



PEOPLE'S ADVOCATE INSTITUTION



Summary of the
2021 ACTIVITY REPORT

Bucharest
2022

CHAPTER I

DEPARTMENT ON HUMAN RIGHTS, EQUAL OPPORTUNITIES FOR MEN AND WOMEN, RELIGIOUS CULTS AND NATIONAL MINORITIES

The department covers human rights issues in general, which is reflected in a large number of complaints, with a complex case law on the rights and freedoms of individuals. Out of the total number of **1889** complaints assigned to the department, steps were taken to the relevant public authorities for a number of **195** of them, and for the rest of the complaints, the individuals were referred to the responsible institutions, authorized by law, being indicated the legal way to be followed, or specifying the conditions under which the People's Advocate institution may intervene in resolving the notified cases. Among the petitions assigned to this department, in which violations of fundamental rights and freedoms were reported, as in previous years, most concerned the violation of the right to petition and the right to information, but also the right of the person aggrieved by a public authority. The analysis carried out at the level of the department showed that most of the files were resolved in favour of the complainant, in the sense of obtaining the requested information or obtaining the answers to the petitions addressed to the institutions by the complainants.

During 2021, **5 inquiries** were carried out at several public institutions and, in some cases, by the minutes of the inquiry, provisions having the nature of recommendations were noted, which the authorities concerned accepted, for the most part, so that it was no longer necessary to issue recommendations under Art. 24 of Law no. 35/1997, republished.

The department **proceeded ex officio in 69 situations**, using this institutional power in the sense of identifying the system problems which focused on, among other things, health and education, healthy environment, equality of rights, etc.

Eight recommendations were also issued.

The department has contributed to the preparation of the *Special Report on the Lack of Family Physicians in Rural and Disadvantaged or Hard-to-Access Areas*.

There have been situations where, as a result of some steps taken in this regard, central public institutions have analysed the opportunity to reform the normative acts, without the need to issue recommendations, aspects that continue to be subject to monitoring by the People's Advocate institution.

We emphasize the **good inter-institutional collaboration**, in order to solve the cases reported by the complainants or the media, especially with the National Sanitary Veterinary and Food Safety Authority (ANSVSA), Iași County Public Health Directorate, Street Administration within Bucharest City Hall, National Authority for Citizenship etc.

Among the **authorities that did not provide the necessary support** to the People's Advocate institution in exercising its duties, the following stand out: National Authority for Consumer Protection, Târgu Jiu City Hall, Ministry of Health, Ministry of Education, National Institute of Public Health, etc.

CHAPTER II

THE RIGHTS OF THE FAMILY, YOUNG PEOPLE, PENSIONERS, PEOPLE WITH DISABILITIES

In 2021, **960** complaints were allocated to the Department on the rights of the family, young people, pensioners, people with disabilities. From these complaints, **150** files were opened, the other **810** complaints being resolved without opening a file. According to the department's area of competence, the **960** complaints were structured as follows:

- Youth and family rights: 102 complaints
- Pensioners' rights: 475 complaints
- Rights of persons with disabilities: 383 complaints

Youth and family rights

Most applications addressed to the department on family rights, youth, pensioners, persons with disabilities, regarding the protection of family rights were submitted by complainants without income, with very low occasional income, without housing or with inappropriate living conditions and whose requests for support addressed to the competent authorities have been unsuccessful. Usually, public administration authorities confirm the difficulties faced by complainants and consider them entitled to receive various forms of social assistance, but, due to lack of funds, they cannot be granted.

Complaints regarding young people's rights have been examined mainly in the context of the right to education, the right to information and the right of young people to a special protection regime.

As in previous years, complaints concerning the violation of the rights of family and young people were resolved without opening a file, the complainants requesting legal advice on: delays encountered in the resolution of applications for social housing and measures to prevent and combat social marginalization; difficulty of social integration for young adults raised in residential institutions; non-granting of scholarships within the term established by the University Senate; the obligation to support the relatives admitted in a private asylum; obtaining or indexing the maintenance pension; war veteran's widow's allowance; the legal regime of the goods acquired during the marriage, or the right to inheritance. Complaints were also addressed regarding the right of families to a guaranteed minimum income, as a form of social assistance, according to Law no. 416/2001. In order to support the citizens, the People's Advocate institution sent instructions both regarding the legal provisions and regarding the opening of the file for obtaining this income from the social assistance services of the town halls.

There have been several complaints concerning domestic violence. Many complainants prefer to seek the support of the People's Advocate for resolving family disputes, rather than going to court. Sometimes, direct intervention in family relationships is required, other times only information on how to resolve the conflict. Most complainants are reluctant to take legal action and hope that their problem will be resolved more quickly and efficiently through the intervention of an authority other than the judiciary.

The rights of pensioners

In the **475** complaints concerning pensioners' rights, the complainants requested information and explanations on the legal conditions for granting pensions, their calculation, social security legislation and how pension funds understand to implement this legislation.

The complaints addressed to the People's Advocate Institution concerned, in essence, the following issues:

- dissatisfaction with the postponement of the application of the 40% indexation of pensions, as provided in Law no. 12/2019;
- criticism of Law no. 263/2010 on the unitary public pension system, with subsequent amendments and completions, regarding “the way of increasing the pensions in payment” and the request to correct the errors;
- clarifications regarding the way of obtaining from the former employer some certificates attesting the activity in the second work group, as well as other bonuses;
- the way of solving the difficulties encountered in recognizing the work seniority carried out in the second work group;
- dissatisfaction with the non-payment of social security contributions by the former employer;
- dissatisfaction with the recalculation of the military pension;
- difficulties encountered in capitalizing on the apprenticeship period;
- calculation of pension rights and verification of the retirement file by the People's Advocate institution, as an independent entity;
- explanations regarding retirement conditions;
- criticizing the manner in which the certificates for pension recalculation were issued by the former employer or the conditioning of their issuance;
- failure of the pension funds to take into account all the documents submitted by the complainants in order to recalculate the pensions;
- the fact that the application of Law no. 223/2015 on state military pensions, with subsequent amendments and completions, was not done correctly by the Sectoral Pension House of the Ministry of National Defence, as military pensions were not updated with all the elements that depend as a percentage on the base salary;
- reimbursement of amounts unduly collected as social security benefits without clear explanations;
- delays in resolving requests for revision of the recalculated pension or for establishing pension rights or the transition from one type of pension to another and even the lack of response to some petitions;

Regarding the issues of a legislative nature, we note an aggravation on the critical attitude of policyholders and pensioners towards the regulations in force. Among the issues related to legislative issues complained of to the People's Advocate, we mention: criticism regarding the minimum contribution period in terms of violation of the right to a decent standard of living, because one cannot capitalize the years of contributions, if they are less than the minimum contribution period of 15 years; dissatisfaction with some of the conditions imposed by private pension funds on their clients in relation to the right to dispose of the amounts deposited.

The rights of people with disabilities

During 2021, the People's Advocate participated in the consultation sessions of the Inter-ministerial Committee for Ensuring the Implementation of the United Nations Convention on the Rights of Persons with Disabilities, initiated by the National Authority for the Rights of Persons with Disabilities, Children and Adoptions (ANDPDCA). Many of the

topics that were discussed in this inter-institutional framework were included in the National Strategy for People with Disabilities in Romania 2021-2027, and they also were the subject of complaints received from people with disabilities, this year.

The complaints concerned the rights and facilities due by law to persons with a degree of disability, rights violated by the public authorities that should grant them. Problems have been reported in the dynamics of hiring by the city halls of assistants for severely disabled people with the right of personal assistant and the payment of their salaries or leave, the local public authorities invoking, in essence, insufficient local budgets. The petitioners also complained about the delay in the payment of benefits in the form of monthly incentives, granted at the level of the Municipality of Bucharest, to adults with a degree of disability. Other complaints concerned the disinterest of public authorities towards the conditions under which urban and interurban transport is carried out in Romania, in violation of the legislation in force on accessibility of people with disabilities to the physical environment, or the applications for social housing for people with disabilities.

The complex assessment of the disabled adult was also the subject of many complaints received by the People's Advocate, the complainants with disabilities expressing their dissatisfaction with the unjustified rejection of granting documents attesting the degree of disability, the change of degree of disability to a lower one although their health situation has not improved or the maintenance of the same degree of disability, despite the worsening of their health, proven by medical documents. Several complaints referred to the situation of persons with disabilities who have been deprived of their legal capacity and to the way in which this legal status affects their rights.

CHAPTER III

DEFENCE, PROTECTION AND PROMOTION OF CHILDREN'S RIGHTS

In 2021, at the level of the Department on Defence, protection and promotion of children's rights, were registered a total number of:

- **625** complaints;
- **1106** ex officio proceedings;
- **37** investigations;
- **74** recommendations;
- **148** participations in debates, conferences, symposia with the theme of promoting and respecting children's rights.

Of these, at the headquarters, 507 complaints were registered, 219 ex officio proceedings were made, 8 investigations were carried out, 7 recommendations were issued, and there were 51 participations in debates, conferences, symposia; the activity of the territorial offices, detailed in Chapter VII, consisted in: 118 complaints, 887 ex officio proceedings, 29 investigations, 67 recommendations, 97 participations that targeted possible violations of children's rights. Examples of case studies can be found in the mentioned chapter.

At the same time, media activities were carried out, having as object the presentation of the duties of the Ombudsman for Children, as well as other topics related to the protection and promotion of children's rights, resulting in a total number of **38** such actions.

Also, a **monitoring visit** was made, together with the Department on the prevention of torture in places of detention (NPM), to the Placement Centre for residential protection of children Târgu Cărbunești, within the General Directorate of Social Assistance and Child Protection Gorj.

Complaints and ex officio proceedings mainly concerned the following categories of issues: requesting information on establishing / denying the paternity of minors; exercising parental authority and maintaining personal ties with minors following the dissolution of marriage; non-payment of maintenance; the phenomenon of parental alienation; exercising forms of verbal, physical, mental and sexual violence against minors; access to medical treatment or how it is provided in medical units for children; transcription of civil status documents issued by the authorities of other states; granting the monetary rights due to children with special educational needs, who are also classified as disabled; granting school scholarships; granting state allowances; closure of schools due to lack of conditions (heat, water, sewerage); the situation of minor mothers; the phenomenon of bullying (cyberbullying); the situation of children with parents working abroad, as well as in any situation where children's rights are not respected.

The year 2021 was also characterized by the COVID-19 pandemic, therefore ex officio proceedings and complaints were made regarding issues related to this pandemic, such as: wearing protective masks in classrooms / sports halls and in the perimeter of educational institutions; testing students in schools; lack of masks / tests in schools; vaccination of children; compliance with health protection measures to prevent infection; suspension of physical education courses due to the occurrence of COVID-19 cases and the conduct of school activities in online format; maintaining personal ties between the non-resident parent and the child in the context of pandemic restrictions.

