public pension system, with reference to art. 16 of the Constitution relating to equal rights and art. 140 par. (4) regarding the status of members of the Court of Auditors

During 2011, the People's Advocate expressed a number of 471 **points of view related to the exceptions of unconstitutionality**, at the end of the year being registered a significant increase of the of point of views.

We present below some examples of the work of the People's Advocate in formulating point of views on the exceptions of unconstitutionality submitted by the Constitutional Court:

- The provisions of art. 45 par. (3) - (6) of Law no. 7/1996 of the cadastre and real estate publicity have been the subject of unconstitutionality. In his point of view, People's Advocate showed that the provision of the law are unconstitutional as contrary to art. 44 of the Constitution concerning the right to private property.

- Constitutional Court requested to the People's Advocate his point of view on unconstitutionality of the provisions of art. 320¹ of the Criminal Procedure Code in relation to art. 15 par. (2) and art. 16 par. (1) of the Constitution. People's Advocate appreciated that the provision criticized do not respect the Constitution, being in conflict with the principle of equality before the law and with the principle of more favorable criminal law enforcement.

- People's Advocate was asked to express his point of view regarding the exception of unconstitutionality of art. 7 par. (4), art. 17 letters. f), art. 20 and art. 28 para. (1) of Law no. 182/2002 on the protection of classified information and art. 5 par. (3) of the Law no. 554/2004 on administrative contentious. In his point of view, the People's Advocate considered that the impugned provisions of Law no. 182/2002 are constitutional

Given the task of the People's Advocate provided by the provisions of art. 13 letter. f) of Law no. 35/1997, republished, with subsequent amendments, the matter directly before the Constitutional Court with the exception of unconstitutionality of laws and ordinances, several petitioners have asked him to rise exceptions of unconstitutionality of certain provisions.

1. PETITIONS DESIGNED TO PROMOTE THE APPEAL ON THE INTEREST OF LAW. Exercising his new powers, the People's Advocate examined a number of 20 petitions.

From their examination we could not find any contradictory between court decisions because, on the one hand, petitioners have filed conflicting judgments and, on the other hand, there is no legal obligation for courts to communicate these decisions to the People's Advocate.

A petitioner asked for the promotion of appeal on points of law given that it had already been promoted and there was a decision of the High Court of Cassation and Justice in this regard.

Most complaints concerned the reporting of alleged irregularities related to the resolution of a single case in court, were not identified as factors justifying an appeal on interest of law.

In the Romanian legal system, an appeal on interest of law is not a remedy whose effect is to reform decisions taken in a case, but it is a procedural instrument designed only to ensure consistent interpretation and application of the law by all courts. As a result, this formal provision, the appeal in the interest of law can not solve problems of violation of citizens' rights in individual cases.

CHAPTER X

LAW SUITS, JUDICIAL ISSUES OF THE INSTITUTION

In 2011, the People's Advocate was party in a number of 24 cases. Of these, one was a labor dispute (an action promoted by a former employee, finally resolved favorably to the High Court of Cassation and Justice) and other causes were the actions when the petitioners brought the institution in the front of the court along with other state authorities or a number of petitioners who were dissatisfied with the steps taken to resolve complaints.

Of the 24 cases, 9 of them were pronounced final judgment and the remaining cases are pending in courts in various stages (first instance, and appeal).

In the causes that were based on the disagreement of petitioners about the actions undertaken by the institution, the point of view of the People's Advocate Institution was that being an ombudsman institution, the People's Advocate contributes to the solution of conflicts between the natural entities and the authorities of the public administration, amiably, through mediation and dialogue.

In addition, in a large number of files, the institution was summoned to trial without being the issuer of the documents under contestation or without being connected to the alleged violated right. In these causes, for the exercise of the right to defense, we invoked the absence of passive trial quality.

The individuals who promote requests to summon to trial the People's Advocate Institution do not take into consideration the fact that the People's Advocate Institution acts as a surveillance authority, and has no legal means to coerce, bind or sanction another public authority, aspect clearly highlighted by the provisions of art. 13 letter c) from the Act No. 35/1997, republished, further amendments and supplements included, according to which (the People's Advocate) aims the legal solution of the requests received and asks the authorities or the clerks of that public administration to reassign the rights of the petitioners and to repair the damages, as well as by the provisions of art. 21 paragraphs (1) and (2) which establish that "in the exercise of his competences, the People's Advocate issues recommendations that cannot be subject to parliamentary or legal control. Through the recommendations issued, the People's Advocate notifies the authorities of the public administration about the illegality of administrative documents or actions".