Another relevant action carried out during the period of the state of alert was the notification by the People's Advocate of the Ministry of Education to request additional information on the questionnaires expressing the intention to take the vaccine among students, as well as on the establishment of vaccination centres in schools or the establishment of mobile teams in this regard, as a result of the registration of a number of over 180 complaints with similar content, through which some aspects related to the beginning of the school year 2021-2022 were criticized.

On the organization of the vaccination campaign in schools, the People's Advocate also addressed the General Secretariat of the Government and requested information.

From the answers communicated by the notified authorities, it results that the vaccination process in schools is organized so as not to affect the educational act, the vaccination of minor students is done only with the informed consent, expressed in writing, and in the presence of the child's parent / guardian, and the questionnaire expressing the intention to take the vaccine among minor students is not mandatory. **Collective petition no. 16970/2021**

The field of activity of the department was extended to the situations related to: road accidents involving minors, both perpetrators and victims, the situation of minor migrants transiting Romania accompanied / unaccompanied by parents, the situation of needy families, minor victims of crimes or minors who commit crimes and are criminally liable, disappearances of children.

An extensive special report was prepared: *Special Report on the impact of the Covid-19 pandemic on children's mental health - recommended measures to improve children's access to psychiatric and psychological health services*, a report accepted by the Ministry of Education. The content of the report can be found in full on the institution's website, at <https://avp.ro/wp-content/uploads/2021/06/Raport-impact-pandemie-Covid-sanatate-mintala-SITE-cu-anexe.pdf>.

Also, a **research** was prepared on *Children whose parents are working abroad*.

In 2021, the Slobozia Territorial Office of the People's Advocate institution was established, at the level of which also works an expert, directly subordinated to the Ombudsman for Children.

De department on defence, protection and promotion of children's rights - the Ombudsman for Children has contributed to increasing the visibility of the institution and promoting its image both in the media and in press conferences, but also by participating in awareness raising activities and organizing webinars / monthly, on various topics concerning the rights of the child, among which we mention: *Prevention of bullying; The way in which the parents keep their personal ties with the minor children after the dissolution of the marriage; Online school: Challenges and uncertainties in the context of the pandemic; The multidisciplinary approach to the case of missing minors; long-term causes and effects. Current limitations of the legislative system, proposals to improve it; The effects of various forms of abuse on child development. The need to improve the system for preventing, intervening and combating this phenomenon; Debates on how to involve local public authorities in supporting needy families; Managing, at the level of the administrative-territorial units, the situations of voluntary departure of minors from the family; Current issues regarding the observance of children's rights by public institutions in the field of education, health or police.*

During 2021, the People's Advocate granted financial aid, from the fund made available to the Ombudsperson, to families with many children, who were facing a precarious financial and social situation.

CHAPTER IV

ARMY, JUSTICE, POLICE, PENITENTIARIES

In 2021, **3317** complaints were assigned to the department on army, justice, police, penitentiaries, as follows:

- Army: 33 complaints
- Justice: 1509 complaints
- Police: 251 complaints
- Penitentiaries: 1449 complaints
- Other: 75 complaints

The complaints settled in this area mainly concerned the following issues:

- dissatisfaction of military personnel with salary rights and pensions;
- complaints from police staff regarding police logistics, salaries and pensions;
- the manner and term of solving the cases pending before the courts or before the prosecutor's offices, the execution of the court decisions, the manner of fulfilling the service duties by the bailiffs;
- the measures taken by the authorities during the states of alert;
- conditions of detention in prisons, in particular those relating to food, violence against persons deprived of their liberty, by prison staff, violence between detainees, use of video monitoring equipment in places of detention, non-granting of conditional release and transfer to other prisons.

As a result of some of these complaints, a number of 976 files were opened (army - 4, justice - 92, police - 63, penitentiaries - 810, others - 7). Also, a number of 36 files were opened following the ex officio notifications.

In 2021, the investigations carried out, especially in places of detention, focused mainly on detainees' accommodation conditions, food and medical care in prisons. During the investigations carried out, online hearings were used, using Skype.

Also, within the department, the ***Special Report on the shortage of personnel within the Romanian Police and the logistical endowment of the police officers*** was drafted, a document through which a series of proposals were advanced to contribute to the improvement of the police officers' activity.

Also, the representatives of the department carried out activities that exceeded the settlement of petitions, respectively participated in the hearings service and dispatcher of the institution, represented the institution at various domestic and international events, attended training courses and participated in various seminars, with field-specific themes.

CHAPTER V

PROPERTY, LABOUR, SOCIAL PROTECTION, TAXES AND FEES

The department examines complaints regarding violations of civil rights and freedoms, through administrative acts or deeds, by public administration authorities and autonomous state enterprises, which deal with issues related to property, labour and social protection of labour, taxes and fees.

2181 complaints were examined, **81 investigations** were conducted at several public institutions and **4 recommendations** were issued. At the same time, the department **proceeded ex officio in 32 cases.**

Property

The complaints examined in this area had as object aspects related to the violation of the private property right, mainly concerning: the manner of application of the reparative laws in the matter of property; delaying the vesting in possession; delaying the issuance / modification of property titles; the lack of response from the authorities to the requests made by the beneficiaries of the laws for restitution of the property right; difficulties in establishing the property right over the land under which a building is constructed, in view of the amendments brought to Law no. 18/1991, by Law no. 213/2018 and Law no. 87/2020; delaying the adoption of solutions in the files established under Law no. 10/2001 by the entities responsible for solving the notifications; dissatisfaction with the granting of instalments / securities by the A.N.R.P. for compensation decisions issued by the C.N.C.I. based on court decisions; delaying the adoption of solutions in the files that have as object the requests formulated under Law no. 9/1998, as well as of Law no. 290/2003; procrastination / refusal of A.D.S. to make available to the local land commissions, through a handover-receipt report, the lands necessary for vesting in possession the persons entitled to the reconstitution of the property right; requesting information on the procedure for obtaining the construction attestation certificate.

In order to resolve the notified situations, steps were taken at the responsible entities, including investigations, through which the issues presented by the complainants were clarified, the requested acts were issued, and the decisions of the county commissions were communicated, in order to ensure the right to file an appeal against the solutions adopted.

Also, another problem which appeared in the reorganization of the activity of the prefect's institutions, with implications in the matter of reconstituting the property right, was generated by the establishment of the function of general secretary of the prefect's institution, whose attributions included that of secretary of the county land commission, through the amendments brought by point 5 of the Government Decision no. 66/2021, which created a blockage in the activity of all county commissions.

Regarding this situation, the People's Advocate institution proceeded ex officio (File no. 10042/2021), after which Law no. 155/2021 was adopted, regarding the approval of the Government Emergency Ordinance no. 4/2021, for the amendment and completion of the Government Emergency Ordinance no. 57/2019 on the Administrative Code, published in the Official Gazette of Romania, Part I, no. 571 of June 4, 2021, on the basis of which **the prefect, by order, can delegate, for certain reasons, the duties of the general secretary to the head of the legal department within the prefect's institution until the respective position is occupied.**

Related to the difficulties resulting from the way of applying the legislation in land matters, the main cause was the lack of involvement/communication/collaboration between the responsible authorities (local commissions, county commissions, forest departments / forest directorates, research and development centres, O.C.P.I., A.N.C.P.I. , A.N.R.P., A.D.S.), to which is added the complex documentation that must be drawn up for the creation of a file, a major impediment, in this sense, being the slow pace of realization of parcel/cadastral plans, both from the point of view of accessing the necessary funds, inclusion in the administrative-territorial units' budget, as well as due to the lack of cadastral experts in their organizational chart. Another important cause was represented by the non-finalization of the documentation regarding the situation of the land in the reserve of the local commissions, these lands being constituted, in some cases, also from unidentified areas and/or with the mention "uncertain positioning".

In the case of complaints addressed to the People's Advocate institution, which exceeded the sphere of competence, the complainants were directed to address the competent entities/authorities, being also informed about the relevant legal provisions.

Recommendations: 4 recommendations were issued, of which 3 were accepted by their recipients, respectively **Recommendation no. 1/2021**, addressed to the leadership of the Regional Construction Inspectorate Bucharest Ilfov, **Recommendation no. 9/2021**, addressed to the leadership of the Mehedinți County Council and **Recommendation no. 10/2021**, addressed to the management of the Town Hall of Pristol commune, Mehedinți county, as well as **Recommendation no. 141/2021**, addressed to the president of the Satu Mare County Land Fund Commission, from the Prefect Institution of Satu Mare County and to the president of the Livada commune Local Land Fund Commission, Satu Mare County, within the Livada Town Hall, where the file is still pending. The content of these recommendations can be consulted on the website of the People's Advocate institution.

Investigations: In the course of 2021, within the subfield of property rights, **48 investigations** were carried out at several public entities/institutions, being recorded, in the minutes of the investigation, mentions having the nature of recommendation, most of which were accepted or were in the process of being applied/implemented.

Labour and social protection of labour

The People's Advocate institution was notified by complainants, in numerous cases, regarding the difficulties encountered with their employers, both public institutions and private companies, regarding the execution of employment contracts.

At public institutions, the People's Advocate undertook legal proceedings in accordance with Law no. 35/1997, republished, and with regard to the problems encountered by the complainants with private companies, they were directed to address the institutions with control powers in labour relations.

16 investigations and 19 ex officio proceedings were carried out to resolve the complaints we were notified with in the subfield of labour.

By way of example, we specify that the issues brought to the institution's attention, among others, concerned the following: non-payment of salary rights, sometimes followed by the impossibility of obtaining unemployment benefits for various reasons, including non-payment of legal contributions by the employer; suspension of the payment of the COVID-19 support allowance for professionals and persons who have benefited from the allowance provided for in Art. XV paragraph (1) of the Government Emergency Ordinance no. 30/2020; granting days off to parents from single-parent families other than single-parent families made up of employees of the national defence system, public order and national security,

penitentiary employees and staff from public health units; the difficulties encountered by the staff of the educational units in the age groups at risk and/or having chronic conditions and/or disabilities; granting survivor's pension for the children of medical personnel who died as a result of medical complications caused by infection with the COVID-19 coronavirus; not granting the risk incentive to entitled persons, etc.

Actions taken during the state of alert:

A particularity of this year, were the official complaints/notifications that signalled **the conditioning of employees' presence at the workplace by the vaccination or testing from their own financial sources, or the conditions imposed for the carrying out employment relationships.**

Normative acts adopted following the specific steps undertaken by the People's Advocate institution:

a. Law no. 59/2021 regarding the approval of the Government's Emergency Ordinance no. 182/2020 (**Ex officio proceeding no. 21256/2020** regarding the granting of days off to parents from single-parent families, other than single-parent families made up of employees of the national defence system, public order and national security, penitentiary employees and staff from public health units. The above-mentioned normative act also regulated the situations presented by the People's Advocate institution regarding the situation of single-parent families that benefited from the provisions of Emergency Ordinance No. 147/2020).

b. Government emergency ordinance no. 18/2021 (**Ex officio proceeding no. 2565/2021** regarding the granting of the risk incentive for family doctors, as representatives of their own medical offices, for medical and medico-sanitary personnel who carry out their activity on the basis of other types of contracts, other than individual employment contracts, as well as for medical assistants in primary medicine);

c. Government emergency ordinance no. 116/2021 (**Ex officio proceeding no. 22012/2020** regarding the granting of survivor's pension for children of medical personnel who died as a result of medical complications caused by infection with the COVID-19 coronavirus - Law no. 56/2020);

d. Emergency Government Ordinance no. 60/2021 (**Ex officio proceeding no. 3578/2021** regarding the protests of employees from the mining branches or power plant branches belonging to the Hunedoara Energy Complex, as a result of the delay in the payment of salary rights).

Taxes and Fees

In the matter of taxes and fees, in the course of 2021, complaints were analysed through which the petitioners referred, mainly, to problems related to: the calculation method of the tax/fee on buildings, respectively of the tax/fee on land; the content of the imposition decisions regarding the building tax/fee; the land tax/fee, respectively the tax on the means of transport; grievances related to the rejection of appeals against taxation decisions; attachments, writs of execution and summons regarding enforcement; special taxes (habitat tax, sanitation tax - natural persons, authorized natural persons, legal persons); conditioning the release of certain documents on the payment of fiscal obligations; non-communication of the decisions issued by all sector public administrations, which have as object requests for the restitution of the sums provided for by the Government's Emergency Ordinance no. 52/2017 regarding the refund of the amounts representing the special tax for cars and motor vehicles, the pollution tax for motor vehicles, the tax for polluting emissions from motor vehicles and the

environmental stamp for motor vehicles, an aspect which had as effect the impossibility of contesting the respective decisions in court; non-reimbursement of the Oxygen tax, etc.

In 2021, the *Special Report on the lack of family doctors in rural and disadvantaged areas or hard-to-reach areas* was prepared in collaboration with another department of the People's Advocate institution, and submitted to the prime minister, the presidents of the two chambers of Parliament, the minister of Health, the minister of Development, Public Works and Administration, the Romanian College of Physicians, the National Society of Family Medicine, as well as the Universities of Medicine and Pharmacy in the country, and at the time of writing this report, the Special *Report on respecting the right to work and social protection of work* was in the last stages of preparation.

CHAPTER VI

THE DEPARTMENT ON THE PREVENTION OF TORTURE IN PLACES OF DETENTION - NPM

No one shall be subjected to torture or to inhuman or degrading treatment or punishment... not even in case of war or other public danger threatening the life of the nation.

(Art. 3 and 15 letter 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms)

The worst cruelty is our indifference.

Nils Melzer, UN Special Rapporteur on Torture -
International Human Rights Day, 10
December 2021



*Department on the prevention of
torture in places of detention - NPM*

The activity of the NPM consists mainly of: making periodic visits, announced or unannounced, to places of detention; formulating recommendations to the management of the places visited and hierarchically superior authorities; formulating legislative amendment proposals; awareness raising activities on the NPM mandate and professional training of staff working in places of detention, regarding the prevention of ill-treatment.

External collaborators are also co-opted to carry out NPM activities, based on service contracts, selected by the Ombudsperson, based on the proposals received from the Romanian College of Physicians, the College of Psychologists in Romania and the National College of Social Workers. Thus, in 2021, the People's Advocate institution had 42 external collaborators (12 physicians; 10 social workers; 20 psychologists). Also, representatives of non-governmental organizations active in the field of human rights protection, selected based on their activity, by the Ombudsperson, participate in the torture prevention activity. Currently, collaboration protocols are concluded with 27 non-governmental organizations.

Monitoring visits to places of detention:

During 2021, the NPM carried out **79** visits to places of detention (**43 classic visits and 36 through alternative means to classic visits**, part of the visits being to verify the implementation of the recommendations formulated through previous visit reports):

- **Penitentiaries - 16 visits**
- **Psychiatric hospitals - 5 visits**
- **Detention and Preventive Arrest Centres - 14 visits**
- **Residential centres for children - 10 visits**

- Centres for adults with disabilities - 12 visits
- Centres for migrants - 3 visits
- Homes for the elderly - 19 visits

► **collaboration of the authorities with the NPM teams during the visits**

In the case of most of the units visited, there was a good collaboration of the management and staff with the members of the NPM, both during the classic visits and when the epidemiological situation required the use of alternative means, such as online meetings with the staff of the units and with persons deprived of liberty.

However, there have also been situations, such as the case of the Sf. Maria Home for the elderly, Unirea commune, Călărași county, when only part of the requested documents were sent, which demonstrates ignorance of the provisions of Art. 40 para. (1) from Law no. 35/1997, republished.

Another example is the Poroschia Psychiatric Hospital, which did not completely send copies of the general clinical observation sheets (of people who were hospitalized for more than 25 days in the hospital); the communicated documents did not contain the evolution of the patients during hospitalization, nor the informed consents that should have been signed upon admission.

Examples of deficiencies found during monitoring visits:

The reduced number of staff compared to the real needs of the monitored units represented, this year also, the main deficiency noted by the NPM teams.

In many of the penitentiaries visited, **overcrowding of the detention sections/rooms was found** (occupancy rate varied between 130%-160%).

And in some residential centres the number of **beneficiaries exceeded the legal accommodation capacity**.

Some of the deficiencies encountered by the NPM are presented below, depending on the type of detention place visited:

- **homes for the elderly:** ● there were no informative materials regarding the activities carried out and the services offered to the beneficiaries (brochures, leaflets, flyers), and in the case of the Home for the elderly Sf. Maria, Unirea commune, this information was not accessible even online, the unit not having a website or a presentation page on social networks; ● the beneficiaries admitted to the centre were not evaluated from the point of view of physical and mental functional status, health status and degree of preserved autonomy, communication ability, family and social relations, level of education, socio-economic situation, special treatment needs and recovery/rehabilitation, educational, cultural and spiritual needs, possible risks, possible addictions (drugs, alcohol, tobacco, etc.), work capacity - although this reassessment must be carried out annually, as well as when the situation requires it, respectively if there are significant changes in the state of health and in the physical and/or mental functional status of the beneficiary; ● medical assistance was inadequate (lack of medical personnel, failure to complete medical records, lack of informed consent forms); in the Home for the elderly in Sf. Maria, Unirea commune, medical assistance was provided by a single employed nurse; ● there were situations in which the beneficiaries received medicines for various symptoms (headache, abdominal pain), without the indication of the medical staff who recommended the treatment and without the description of the subsequent evolution of the case; in the register drawn up in the home there was no information about who prescribed the respective treatment, who supervised the case or about the subsequent evolution of the health status of the beneficiary (Smeeni Elderly Home); ● the doctor was not informed in the

situation when treatments were initiated on patients without an initial certain diagnosis, so as to avoid situations of medical malpractice; ● there were no informed consent forms for the medical assistance provided in the centre; ● the legal provisions regarding the preparation of the service monitoring sheet were not respected (the sheet must include 3 sections, respectively: health status and treatments performed, functional recovery/rehabilitation services and services for social integration/reintegration); the monthly, weekly or, as appropriate, daily activities were not registered, so that they could be adapted and customized according to the needs of each beneficiary; ● The individualized assistance plan did not include the activities carried out/services provided to cover the functional recovery/rehabilitation needs (psychological and/or physical), as provided for in Order no. 29/2019 regarding the approval of the Minimum Quality Standards for social services with accommodation, organized as residential centres for the elderly;

- **psychiatric hospitals:** ● there was a shortage of staff; in the case of the Titan Psychiatric Hospital "Dr. Constantin Gorgos" Bucharest, although the organizational chart provided for additional positions for medical and nursing staff, psychologists, social workers, physiotherapists, speech therapists, etc., these positions were vacant, not being put out to competition for their occupation; on the other hand, in the Poroschia Psychiatric Hospital, the organizational chart did not provide for positions such as that of social worker, occupational therapist/ergotherapy instructor, these activities being established as the responsibilities of the jurist or medical assistants; thus, the patients were not involved in occupational therapy or ergotherapy activities, individual or group recreational activities, due to the fact that there was no staff to coordinate these activities, only a small part of these activities were carried out with the support of medical assistants; ● the recommendations of the NPM (from a previous visit) were not implemented regarding the appropriate arrangement of the isolation rooms, as well as the replacement of their access doors and beds with new ones, according to the legal provisions in force (Psychiatric Hospital Poroschia); ● there were situations when psychiatric patients with severe somatic conditions were not received by transfer to a multidisciplinary hospital; ● the psychological office was not properly equipped; ● the number of counselling sessions performed by the hospital's psychologists per month was insufficient for the support and recovery of psychiatric patients (12 counselling sessions /month, in the case of the Gătaia Psychiatric Hospital); ● the psychologists did not develop individualized intervention plans for each patient included in the program of counselling or psychotherapy, specifying the objectives and recommended activities to achieve the objectives; ● voluntary contracts were not concluded with individuals or non-governmental organizations active in the field of occupational therapies, nor with universities, in order to carry out diversified activities with patients, but also to ensure internships for students;

- **penitentiaries:** ● some persons deprived of liberty served their sentences in penitentiaries located at a great distance from their homes (for example, in the Slobozia Penitentiary), and because of this, they were visited very rarely by family members (their visits implying a financial effort and a longer duration in these situations); ● the ratio of female/male employees was not respected (Ploiesti Women's Penitentiary Târgșorul-Nou); ● the accommodation conditions were inadequate (lack of furniture necessary to store personal belongings, poor hygiene, the presence of harmful insects, etc.); ● there was not even one accommodation room with a properly equipped sanitary unit for the disabled; ● there were no spaces intended for sports activities by the persons deprived of liberty in custody; ● the procedure for registering the refusal of medical assistance by a person deprived of liberty was not respected; ● there were no specific activities in the field of social reintegration, so as to

ensure a favourable climate for persons deprived of liberty, which would reduce educational, psychological and social vulnerability and facilitate social reintegration;

- **centres for migrants:** ● in the Centre for Accommodation of Foreigners Taken into Public Custody Otopeni, where the NPM carried out a visit to verify the implementation of the recommendations, the situation was similar to that found during the previous visit, in 2018: lack of staff, especially that on the date of the visit in 2021, many employees were on leave; three positions were vacant in the operational area; also, in the case of contractual staff, two positions of stoker and one position of waiter were vacant, and starting from the week following the visit, a position of caretaker became vacant; ● the permanence of medical assistance was not ensured, in both centres visited during 2021 (in the Accommodation Centre for Foreigners taken into Public Custody Otopeni, once every four days, for 24 hours the medical assistant was not present, sometimes there was no staff medical for the entire period of the weekend);