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 XI

RELATIONSHIP WITH OMBUDSMEN, SIMILAR INSTITUTIONS AND MEDIA

In 2011, the People's Advocate Institution in exercising its competences as an independent autonomous public authority has increased the internal actions to ensure achievement of this objective, and externally has increased its activity as regards the strengthening relations with similar foreign institutions, regional and international organizations in the field.

These events undertaken by the People's Advocate Institution had significant impact on increasing the role and prestige of the People's Advocate as an institution of the rule of law, causing a significant increase of the institution's image, both internally and internationally.

People's Advocate Institution has made its presence felt internally by increasing the number of attending the meetings, seminars, workshops, visits and other official events, especially after October 1, 2012.

Out of the internal level participations we mention:

- Meeting of the institutions and organizations active in the field of juvenile justice;
- Meeting on the institutional dialogue on the implementation and monitoring the European Charter for regional and minority languages;
- Conference on the launching the document regarding the analysis of the vulnerabilities of the Romanian judicial system. Solutions and proposals for modernization;
- Presentation of the annual report for 2010 of the National Administration of Penitentiaries;
- Meeting of the representatives of the Romanian side with the Council of Europe delegation on the first monitoring visit regarding the application by Romania of the European Charter of Regional or Minority Languages;
- Debate on racial issues;
- Launching in Romania the Migrant Policy Index Study – MIPEX III;
- Launching the Study on immigration in Romania. Integration of foreigners in the Romanian society;
- Visit of UN Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul de Albuquerque at the People's Advocate Institution;
- First edition of the Verticality Awards;
- The XV Congress of the Conference of the European Constitutional Courts;
- Visit of the representatives of the Regional House of Representatives of the Republic of Indonesia (DPD RI), led by Hj. Hairiah, Sh., MH, member of the House of Representatives from Kalimantan Province at the People's Advocate Institution;
- Debate Migration beyond the prejudices and myths;
- National Conference Evaluation from the perspective of human rights assessment of the current community property retrocession confiscated by the communist regime. The case of the Greek-Catholic community;
- Visit of Ms. Debra Long, international expert on the rights of persons deprived of liberty to the People's Advocate;
- Launching the ALTFEM national project – a campaign to change the image of women in society;
- Meeting regarding current issues in the field of human rights in the context of obtaining by Romania, for the second time, the membership of UN Human Rights Council;

- Launching the Romanian version of the OSCE manual – Police, Roma and Sinti: best practices in building trust and understanding;
- Launching the Research Report Public Administration for the benefit of children – general measures to implement the Convention on the Rights of the Child at national and local level in Romania;
- Meeting with three representatives of the Ministry of Defence and a representative of the Ministry of Interior, regarding the establishment of the Army Ombudsman Institution in Romania;
- Participation of the People’s Advocate to the events organized by the Embassy of Spain on the occasion of National Day of Spain;
- Meeting with Council of Europe delegation that made the third visit to monitor how is applied the provisions of the Framework Convention for the protection of national minorities by Romania;
- Meeting of the People’s Advocate with the Mayor of Bucharest;
- Participation of the People’s Advocate to the joint solemn meeting of the Chamber of Deputies and Senate devoted to the 90 years anniversary of His Majesty King Mihai I;
- Conference Strengthening associations of magistrates in South East Europe – development of organizational management, participation in decision-making and regional cooperation;
- Participation of the People’s Advocate at the ceremony of awarding the Doctor Honoris Causa title to Mr. Academician Mugur Isarescu, the Governor of the National Bank;
- Participation of the People’s Advocate to the events organized by the Embassy of the Czech Republic on the occasion of the National Day of the Czech Republic;
- Debate on the results of the National Integrity System Study;
- Participation of the People’s Advocate to the forth edition of the Conference Day of Liberal Professions of Romania;
- Meeting of the People’s Advocate with Ira Guse, Third Secretary at the Embassy of Germany;
- The bilateral Romanian-Hungarian Seminar – coordination of social security in Europe;
- Road Safety Forum 2011 – Civil Society;
- Debate Democracy and freedom;
- Launching the Report Analysis regarding the promotion and promotion of child rights;
- Participation of the People’s Advocate to the debate of the draft Law on the revision of the Constitution, which took place at the Legal, Discipline and Immunities Commission from the Deputies Chamber;
- Participation of the People’s Advocate to the Evening of the Elisabeta Palace, dedicated to celebrating the 20th anniversary of the National School of Political and Administrative Studies;
- Round Table Romania after 2012 elections. Where to?;
- Symposium History of the Romanian bill – 130 years of printing in Bucharest the first banknotes issued by the National Bank of Romania;
- Workshop Children with parents abroad: Children home alone;
- The forth annual National Conference on recent Sectorial reforms in the European Administrative Space in the context of good governance; implementation and evaluation;
- International Conference on the economic importance of gender equality;
- Joint meeting of the Commissions for petitions for the Romanian Parliament with the delegation of the European Parliament Committee on Petitions;
- Debate protection of children against sexual exploitation: challenges, best practices, courses of action;

- Launching of the volume Romania 1945-1989. Encyclopedia of the communist regime. Repression. vol. I. A-E;
- Manifestation on Romani language – the foundation of Roma identity;
- Meeting regarding the Equality of chances between men and women organized by the Area human rights, equality between men and women, religious cults and national minorities with representatives of associations, organizations and foundations dealing with human rights issues;
- Workshop Immigrants and the media – between ethics and press subject;
- Celebrating the International Day of Disabled People;
- Symposium on constitutional development of Romania. Tradition and modernity. 20 years after the entry into force of the Romanian Constitution of 8 December 1991;
- Identity and stereotypes Event. Shaping perceptions of Roman in the media vision;
- Seminar on financing the projects at regional, national and European level: limits and opportunities of public-private partnership;
- Gala on awarding the Prize for Children’s Rights;
- Round Table – Homage to the International Human Rights Day, organized by Iasi Territorial Office in partnership with Iasi City Hall and the County Direction for Youth and Sport, to celebrate the International Day of Human Rights;
- Seminar vulnerable women – needs, resources, solutions to improve the situation;
- Digital Agenda for Romania event;
- Symposium developments of rights and fundamental freedoms in the 20 years since the adoption of the Constitution. The People’s Advocate – a new mandate, a new vision for the defender of the people, organized by the Pitesti Territorial Office and hosted by the “Dinicu Golescu” County Library;

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The People’s Advocate Institution participated in various ceremonies and events, organized on the occasion of important events, such as: Romanian Principalities Unification Day, Day of the State Independence of Romania, the United Nations Coalition Day in word War II and the European Union Day, Heroes Day, National Flag Day, National Anthem Day, Romanian Army Day, National Day of Romania, manifestation organized by Organization for Human Rights on the occasion of International Human Rights Day.

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Externally, the People’s Advocate Institution has intensified its activity in terms of strengthening relations with similar institutions abroad, regional and international organizations in the field, through participation in numerous meetings, conferences, symposia and other reunions.

Of these, a special importance had the following events:

- The third Conference of the Ombudsman Institutions for the Armed Forces, organized by the Defender of Citizens of Serbia in cooperation with Geneva Centre for the Democratic Control of the Armed Forces (DCAF) and Ministry of Defence of the Republic of Serbia, 13-15 April, 2011, in Belgrade;
- Consultation meeting on protection of migrants organized by the Council of Europe in cooperation with the Greek Ombudsman, 5-6 May, 2011, Athens;

- Meeting of the Council and the Board of European Ombudsman Institute – EOI, 14 May, 2011, Innsbruck;
- Training program “Sharpening your teeth”, organized by the General Secretariat of the International Ombudsman Institute – IOI, 5-8 June, 2011, Vienna;
- International conference on UN Convention on the Rights of Persons with Disabilities - reality and prospects for people with special needs, organized by the Centre for Human Rights in Moldova and the Council of Europe, 19-21 September, 2011, Chisinau;
- General Assembly of the European Ombudsman Institute – EOI, 22-25 September, 2011, Novi Sad;
- The 8th Seminar of the European Network of Ombudsman, organized by the Danish Parliamentary Ombudsman and the European Ombudsman, 20-22 October, 2011, Copenhagen;
- The 5th Annual Meeting of National Human Rights Structures Contact Persons – NHRS, organized by the Directorate General of Human Rights and Rule of Law of the Council of Europe within the framework of the "Peer-to-Peer II Project, 8 December 2011, Ljubljana;