● the information regarding the rights, obligations, prohibitions and applicable disciplinary sanctions was not displayed in the rooms, in an international language, according to the provisions of Art. 5 para. (3) from the Regulation of internal order of the regional centres for procedures and accommodation of asylum seekers, approved by Order of the Ministry of Internal Affairs no. 130/2016 (Regional Centre for Accommodation and Procedures for Asylum Seekers Timisoara); ● several foreigners stated that they were not allowed to leave the rooms except during meal serving periods, and the fact that they were allowed to leave the rooms at the time of the NPM visit was determined by the presence of the visiting team (Accommodation Centre of Foreigners taken into Public Custody Otopeni);

- **Detention and Preventive Arrest Centres:** ● the accommodation conditions were inadequate: (lack of natural and artificial lighting, poor hygiene, walking yards without facilities - for example, in the Suceava Detention and Preventive Arrest Centre and the Brăila Detention and Preventive Arrest Centre); ● the rooms did not have a minimum space of 4 sqm/person; ● the toilet was not isolated, being separated from the rest of the room only by a curtain, which did not fully ensure the privacy of persons deprived of liberty; ● separation criteria were not respected when assigning persons deprived of liberty to detention rooms, in accordance with the legal provisions (in the Dolj Detention and Preventive Arrest Centre, a convicted person was accommodated together with arrested persons); ● the sanitary operating conditions of the centre were not periodically evaluated, until the construction of an above-ground detention centre (Prahova Detention and Preventive Arrest Centre); ● the working schedule of the medical staff was not adapted so that the distribution of medicines was carried out by him or in his presence; ● the permanence of medical assistance was not ensured; ● persons deprived of liberty were presented to the recommended medical consultations, with delays compared to the scheduled date; ● no Collaboration Protocol was concluded with a person who can communicate with a person deprived of liberty in custody, in case he does not speak or understand the Romanian language, whenever necessary;

- **residential centres for children:** ● for several years, the staff in the centre did not participate in professional training courses (Emergency Reception and Child Assessment Centre within the Giurgiu Social Services Complex); ● social assistance services were provided by the social worker, not respecting the legal provisions in the field of social assistance; ● The social and educational assessment sheets of the child, as well as the detailed assessment sheet of the child's needs, were completed and signed by the specialized inspector, as a member of the multidisciplinary team, signing as social worker even though he did not have this qualification; NPM reiterates the fact that the delegation of specific duties and responsibilities of the social worker to people from other specialties (psychologist, specialist

inspector, social worker), a situation found in several residential centres, could make it difficult to fulfil the duties set for them in their individual job description, being charged with additional responsibilities and difficult to implement because they do not have the specific skills; • inadequate accommodation conditions (worn furniture, poor hygiene, etc.) were found in a number of centres visited;

- *centres for adults with disabilities*: • there were no informative materials (leaflets, brochures, etc.); • the staff did not participate in continuous professional training activities (for example, in the case of the Câmpina Centre for Rehabilitation for Adults with Disabilities, the centre's social worker did not participate in such courses during 2020-April 2021); • there was no medical office set up within the unit (Garden Care and Assistance Centre); • medical recovery services were not provided; • certain sections of the documents (for example, the Personalized Plan) did not have notes in the Observations/Conclusions column, especially since some aspects recorded in the documents were quite general and would have required additional clarification; in the Evaluation Results section of the Beneficiary Evaluation Form, the identified needs and the short and medium-term objectives were also formulated in a general way, without specifying the specific needs and objectives for the beneficiary in question, given that the approach to the evaluation process of the beneficiary must be done in an individualized way (Nedelea Neuropsychiatric Recovery and Rehabilitation Centre for Disabled Adults); • the centre's social worker and psychologist shared the same 10 square meter office; the office could not provide enough space for the two specialists, nor optimal conditions for carrying out conversations/counselling sessions or other specific activities carried out with the beneficiaries, nor could it induce the beneficiaries a sense of safety, privacy and confidentiality during the meeting (Adult Rehabilitation Centre for Adults with Disabilities Campina); • the number of sanitary groups accessible for the use of residents with locomotor disabilities was reduced or there was no accessible bathroom; • the unit did not have a space specially designed for the various types of recovery/functional rehabilitation services/therapies, nor a space designed and equipped accordingly to carry out social integration/reintegration activities/therapies, although these services were indispensable in the case of some beneficiaries.

At the Horia Neuropsychiatric Recovery and Rehabilitation Centre, a resident diagnosed with Alzheimer's disease, was immobilized as a result of a functionally unrecovered femoral neck fracture, which generated significant pain when the staff tried to mobilize the beneficiary. She did not benefit from functional recovery services, as the centre did not employ a physiotherapist. Following the recommendations of the NPM, a doctor specializing in physiotherapy and medical recovery was consulted, who recommended, as the only effective measures: physical therapy, passive mobilization to prevent bedsores, massage for muscle toning, performing an orthopedic specialist check for recommendations and therapeutic conduct (possible surgical intervention if the doctor considers it can be performed). The beneficiary's case manager proposed informing the beneficiary about the steps taken and obtaining her consent/cooperation for the specialized medical check-up (orthopedic doctor); following the specialized medical examination, according to the doctor's recommendations/guidelines, a recovery program (kinesiotherapy/massage) was to be developed and carried out. Documents such as: medical consultation sheet, beneficiary information minutes, transfer request, evaluation sheet, personalized plan, action plan, monitoring sheets, were communicated to the NPM.

In the visit reports drawn up in 2021, **804 recommendations** were made to the monitored units and hierarchically superior authorities. The vast majority of the recommendations were **implemented** (622 recommendations - **77%**), and in the case of the

recommendations remaining unimplemented (182 recommendations), the reasons being, in general, justified: unit dissolved after the visit; lack of financial funds; non-registration of participants in the contest in order to fill the vacant places, or the units visited were within the legal deadline for formulating the answer to the NPM.

Examples of successfully implemented recommendations:

- in the **Iași Penitentiary**, following the recommendation of the NPM, work was started to build a new visiting sector, according to the specific needs of persons deprived of liberty, considering that, at the time of the visit, intense activity could be observed in the visiting sector, although the space in which the meetings were held was not sufficient, the building being old, dark, in an inadequate state of hygiene;

- in the case of the **Timișoara Penitentiary**, in order to allow the participation of as many people deprived of their liberty as possible in labour activities, the NPM formulated the recommendation to continue the steps to conclude service contracts with legal entities; according to the answer, 50 service contracts were concluded with various economic operators, a number of 444 persons deprived of liberty carrying out remunerated labour activities; also, the unit was in discussions with 5 beneficiaries, in order to provide the possibility to participate in remunerated activities for 50 persons deprived of liberty;

- following the recommendation of the NPM, the staff of the **Sopârlița Care and Assistance Centre** were trained on recognizing and combating forms of abuse and neglect, exploitation, violence, degrading treatment, emotional, physical or sexual abuse; also, the care and support staff were trained on first aid, risk management and other procedures used in the centre;

- in the **Centre for emergency reception and assessment of the child within the Giurgiu Social Services Complex**, on the recommendation of the NPM, solutions were identified to increase the child's sense of belonging to the centre, increasing cohesion between children and staff through the permanent implementation of some psychological activities with the role of preventing risky behaviours by exploring the environment necessary for the development of the beneficiaries as well as their relationship and openness towards other children and towards the staff;

- in the **Horia Neuropsychological Recovery and Rehabilitation Centre**, for one of the beneficiaries, who was not classified as disabled, steps were being taken to resolve the legal situation (identity establishment). The NPM recommended the urgent resolution of the beneficiary's legal situation and his assessment in order to determine the degree of disability and, possibly, the transfer to a centre according to the type of deficiency. According to the response communicated by the centre's management, steps were being taken to issue an identity card for the beneficiary and, after the clarification of his civil situation, the other objectives related to his socio-medical situation were to be achieved. In March/April, correspondence was carried out with IPJ Tulcea, in which consent was given for taking samples for DNA determination, in order to establish the identity of the unknown person, this depending on the appointment at the National Institute of Legal Medicine, but also on the consent of the alleged mother. After establishing the identity and obtaining the identity card, the beneficiary was to be evaluated in order to determine and issue the disability certificate;

- in the case of the **Poroschia Psychiatric Hospital**, the NPM recommended that the accident suffered by a person in the performance of his work related duties, as a result of an aggression that causes temporary incapacity for work for at least 3 calendar days, disability or death, should be considered a work accident, in the case of assaults suffered by hospital staff in the performance of their duties (according to the provisions of Art. 5 letter g), Art. 30 and

Art. 31 of Law no. 319/2006 on safety and health at work, as amended). According to the response communicated, steps were taken in the hospital to develop a work procedure related to the registration and analysis of work accidents;

- in the *Slobozia Penitentiary*, as a result of the recommendations of the NPM, steps were taken to transfer persons deprived of their liberty who are at considerable distances from their homes, so that, by the date of the response (June 3, 2021), two inmates have already been transferred; for the other inmates, the management of the penitentiary unit mentioned that they did not receive any requests from them regarding the transfer to another penitentiary unit located in the proximity of their home, in order to start the legal procedures for making the transfer;

Steps have been taken to fill vacant positions, for example: 9 agents have been hired in the operative sector, starting on March 10, 2021; also, an education officer, an accounting agent and a store agent were being recruited from the external source; competitions were underway to fill the post of an IT officer, from an external source, as well as an education officer and an officer to keep the evidence of the detainees, from an internal source, and it was stated that steps would be taken to put the vacant posts up for competition.

At the level of the medical department, the nurses were trained on the recording in the Nurses' Shift Change Process, as well as in the Register of Traumatic Injuries, of the cases of self-harm, of the absence/presence of suicidal intent. This activity was to be monitored by the day staff on the unit, respectively the shift leader on duty, on the occasion of the presentation of the person deprived of liberty who resorted to acts of self-harm; he was to make the appropriate entries in the incident file, as the case may be, entries that may determine the inclusion of the respective person in the monitoring of the multidisciplinary team for the management of aggressive / self-harming behaviours.

Examples of unimplemented recommendations: (in most cases, the non-implementation of recommendations was justified by the units visited)

- to the recommendation for setting up a medical office within the *Grădinari Care and Assistance Centre*, which would comply with the legal requirements, the General Directorate of Social Assistance and Child Protection Giurgiu communicated that this could not be done due to the configuration and compartmentalization of the building; beneficiaries received health care support in a space arranged inside the living area, with minimal necessary equipment and in which there was a lockable cabinet where medicines and materials needed for medical treatments were stored, to which only authorized staff had access.

- in the case of the *Smeeni Home for the elderly*, NPM notified the hierarchically superior authority (General Directorate of Social Assistance and Child Protection Buzău), considering that some recommendations were not implemented, including: reducing overcrowding in the home; ensuring a special space arranged for the various types of services/functional recovery/rehabilitation therapies offered and a space arranged and equipped accordingly to carry out social integration/reintegration activities/therapies. According to the response communicated by the Directorate, the possibility of expanding/building new accommodation spaces and activities is being analysed, either by accessing funds or by including in the budget for the year 2022 some amounts for this purpose, this being an objective that was to be contained in the county strategy for the development of social services 2022-2027.