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During 2011 the People’s Advocate Institution continued collaboration with universities across the country, by making the students internships at its headquarters and territorial offices. Internships have been made by a number of 176 students from the following faculties: Faculty of Law – University of Bucharest, Faculty of Law – University “Babeş-Bolyai” Cluj-Napoca, Faculty of Law – University “Alexandru Ioan Cuza” of Iasi, Faculty of Law – University “Dimitrie Cantemir”, Faculty of Law - University “Nicolae Titulescu” Bucharest, Faculty of Law - Romanian-American of Bucharest, Faculty of Law, Political and Social Science - University “Lower Danube” Galati, Faculty of Law and Legal Sciences – Pitesti University, Faculty of Law, Administration and Communication - University “Constantin Brâncoveanu” Pitesti, Faculty of Law - “Spiru Haret” University Bucharest.

CHAPTER XII

COMMUNICATION AND THE OMBUDSMAN'S RELATIONS WITH THE MEDIA

The appointment of a new People's Advocate resulted in a new direction in relation with the media. Thus, the media is regarded as one of the means by which the People's Advocate is closer to citizens, according to the principle "*the People's Advocate to the people and not necessarily the people to the People's Advocate*". To achieve this primary goal, the People's Advocate started in December 2011 a campaign to promote the People's Advocate activity, which will continue in the first three months of 2012 in all counties. Within this campaign are organized press conferences and interviews on local radio and television and in local newspapers. In December 2011 such events were organized in Iasi (9-11 December), Pitesti (21 December), Cluj-Napoca (23 December), Baia Mare (28 December) and Constanta (30 December). These actions have been very well received by both journalists and the citizens.

Secondly, the media represents a source of information for the People's Advocate on acts or facts that may be the object for ex officio investigations (for example, the interruption of health supply in Mangalia and Brad cities, the case of Staicu family from Strehaia, when Mrs. Staicu asked the local authorities to euthanize her and her daughter, the driver assaulted by police officers in Constanta).

Thirdly, the media is part of the means by which the People's Advocate (as an Ombudsman type institution) benefits if a public authority, an autonomous stage management, no matter the level they are organized and function and over the public services under the central or local government authority refuse to comply with its recommendation. In this case, the People's Advocate may address to the media and the case will be publicized.

Given the importance of institution's relations with the media, the People's advocate issued the Order no. 65/2011 on the People's Advocate communication and relations with the media. For the first time, the People's Advocate Institution proceeded to accreditation of journalists, both at headquarters and at territorial offices.

In November 2011, has been launched the new website of the institution, with a new name, namely, **www.avpoporul.ro** and a completely new content. Also, the website includes versions in English and French. The website of institution already has an average of 200 daily views.

The cooperation between the People's Advocate Institution and the European Ombudsman continued in 2011 and the articles written by experts and counselors from the People's Advocate Institution were published in the European Ombudsmen Newsletter.

Also, during 2011 the People's Advocate Institution has published a quarterly Informative Bulletin, which contains detailed aspects of activity undertook, assessments submitted by the complainants and public authorities to the People's Advocate Institution, cases resolved through the People's Advocate intervention.

The People's Advocate and his deputies in the media

From 1 January – 30 September 2011, relations of the People's Advocate Institution with the media were extremely low, namely: an interview with Mediafax of the former People's Advocate and a press conference organized on the occasion of submitting the activity Report for 2010.

From 1 October -31 December 2011, the institution's activities in relation with media both centrally and locally has experienced an increase unprecedented in the history of the People's Advocate Institution. Thus, in just three months, the People's Advocate together with his deputies gave 14 interviews to television channels, 7 radio interviews and 6 interviews and articles were published in the in the central media and 10 interviews and articles were published

in the local newspapers. During this time, 4 press conferences were held and 13 press releases were published.

Communication and relations of the territorial offices of the People's Advocate with media

Communication and relations of the territorial offices of the People's Advocate with media also saw an unprecedented increase. Thus, in 2011, 241 articles regarding the activity of the territorial offices were published and the representatives of the territorial offices participated in 80 radio and television shows.