- in the case of the *Poroschia Psychiatric Hospital*, neither a reasoned response to the recommendations nor the concrete steps regarding the implementation of several recommendations were communicated to the NPM, such as: taking steps for the appropriate arrangement of the isolation rooms; the provision of sanitary facilities accessible to persons

with disabilities; starting steps to supplement the existing staff with positions such as: social worker, occupational therapist; filling vacant positions; periodic training of hospital staff; identifying solutions to attract patients to socialization and occupational therapy activities, in order to increase self-esteem and safety, so that the patient can become independent; intensifying efforts to transfer social cases that cannot be reintegrated into the family in order to place them in social services adapted to the identified psycho-social needs. Consequently, a letter was addressed to the Teleorman County Council asking them to communicate complete information regarding the implementation of the recommendations, however, until the time of writing this report, no response was received.

- in the case of the ***Psychiatric Hospital "Sf. Nicolae" Roman***, some of the NPM recommendations were not implemented, for example: intensifying the surveillance of patients with severe diagnoses, which can lead to serious medical situations and even death (as was the case of a patient who suffered cardio-respiratory arrest, through mechanical asphyxia with food); completing all the data regarding the application of the restraint measure (degree of restriction and immobilized anatomical segments), both in the Restraint Register and in the General Clinical Observation Sheet of each patient; the continuation of surveillance measures, prevention and limitation of healthcare-associated infections; intensifying approaches to the competent authorities, with the aim of improving the situation of social cases. NPM asked the hospital for information on the measures taken to implement the recommendations.

► During 2021, **based on the collaboration between the departments and the Territorial Offices of the People's Advocate institution**, NPM made a visit to the placement centre intended for the residential protection of children Târgu Cărbunești, together with the Department on the defence, protection and promotion of children's rights (Ombudsman for Children) and carried out an investigation at the Căprioara Home for the Elderly, Arad county, together with the Timișoara Territorial Office, following an ex officio notification regarding possible ill-treatment of the beneficiaries.

Proposals for legislative changes:

- during the visit to the ***Iași Penitentiary***, the **National Administration of Penitentiaries** was recommended to take the necessary legal measures to *develop unitary system procedures, which can be applied in all penitentiary units and which would facilitate the access of persons deprived of liberty to specialized medical investigations*, as well as improving the way in which the collaboration is carried out with the Târgu-Ocna Penitentiary-Hospital, as a unit through which the purchase of medical equipment, medicines, disinfectants, other sanitary materials, as well as other products necessary for the activity of the penitentiary is carried out. According to the response received, we were informed that *a joint project of the Minister of Justice and the Minister of Health regarding the provision of medical assistance, treatment and care to persons deprived of liberty in places of detention under the authority of the National Administration of Penitentiaries is being developed*.

- during the visit to the ***Bucium Iași Residential Centre***, it was recommended to the **General Directorate of Social Assistance and Child Protection Iași** to take steps at the Ministry of Labour and Social Solidarity to present the existing situation in the residential centres and to request an increase in the amount of the food allowance granted to the beneficiaries, at a value that ensures menus with quality products and that also respects the conditions of diversity and caloric ration recommended for beneficiaries. According to the response received, such an initiative took place in June 2021, and a point of view will be received.

Actions to raise awareness on NPM duties, participation in conferences, internal and international symposia, staff training, working groups:

In 2021, NPM carried out **187** such actions.

When setting the annual activities, the NPM takes into account the SPT's recommendation to focus not only on visits, but also other prevention activities, such as media actions (awareness raising actions regarding the prevention of torture) (CAT/OP/ROU/ 1).

► In order to increase the level of awareness regarding the prevention of torture and ill-treatment, the NPM carried out this year also an **extensive awareness raising activity** addressed both to persons deprived of liberty, as well as to the staff in places of detention and to the authorities that have subordinate units subject to NPM monitoring (**124 awareness raising actions**)

► Regarding the **professional training of MNP members**, during 2021, alongside the national and international seminars, workshops attended by NPM members, professional training activities were organized at an internal level, within the People's Advocate institution, with topics such as: Qualities needed for the coordinator of an NPM visit; The involuntary admission procedure in French law; Elaboration of the visit report; The rights of persons deprived of liberty; Children in the social protection system; National and International Legislation on the Prevention of Torture, Nelson Mandela Rules of the United Nations; Aspects regarding legislation in the field of migration and asylum in Romania; Techniques for interviewing persons deprived of liberty during the visits of the National Preventive Mechanism; How to use Skype in Windows 10; Traumatic skin injuries - medico-legal evaluation (course presented by Dr. Ovidiu Chiroban, primary forensic physician at the Institute of Forensic Medicine Cluj Napoca, head of department at UMF "Iuliu Hațieganu" Cluj Napoca).

Published reports:

In May 2021, the *Special Report on psychological assistance in detention and remand centers - Extract from the findings of the 51 visits of the National Preventive Mechanism 2015-2020* was published on the website of the People's Advocate institution, which was presented on May 26, 2021, before the Commission for human rights, equal opportunities, religious cults and minorities of the Romanian Senate. The report can be viewed by accessing the link: <https://avp.ro/wp-content/uploads/2021/04/RAPORT-asistenta-psihologica-CRAP-uri.pdf>

In August 2021, the *Report on the monitoring activity carried out by the National Preventive Mechanism in the State of Emergency and State of Alert (2020)* was published on the website of the People's Advocate institution, in which are presented the aspects observed during the activity of monitoring the places of detention (homes for the elderly, centres for migrants, penitentiary units, detention and remand centres, psychiatric hospitals, institutionalized quarantine places, COVID-19 hospitals) carried out by the NPM during 2020, as well as proposals in order to improve the treatment provided to persons deprived of liberty within the meaning of Art. 4 of OPCAT. The report can be viewed by accessing the link: https://avp.ro/wp-content/uploads/2021/07/Raport-monitorizare-MNP-stare-urgenta_alerta_2020.pdf

► There have been **meetings of the NPM with the non-governmental organizations** with which the People's Advocate institution has concluded collaboration protocols (Organization for the Defence of Human Rights - Craiova Regional Branch; Christian Roma Association "Calea, Adevărul și Viața" Bacău; Iris Vaslui Association; Galați Family Foundation ; Alternative Sociale Association Iași, A.S.C.I.S. Iași, A.R.C. Bacău; Pro

Democrația Piatra Neamț; Institute for Social Partnership Bucovina; ADO Iași), during which topics related to the monitoring visits, organization and observed aspects were addressed.

► **Meetings** were organized **with external collaborators** (psychologists, social workers) on professional topics (national and international legislation regarding the prevention of torture, aspects found in the visits of the NPM regarding the provision of psychological/social assistance, drawing up visit reports, etc.).

Collaboration with CPT, SPT and other international partners:

Subcommittee on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (SPT)

In accordance with Art. 49 of Law no. 35/1997, republished, the NPM maintained contact with the SPT, especially regarding the invitation of the Subcommittee addressed to the National Preventive Mechanisms to provide information for the elaboration of a general comment on Art. 4 of the OPCAT, namely, the exact scope of this article (regarding places of detention - *any place under its (the State Party's) jurisdiction and control, where persons are or may be deprived of their liberty*).

► European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

On the occasion of the ad hoc visit carried out by the CPT in Romania for the purpose of examining the treatment applied to persons deprived of liberty in penitentiaries and detention and remand centres and verifying the implementation of the recommendations formulated after the visit in 2018, in the period 10-21 May 2021, the NPM collaborated with CPT representatives, by exchanging information and holding a meeting.

► Association for the Prevention of Torture (APT)

During 2021, as in previous years, NPM Romania, similar to other NPMs, maintained contact with APT and participated in the events organized by this association, such as: the virtual dialogue *Reducing prison population in times of COVID-19 - Insights from a global analysis*; webinar *First hours of detention: Lessons from a 3-year prevention journey. Insights from Brazil, Madagascar and Thailand*; the 4th APT/ODIHR regional meeting on the prevention of torture for national preventive mechanisms and civil society organizations, *Monitoring the situation of elderly persons deprived of liberty, in the context of the COVID-19 pandemic*; the *Principles on Effective Interviewing for investigations and information gathering* workshop, organized together with OSCE-ODHIR, etc.

► National Preventive Mechanisms - SEE NPM Network

NPM Romania is part of the South-East Europe Network of National Preventive Mechanisms, whose activity can be followed on the website created this year and which can be viewed by accessing the link: <https://see-npm.net/>.

In 2021, NPM Romania maintained permanent contact with other NPMs and participated in meetings/professional training sessions organized by them, for example: the conference *Monitoring Corruption and Preferential Treatment in Places of Deprivation of Liberty – the CPT/NPM Perspective*, organized by Kosovo NPM and the Council of Europe; the international colloquium *Monitoring conditions of arrest, custody, and pre-trial detention*, organized by the Tunisian NPM (INPT - *Instance Nationale pour la Prevention de la Torture*); the first meeting of the Network of Southeast European NPMs focused on monitoring visits during the coronavirus pandemic, organized by Hungary NPM; the 2nd meeting of the SEE NPM Network - the Technical Conference on interviewing vulnerable groups, organized by the Office of the Commissioner for Fundamental Rights in Hungary; the webinar organized by the South African National Preventive Mechanism to mark the World Day in Support of Victims of Torture and the ratification of the OPCAT.

CHAPTER VII

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

In 2021, in addition to the 14 already existing territorial offices, the 15th was also established - the Slobozia Territorial Office, in whose jurisdiction are the counties: Călărași, Giurgiu, Ialomița, Ilfov, Teleorman.

At the level of 2021, the activity of the territorial offices resulted in: resolving a number of **2,471 complaints**, **1,623 ex officio proceedings**, conducting **74 investigations**, granting **1,686 hearings**, recording **6,376 telephone calls** through the dispatch service, formulating **142 recommendations** and **582 awareness raising activities / collaboration with other authorities**, as follows:

- ***Alba-Iulia Territorial Office:*** resolved a number of 97 complaints, granted 103 hearings, recorded 345 telephone calls through the dispatch service, carried out 18 awareness raising activities / collaboration with other authorities, proceeded ex officio in 96 cases, conducted 2 investigations and formulated 3 recommendations.

- ***Bacău Territorial Office:*** resolved a number of 188 complaints, granted 105 hearings, recorded 257 telephone calls through the dispatch service, carried out 6 awareness raising activities / collaboration with other authorities, proceeded ex officio in 74 cases, conducted 2 investigations and made 16 recommendations.

- ***Brașov Territorial Office:*** resolved a number of 254 complaints, granted 98 hearings, recorded 513 telephone calls through the dispatch service, carried out 143 awareness raising activities / collaboration with other authorities, proceeded ex officio in 161 cases, conducted 16 investigations and made 28 recommendations.

Proposals for legislative changes:

- the promotion by the Ministry of Health of the National Strategy for the implementation of palliative care;

- request addressed to the Ministry of Labour and Social Protection regarding the need to change the legal framework represented by Law no. 197/2012, republished, and by the methodological norms for the application of Law no. 197/2012, approved by Government Decision no. 118/2014, in the sense of differentiating between the centres that apply for the operating license without having been previously sanctioned and those that have been sanctioned with the measure of the withdrawal of the operating license, in order to protect the fundamental rights of the beneficiaries, when their lives are endangered ;

- maintaining the current legal provisions regarding the consultation of the CNMI/CZMI specialized commission and eliminating the addition to Law no. 422/2001 on the protection of historical monuments, republished, by art. 34²;

- correlation by the Ministry of Health of Government Decision no. 720/2008 with the provisions of Art. 26 of the Methodological Norms approved by Government Decision no. 1915/2006 and those of Art. 38 of Law no. 339/2005, according to which the specialist doctor, holder of the free practice authorization can prescribe treatment with narcotic and psychotropic substances;

- the elaboration by the Ministry of the Environment, Waters and Forests of the Methodological Norms for requesting, calculating and granting the compensations and allowances provided by Art. 97 of Law no. 46/2008, republished, with subsequent amendments and additions, which are approved by Government decision, upon the proposal of the central public authority responsible for environmental protection, within 90 days from the date of entry into force of Law no. 197/2020;

- the development by the Romanian Police of a procedure aimed at guiding and monitoring homeless people, as well as collaborating with the local public administration authorities to which they belong, in order to assess the causes of the vulnerabilities of this category of people, as well as protective measures necessary.

Normative acts adopted/amended following the actions of the Braşov Territorial Office:

- amendment of the Government Emergency Ordinance no. 3/2021 and Order no. 73/2021 for the implementation of the provisions of Art. 4 para. (2) and (3) of the Government Emergency Ordinance no. 3/2021, by Government Emergency Ordinance no. 29/2021. Art. 1 paragraph (2¹) was introduced, according to which: *By derogation from the provisions of Art. 383 para. (1) from Law no. 95/2006, republished, with subsequent amendments and additions, as well as of Art. 11 of the Government Emergency Ordinance no. 144/2008, approved with amendments by Law no. 53/2014, with the subsequent amendments and additions, the medical and sanitary personnel working in the vaccination centres against COVID-19 can conclude service contracts as a natural person. (File no. 320/2021 - Ex officio proceeding).*

- Government Decision no. 383/2021 regarding the extension of the period provided for in annex no. 2 to Government Decision no. 144/2010 on the organization and operation of the Ministry of Health. **The period provided for in letter A, point I, the last paragraph of annex no. 2 to Government Decision no. 144/2010 on the organization and operation of the Ministry of Health, with subsequent amendments and additions, is extended by 6 months, respectively until October 11, 2021. (File no. 1131/2021 - Ex officio proceeding).**

- **The Cluj-Napoca Territorial Office:** resolved a number of 126 complaints, granted 82 hearings, recorded 574 telephone calls through the dispatch service, carried out 27 awareness raising activities / collaboration with other authorities, proceeded ex officio in 256 cases, conducted 7 investigations and formulated 17 recommendations.

- **Constanţa Territorial Office:** resolved a number of 258 complaints, granted 240 hearings, recorded 1042 telephone calls through the dispatch service, carried out 47 awareness raising activities / collaboration with other authorities, proceeded ex officio in 190 cases, conducted 7 investigations and formulated 14 recommendations.

- **Craiova Territorial Office:** resolved a number of 118 complaints, granted 84 hearings, recorded 252 telephone calls through the dispatch service, carried out 11 awareness raising activities / collaboration with other authorities, proceeded ex officio in 97 cases, conducted 2 investigations and made 2 recommendations.

- **Galati Territorial Office:** resolved a number of 111 petitions, granted 56 hearings, recorded 177 telephone calls through the dispatch service, carried out 12 awareness raising

activities / collaboration with other authorities, proceeded ex officio in 77 cases, conducted 3 investigations and made 2 recommendations.

- **Iași Territorial Office:** resolved a number of 327 complaints, granted 94 hearings, recorded 281 telephone calls through the dispatch service, carried out 19 awareness raising activities / collaboration with other authorities, proceeded ex officio in 93 cases, conducted 9 investigations and made 4 recommendations.

- **The Oradea Territorial Office:** resolved a number of 142 complaints, granted 108 hearings, recorded 529 telephone calls through the dispatch service, carried out 11 awareness raising activities / collaboration with other authorities, proceeded ex officio in 75 cases, conducted 5 investigations and formulated 7 recommendations.

- **Pitești Territorial Office:** resolved a number of 105 complaints, granted 39 hearings, recorded 353 telephone calls through the dispatch service, carried out 50 awareness raising activities / collaboration with other authorities, proceeded ex officio in 71 cases, formulated 14 recommendations and organized an internship for 16 Romanian and foreign students of the University of Pitești - Faculty of Law and Administrative Sciences.

After not having a suitable office, during 2020, and carrying out its activity with difficulty, the Pitești Territorial Office, in March 2021, the City Hall of Pitești made available, by a decision of the local Council, for a period for three years, a civilized and easily accessible headquarters for citizens.

The collaboration with the local authorities in Argeș and Vâlcea counties was good, in the sense that they responded within the legal term to the steps taken by the Pitești Territorial Office, and for the most cases, the solutions were favourable. Some central authorities have done the same.

- **Ploiești Territorial Office:** resolved a number of 305 complaints, granted a number of 279 hearings, recorded a number of 965 telephone calls through the dispatch service, carried out 131 awareness raising activities / collaboration with other authorities, proceeded ex officio in 85 cases, it conducted 14 investigations and made 18 recommendations.

Proposals for legislative changes:

- *the need to complete the legislative framework regarding the provision of psychological counselling services for minor aggressors, in the absence of parental consent.*

The activity of the institution resulted in situations in which, for some minor aggressors, the authorities with duties in the field could not draw up service plans, as the parents refused the psychological counselling provided by the authorities' specialized structures.

Considering that the issue falls within the competence of the National Authority for the Rights of Persons with Disabilities, Children and Adoptions, it was requested to formulate a point of view regarding the opportunity to complete the legislative framework, and later the issue was submitted to the attention of the Ministry of Justice and specialized commissions within the Parliament, respectively the Legal, Discipline and Immunities Commission and the Commission for Human Rights, Cults and National Minority Issues.

ANDPDCA considered that there is no need to change the legislative framework, but mentioned that it is in the process of re-evaluating the Framework Methodology on prevention and intervention in multidisciplinary teams and in the network, in situations of violence

against children and family violence, and it will be revised and adapted to the current reality, and during the revision process will also be taken into account the situation of the minor aggressors and their families.

The Ministry of Justice mentioned that it will collaborate with the ANDPDCA in order to improve the legal framework regarding the protection of minors, considering that this authority has a legislative initiative in the matter.

The Commission for Human Rights, Religious Cults and National Minority Issues stated that it will initiate a legislative proposal, which will support the resolution of this legislative gap. The legal, disciplinary and immunities commission did not submit a point of view.

- ***Slobozia Territorial Office:*** in the activity carried out since its establishment starting in July 2021, it resolved a number of 23 complaints, granted 35 hearings, recorded 23 telephone calls through the dispatch service, carried out 25 awareness raising activities / collaboration with other authorities, proceeded ex officio in 100 cases.

- ***Suceava Territorial Office:*** resolved a number of 86 complaints, granted 50 hearings, recorded 89 telephone calls through the dispatch service, carried out 22 awareness raising activities / collaboration with other authorities, proceeded ex officio in 160 cases, conducted 2 investigations and made 6 recommendations.

- ***Târgu-Mureș Territorial Office:*** resolved a number of 132 complaints, granted 253 hearings, recorded 617 telephone calls through the dispatch service, carried out 31 awareness raising activities / collaboration with other authorities, proceeded ex officio in 48 cases, conducted 1 investigation and formulated 5 recommendations.

- ***Timișoara Territorial Office:*** resolved a number of 199 complaints, granted 60 hearings, recorded 359 telephone calls through the dispatch service, carried out 29 awareness raising activities / collaboration with other authorities, proceeded ex officio in 40 cases, conducted 4 investigations and formulated 6 recommendations.

CHAPTER VIII

CONSTITUTIONAL LITIGATION SERVICE, APPEAL IN THE INTEREST OF THE LAW, ADMINISTRATIVE AND LEGAL LITIGATION, ANALYSIS OF NORMATIVE ACTS, EXTERNAL RELATIONS AND COMMUNICATION

The People's Advocate directly coordinates the activity in the field of constitutionality control of laws and Government ordinances (simple or emergency), unification of judicial practice and administrative litigation, which is carried out through the Constitutional Litigation and Appeal in the Interest of the Law Bureau and the Administrative and Legal Litigation Bureau.

Also, the People's Advocate fulfils its duties in the field of external relations, mass media, communication, etc., with the support of the Bureau for Analysis of Normative Acts, External Relations and Communication.

The recent jurisprudence of the Constitutional Court relevant for strengthening the constitutional status of the People's Advocate

Corresponding to the year 2021, it is appropriate to highlight the considerations of an essential decision¹, pronounced by the Constitutional Court, intended to reaffirm and emphasize the fundamental role of the People's Advocate in the Romanian constitutional system, **as that of defending the rights and freedoms of natural persons in their relations with the authorities public and in no way to defend the acts/measures/attitudes of public authorities that affect these rights or freedoms.**

Analysing the constitutional and legal norms related to the constitutional role and duties of the People's Advocate, as well as its legal status (which implies incompatibility with any other public or private office, immunity regarding the opinions issued and the acts performed in the exercise of the Ombudsperson's mandate, the prohibition of the imperative and representative mandate), **the Constitutional Court held that the purpose of these regulations is to ensure the independence of the People's Advocate from any other public authority, thus including the Parliament. Moreover, without mentioning that the People's Advocate would be an authority under parliamentary control, the Court found that the autonomous and independent position of this public authority in relation to the Parliament is expressly consecrated by the provisions of Art. 2 para. (1) and (4) of Law no. 35/1997.**

The Court found that, compared to the constitutional and legal provisions in force, the **submission to Parliament of the annual report covering the institution's activity for a calendar year does not place the People's Advocate institution under authentic parliamentary control, but represents an act of loyal collaboration**, based on the constitutional norms, between two independent public authorities: "the national institution for the promotion and protection of human rights" [Art. 1 paragraph (2) from Law no. 35/1997] and "the sole legislative authority of the country" [Art. 61 para. (1) of the Constitution].