CHAPTER XIII

HUMAN RESOURCES, MATERIALS AND BUDGET

1. Human resources. The People's Advocate is headed by the People's Advocate, assisted by four deputies, specialized on four fields of activity.

In the territory, the activity is carried out by the 14th territorial offices of the 15th legally constituted, organized on the geographic criterion of the Courts of Appeal.

The institution's staff consists of: a coordinator director, 20 counselors, 45 experts, 6 referees, 1 chief of cabinet and 6 employees as technical and administrative staff.

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

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

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

The coordinator director coordinates the economic and administrative activity of the institution.

The Consultative Council operates within the institution and it includes the People's Advocate, his assistants and councilors, the general secretary as well as other individuals appointed by the People's Advocate. The Council assembles once a month or as often as necessary.

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

In 2011, the People's Advocate Institution developed its activity with a personnel diagram that included a number of **99 positions** subsidized distributed at the center and at the territorial level.

At the beginning of 2011 there were 11 vacant positions and during the period January-December, another 7 positions were vacant, a total of 18 positions.

At the end of 2011 there were 18 vacant positions: 3 counselor positions at the area Human rights, equality of chances between men and women, religious cults and national minorities; 2 counselor positions and 1 expert position at the area Rights of children, family, youth, pensioners, individuals with disabilities; 1 counselor position and 2 expert positions at the area Army, justice, police, penitentiaries; 1 counselor position at the area Property, labor, social security, duties and taxes; 1 counselor position at the Brasov Territorial Office, 1 chief of cabinet position, 2 referees positions, 3 drivers and 1 caretaker at the administrative office.

The personnel within the institution, is assimilated to the personnel from the specialization structures of the Parliament.

2. MATERIAL AND BUDGETARY RESOURCES

For the 2011 activity, the budget of the People's Advocate Institution was 5.570.000 lei.

Although the budgetary discharge of 2011 was 99.67% of the allocated budget, presented in terms of rhythm disturbances spending allocated funds, which led to substantial savings and eventual dismissal by the state budget 11.51% from the budget originally allocated.

At Title I. Staff expenses were realized savings due mainly to the impossibility of filling the 11 vacancies reported in late 2010, but the vacancy, in 2011, a further 7 positions. Extending

the art. 22 of Government Emergency Ordinance no. 34/2009 on the 2009 budget rectification and regulation of financial and fiscal measures made impossible to fill the 18 vacancies and thus substantial savings in terms of wage costs.

Thus, the analysis of budgetary execution at the end of the third quarter of 2011, by the Government Emergency Ordinance no. 96/2011 on the budget revision for the year 2011 were with down budgetary credits worth 600,000 lei.

According to art. 54 of Law no. 500/2002 on public finances were recessed budget credits worth 10,000 lei. In this way, the budget remaining to be served in 2011 was 3,845,000 lei and salary costs have been the end of 2011, amounting to 3,839,221 lei. This budget implementation of the basis for a reduced budget, in terms of staff costs for 2012.

At Title II. Goods and services were maintained during 2011 restrictions on purchases of furniture and office equipment as required by art. 24 of Government Emergency Ordinance no. 34/2009 on the 2009 budget rectification and regulation of financial and fiscal measures, but also the Government Emergency Ordinance no. 55/2010 on measures to reduce public spending, which contained provisions that resulted in lower volume of expenses allowed the institution in terms of monthly fuel consumption. Following the measures taken to 31.12.2011, from the budget approved this item of expenditure totaling 947,000 lei and 914,012 lei were spent, the budget execution of 99.67%.

At Title VII. Other transfers the budget execution transfers was 50.50% and the economy made was determined by the exchange rate RON/EURO that was practiced by international bodies to pay bills on which the institution is affiliated.

In Title X. Non-financial assets the institution had an initial provision of 160,000 lei, of which, 130,000 lei were for purchasing a car. This acquisition was made pursuant to Art. 24 paragraph (3) letter e) on the Government Emergency Ordinance no. 34/2009 on the 2009 budget rectification and regulation of financial measures, as amended and supplemented, as the People's Advocate was equipped with a car that was within the provisions of Order no. 772/2011 for approval of the Program Guide funding to stimulate the national car park renewal. Budget appropriations consumed were 156,072 lei, achieving a 97.55% of budget implementation.