¹ Decision no. 455 of June 29, 2021 regarding the notice of unconstitutionality of Decision of the Parliament of Romania no. 36/2021 for the dismissal of Ms. Renate Weber from the position of Ombudsperson

Moreover, this conclusion is also supported by the provisions of Art. 60 of the Constitution, which, referring to the content of the annual reports - which "may contain recommendations regarding legislation or measures of another nature, for the protection of the rights and freedoms of citizens", emphasizes precisely the collaboration report and institutional dialogue between the two authorities under the aspect of legislative policies in the matter of human rights and freedoms.

Reiterating those stipulated by Decision no. 80 of February 16, 2014 and taking into account the constitutional norms and principles that underpin legal liability, the Constitutional Court held that, ***in the case of the dismissal of the Ombudsperson, as a legal sanction, it is mandatory to comply with the norms and principles inherent in legal liability***: the express and exhaustive mentioning of the cases that may attract legal liability, the regulation of the appropriate procedural framework for investigating the imputed facts and the guilt of the person whose dismissal is proposed, respectively ensuring the exercise of his right to defence in order to prove the unfoundedness of the accusations brought against them. ***The legal responsibility of the Ombudsperson, like any other form of legal responsibility, can only intervene on the condition of proving a culpable act of violation of a legal norm.***

The Constitutional Court mentioned **the immunity of the Ombudsperson, as a feature of the mandate**, according to which they are protected against possible pressures or abuses and which ensures their independence, freedom and safety in the exercise of their rights and obligations according to the Constitution and the laws. Expression of the provisions of Art. 2 para. (1) from Law no. 35/1997, which enshrines the autonomy and independence of the People's Advocate institution "compared to any other public authority", ***immunity is a measure of protection against threats or other acts of pressure to which the person holding this public office could be subjected by other public authorities, institutions or individuals.***

Section 1. The activity of the Constitutional Litigation and Appeal in the interest of the law Bureau

1.1. Direct referral to the Constitutional Court

During 2021, the People's Advocate made a number of **11 referrals to the Constitutional Court** both with a view to triggering the prior constitutionality control and with a view to carrying out the subsequent constitutionality control.

Out of the total of **11 referrals of unconstitutionality** (objections and exceptions) raised directly by the People's Advocate, only **1 referral** was resolved by the Constitutional Court (admitted), the remaining **10 referrals** being in the report phase, at the time of the preparation of this report.

Through its activity in the field of constitutionality control, the People's Advocate pursued the creation of the legal framework to ensure the achievement of the following goals in the protection of human rights and freedoms:

a) guaranteeing the right of trade union association of active military personnel (Law no. 80/1995 on the status of military personnel, with subsequent amendments and additions);

b) the adoption of predictable, clear, non-discriminatory regulations that avoid legal parallelism in criminal matters in the forestry field (Law no. 46/2008 on the Forestry Code, with subsequent amendments and additions);

c) the protection of the minor's rights in the procedure for the appointment of the curator for the succession procedures (Law no. 71/2011 for the implementation of Law no. 287/2009 on the Civil Code);

d) respecting the limits of the legislation on the occasion of the adoption of the state budget law, in order to ensure the financing of maintenance and operating expenses and allowances within the Romanian Academy of Scientists from subsidies from the state budget (Law no. 15/2021 of the state budget state for the year 2021);

The solution of the Constitutional Court: By Decision no. 449/2021, the Constitutional Court admitted the exception of unconstitutionality of the provisions of Art. 38 of the State Budget Law for the year 2021 no. 15/2021.

The Constitutional Court decided that Art. 38 of Law no. 15/2021 violates the principle of legality from a double perspective: (i) procedural - given the requirements of the laws adopted in joint or separate sittings of the two Chambers and, implicitly, of the required majority vote from among the deputies and senators [Art. 65 para. (1) and (2) letter b) and Art. 76 para. (2) of the Constitution] and (ii) material - given the fact that it exceeds the sphere of social relations that the budget law has the constitutional ability to regulate [Art. 138 para. (2) of the Constitution]. Therefore, the criticized text violates the principle of legality, in its component relating to the supremacy of the Constitution, enshrined in Art. 1 paragraph (5) of the Constitution, by reference to Art. 65 para. (1) and (2) letter b), Art. 76 para. (2) and Art. 138 para. (2) of the Constitution.

e) the removal of the privileges established in favour of certain subjects of law, which can receive sums from the state budget for carrying out the activity in the field of the protection of persons with disabilities, by removing other subjects of law, without having as a basis objective criteria (Law no. 448 /2006 regarding the protection and promotion of the rights of persons with disabilities, republished, with subsequent amendments and additions);

f) ensuring that the employees of a micro-enterprise are informed in writing of the documents that form the basis of the employment contract, for example, the job description (Government Emergency Ordinance no. 37/2021 for the amendment and completion of Law no. 53/2003 - Labour Code);

g) removal of the exclusive competence of allergists in the process of diagnosis and treatment of allergic disease and the identification of suspected allergic disease, as well as ensuring non-discrimination in the settlement of medical tests for people with such conditions, not only on the recommendation of allergist doctors (Law no. 4/2021 regarding the protection of the rights of persons diagnosed or suspected of being diagnosed with allergic diseases or conditions);

h) ensuring free access to justice by eliminating the term established by the legislator for contesting the legality of all normative administrative acts issued in situations of epidemiological and biological risk (Law no. 136/2020 on the establishment of measures in the field of public health in situations of epidemiological and biologic risk, republished, with subsequent changes and additions);

i) removing inequities arising from the granting of transportation facilities to students (Government Emergency Ordinance no. 50/2021 for amending and supplementing the National Education Law no. 1/2011);

j) respecting the right of the parent to the medical leave granted for the care of the sick child, up to the age of 18 (Government Emergency Ordinance no. 158/2005 on leave and social health insurance allowances);

k) respecting the rights of persons subject to technical supervision measures (Law for the approval of the Government Emergency Ordinance no. 6/2016 regarding some measures for the implementation of technical supervision mandates ordered in criminal proceedings (PL-x no. 250/2016) .

The solution of the Constitutional Court: The objection of unconstitutionality is pending, before the Constitutional Court, with a trial date set for February 9, 2022.

1.2 Formulation of points of view at the request of the Constitutional Court

In a number of 3 files, points of view were expressed in the sense of the unconstitutionality of the analysed normative act or points of view were formulated under the reserve of interpretation.

1.3. Formulation of points of view regarding the constitutionality of draft laws or ordinances at the request of their initiators

During 2021, the People's Advocate sent to the **initiators of draft laws and ordinances** (the Prime Minister, the Minister of Health, the Minister of Labour and Social Protection, the Government, through the Secretary General of the Government, the Commission for Human Rights, Equal Opportunities, Cults and Minorities), **its point of view regarding the unconstitutionality of the legislative solutions that envisaged conditioning the exercise of the right to work and the right to salary on obtaining the EU COVID-19 digital certificate.**

In essence, the People's Advocate assessed that the legislative solutions, in the different versions envisaged, violated the right to work, including its component - the right to salary -, the right to private property, the right to a decent standard of living, the principle of legal security and loyalty to the Constitution.

1.4. Resolution of complaints which requested referral to the Constitutional Court

In 2021, a number of **1293 complaints** were resolved by which the referral to the Constitutional Court was requested, regarding the normative acts considered by the complainants to be unconstitutional.

The resolution of the complaints addressed to the Constitutional Litigation Bureau by which the referral to the Constitutional Court is requested involves carrying out the constitutionality analysis of the normative acts invoked by the complainants, by referring to the allegedly violated constitutional texts, as they were developed in the jurisprudence of the Constitutional Court, the European Court of Human Rights , the High Court of Cassation and Justice and in doctrine.

Following the constitutional analysis, the complainants who request the support of the People's Advocate receive a detailed answer, including the arguments that underpin the decision of the People's Advocate to refer the matter to the Constitutional Court or not.

1.4.1 Notification of public authorities

In certain situations, it was necessary to notify the competent public authorities because either legislative inconsistencies or the need for legislative interventions were identified, as follows:

a) Notification of the Ministry of Public Finance regarding the inconsistency between the normative acts regarding the regulation of the reduced VAT rate of 5% for homes related to the *First House* program.

The Ministry of Finance communicated a point of view regarding the interpretation and application of the provisions relating to the collection and transfer of the reduced VAT rate of 5% for homes related to the First House program, being of real help to citizens enrolled in the program for the purchase of real estate.

b) Referral to the specialized Committees within the Chamber of Deputies (decision-making chamber) regarding the fiscal measures established by Law no. 239/2020, which have a discriminatory character by referring to different categories of employees who have employers other than legal entities paying profit tax, with a view to amending and correlating the criticized text of the law, in the sense that fiscal facilities should be granted to all employees, regardless of the turnover of the professional who benefits from the tax facility in question.

c) Notification of the National Pension House regarding the discriminatory application of the provisions of Art. 170 para. (3) from Law no. 263/2010 regarding the unitary system of public pensions. The People's Advocate pointed out that in the law enforcement process there is discrimination regarding the determination of the amount of the pension point for people who have obtained a disability pension according to Law no. 3/1977 regarding state social insurance pensions and social assistance, and who met the conditions for retirement due to age limit after the entry into force of Law no. 263/2010, amended, compared to persons who obtained a disability pension according to Law no. 19/2000, amended, or Law no. 263/2010, amended, and who met the conditions for retirement due to age limit after the entry into force of Law no. 263/2010, amended, in accordance with the Decision of the Constitutional Court no. 702 of October 31, 2019.

c) Notification of the Minister of National Defence, completed with the issuance of a Recommendation, accepted by the Ministry of National Defence. (Recommendation no. 165/2021)

Following the recommendation, the Minister of National Defence informed us that the military institution intends to amend Law no. 223/2015 on state military pensions, with subsequent amendments and additions, in **the sense of introducing the express regulation of the possibility of sending the pension coupon, alternatively, either at the domicile or at the residence of the pensioner, depending on their option, under the same conditions applicable for pensioners from the public pension system.**

In the same sense **was the answer received from the president of the Committee for Defence and National Security of the Senate, who informed us that he had developed a legislative initiative that regulates the alternative method of sending the pension payment document to the home or residence of retired military personnel, to the declared email addresses, upon their written request. The payment document in electronic format will have the same legal value as the one delivered in paper format and will be accepted by the institutions that require its presentation as proof of military pensioner status.**

1.4.2 Verification of the nature of the information requested under the Law on the Protection of Information of Public Interest

In the context of the resolution of complaints related to the constitutionality control, at the level of the Constitutional Litigation Service, was verified the nature of the information requested in a number of **7 complaints** formulated pursuant to Law no. 544/2001 on the protection of information of public interest.

2. Referral to the High Court of Cassation and Justice with the appeal in the interest of the law

At the beginning of 2021, the High Court of Cassation and Justice **admitted the appeal in the interest of the law** formulated by the People's Advocate and established that in the *interpretation and application of the phrase "until the resolution of the challenge to the execution" contained in Art. 719 paragraph (1) of the Code of civil procedure, the suspension of forced execution is limited in time until the first-instance resolution of the challenge to execution.* (Decision no. 2/2021 pronounced in the interest of the law)

In the course of 2021, in the exercise of his attribution regarding the unification of judicial practice, the People's Advocate formulated **2 appeals in the interest of the law**, with the object:

a) interpretation and application of the provisions of Art. 94 point 1 letter k) and Art. 95 point 1 of the Code of Civil Procedure, in the sense of establishing the material competence to settle cases with the object of obliging the defendants to pay moral/material damages for malpractice, in the situation where the procedure regulated by the provisions of Art. 679-685 of Law no. 95/2006 on health reform was or was not followed. (File no. 3065/1/2021, with a trial date of February 21, 2022).

b) interpretation and application of the provisions of Art. 39 para. (1) of Law no. 188/2000 on bailiffs, republished, in conjunction with Art. 125 (current Art. 265) of the Fiscal Code, Art. 670 para. (2) from the Code of Civil Procedure and Order of the Minister of Justice no. 2550/C/2006, as amended by the Order of the Minister of Justice no. 2561/C of July 30, 2012, in order to establish "if the maximum fee of the bailiffs also includes the value added tax or the value added tax is added to the maximum fee provided by law."

2.3. Resolution of complaints requesting referral to the High Court of Cassation and Justice in order to unify non-unitary judicial practice

During the analysed period, a number of **62 complaints** were resolved through which the complainants requested referral to the High Court of Cassation and Justice.

The resolution of the petitions requesting the referral to the High Court of Cassation and Justice takes undergoes the following stages: (i) the identification of the legal provisions whose interpretation and application determined the non-unitary judicial practice; (ii) identifying the same legal issue that received a different resolution; (iii) referral to the 15 courts of appeal.

Of the 62 complaints:

a) in 5 files it was necessary to make requests to the courts of appeal from the whole country, in order to communicate the court decisions regarding the non-unitary judicial practice

b) in 1 file, since the non-unitary judicial practice was not found at the level of the entire country, but only at the level of a single court of appeal, the respective court of appeal was requested to unify the non-unitary judicial practice through **the monthly meetings of the judges, in which were to be discussed the legal issues that led to the pronouncement of different solutions or legal issues of great novelty, which could generate non-uniform practice.**

Section 2 Activity of the Administrative and Legal Litigation Bureau

For the reference period, the activity of this bureau can be summarized as follows:

2.1. Formulation of 4 administrative litigation actions

- a) Action in administrative litigation regarding the refusal of the National Public Pensions House to grant monetary differences according to Art. 107 of Law no. 263/2010 regarding the unitary system of public pensions, as amended and supplemented;
- b) Action in the partial annulment of some decisions of the Local Council of Voinești commune, Dâmbovița county and of the Intercommunity Development Association "Integrated Waste Management in Dâmbovița county";
- c) Action for the partial annulment of a decision of the Local Council of Bărbulețu commune, Dâmbovița county;
- d) Action for the partial annulment of a decision of the Local Council of Bradu commune, Argeș county.

2.2. Resolution of complaints requesting referral to the administrative court

A number of 11 files were resolved, having as object the request for referral to the administrative litigation court regarding the illegality of some administrative acts.

2.3. Cases in which the People's Advocate had the capacity of defendant/respondent; procedural documents drawn up:

In 2021, at the level of the Administrative and Legal Litigation Bureau, **69 files** were managed (newly registered files and files from previous years, which are in different procedural phases), for which the necessary procedural documents were drawn up.

Until the date of this report, none of the files in which the People's Advocate was the defendant/respondent was permanently lost, therefore we can highlight a 100% success rate.

2.4. Other activities

In addition to the activities of representing the institution's interests before the courts, other specific legal activities were also carried out: a) Drafting or revision, as the case may be, and legality visa for all orders and regulations issued by the Ombudsperson; b) formulating points of view regarding various administrative acts or facts, at the request of the Ombudsperson, c) legal approval of all contracts and additional documents concluded by the People's Advocate institution.

2.5 Daily information on the normative acts containing provisions in the matter of human rights, published in the Official Gazette

In the context of the legislative fluctuation due to the health situation, for the purpose of publicly informing, in real time, the citizens, but also of the staff of the People's Advocate institution, **210 daily briefings** were prepared at the level of the Administrative and Legal Litigation Bureau throughout the year.

Section 3 The activity of Bureau on Analysis of Normative Acts, External Relations and Communication

2021 was a year full of challenges, given the COVID-19 pandemic. In order to adapt to the new requirements dictated by the pandemic that generated fears about our own health and those around us, job security, quality of life and financial stability both personally and professionally, we tried as much as possible, to carry out our activity also in online format, on which occasion we continued to implement the telework regime. Also, predominantly, participation in conferences, webinars, seminars, round tables took place online.

3.1. For the reference period, the activity can be summarized as follows:

√ Steps taken at the level of the Romanian authorities:

- the response of the People's Advocate institution to the requests of the Ministry of Foreign Affairs regarding: the conclusions of the annual report of the US State Department on human rights for the year 2020;
- steps taken to the Romanian Patriarchy - recommendations to analyse the opportunity to include in the university curriculum of the Faculties of Orthodox Theology additional courses regarding the liturgical practices applied to the Sacrament of Baptism, but also the organization of such courses for active priests;
- the response of the People's Advocate institution to the request of the Ministry of Justice to submit a contribution, with a view to the elaboration by the European Commission of the second *Report on the Rule of Law*;
- responses to the requests of the General Secretariat of the Government on the Annex regarding the results of monitoring compliance with the standards regulated by Law no. 544/2001 regarding free access to information of public interest, supplemented by the "Memorandum on increasing transparency and standardizing the display of information of public interest", at the level of the People's Advocate institution;
- step taken to the Prime Minister, regarding the lack of answers to the requests addressed to the Minister of Education;
- the response of the People's Advocate institution to the request of the General Secretariat of the Government, regarding the implementation of the Partnership for an open Government;
- answers to the requests of some parliamentarians;

√ Approaches at the level of Ombudsman institutions in Europe, but also of other authorities at European level:

- preparation of responses to various requests/questionnaires received from European Ombudsman institutions/associations and organizations of which the People's Advocate institution is a part;
- the contribution of the People's Advocate institution, at the request of the UN High Commissioner for Human Rights regarding the human rights, on challenges faced by countries in the response to the COVID-19 pandemic;
- the response of the People's Advocate institution to the request of the Romanian Embassy in Malaysia regarding the need to undertake actions for the benefit of the 3 Romanian citizens in Malaysia, two definitively sentenced to capital punishment and one definitively sentenced to 18 years in prison and 10 strokes of the cane;

- approaches to the European Ombudsman, the Venice Commission, the Association of Francophone Ombudsmen and Mediators, the International Ombudsman Institute, the European Ombudsman Institute, the Commissioner for Human Rights of the Council of Europe, regarding the rejection of the Romanian People's Advocate reports and the dismissal of the Ombudsperson;

- correspondence with the Ombudsman of Türkiye with a view to seconding two representatives of this institution for a period of one month, during 2022, within the institution of the Romanian People's Advocate, according to the Technical Assistance Project on "Increasing the Role of the Ombudsman Institution in the Protection and Promotion of Human Rights", carried out by the Ombudsman institution in Türkiye.

✓ Other specific activities at the level of the Bureau on Analysis of Normative Acts, External Relations and Communication: drawing up the Activity Report of the People's Advocate institution for the year 2020; checking/correcting/elaborating/documenting/sending special reports; management of documents received/sent by Special Mail; translation of all invitations and requests received from Ombudsman or other organizations with which the People's Advocate institution collaborates; preparing press releases; responses to requests received from the media/NGOs; keeping the following sections of the website up to date: *Actions of the People's Advocate related to the decisions regarding the state of emergency and the state of alert; News, Documents adopted by international bodies*, as well as posting the documents adopted by the international bodies in which the People's Advocate institution is a member / with which it collaborates.

The head of the Bureau on Analysis of Normative Acts, External Relations and Communication is also the Secretary of the Monitoring Commission within the People's Advocate institution, carrying out a series of activities in this regard: preparing the Commission's meetings, drawing up the minutes of the meetings, drawing up the annual centralizing situation regarding the stage of implementation and development of the internal managerial control system on December 31, 2020, as well as the Report on the internal managerial control system on December 31, 2020, the documents drawn up in accordance with the provisions of Order no. 600/2018 regarding the approval of the Internal Managerial Control Code of public entities.

At the same time, one of the counsellors of the Bureau on Analysis of Normative Acts, External Relations and Communication ensures the implementation of the provisions of Law no. 176/2010 regarding integrity in the exercise of public functions and dignities, for the amendment and completion of Law no. 144/2007 regarding the establishment, organization and operation of the National Integrity Agency, as well as for the modification and completion of other normative acts, with the subsequent modifications and additions, as the person responsible for the implementation of the legal provisions related to declarations of assets and interests.

In addition, the staff of the Bureau on Analysis of Normative Acts, External Relations and Communication liaises with the associative environment according to the provisions of Government Ordinance no. 26/2000 regarding associations and foundations, approved with amendments and additions by Law no. 246/2005, with subsequent amendments and additions.

3.2 Information on the normative acts related to human rights adopted/issued during the state of alert

In the context of the legislative fluctuation due to the health situation, for the purpose of publicly informing, in real time, the citizens, but also of the staff of the People's Advocate

institution, **66 daily briefings** were prepared in 2021 regarding the normative acts on human rights adopted/issued in the period of the state of emergency/alert.

3.3. Also in 2021, a large part of the events organized *internationally* have been moved to the online system. The representatives of the People's Advocate institution participated in international meetings, organized by: the European Ombudsman Institute, the International Ombudsman Institute, the Association of Francophone Ombudsmen and Mediators, the Council of Europe, the Commissioner for Human Rights of the Council of Europe, other European institutions with which we collaborate.

- the online meeting of the Ombudsman from the Balkan countries, organized by the Ombudsman from Türkiye;
- online bilateral discussions with European Commission experts on the new European Rule of Law Mechanism;
- the international webinar on the UN Resolution *The role of the Ombudsman and Mediator institutions in the promotion and protection of human rights, good governance and the rule of law and the standards of the Council of Europe*, organized by the Institution of the Ombudsman of the Kingdom of Morocco, the Association of Francophone Ombudsmen and Mediators, the International Ombudsman Institute and the Council of Europe;
- the meeting of the European Region of the International Ombudsman Institute - the European Assembly, organized by the Catalan Ombudsman;
- The International Ombudsman Institute General Assembly and the 12th IOI World Conference hosted online by the Ombudsman of Ireland, Peter Tyndall, President of the IOI;
- the webinar on *Systemic Investigations*, organized by the International Ombudsman Institute, the African Ombudsman Research Centre - AORC and the Association of African Ombudsmen and Mediators;
- The general assembly of the European Ombudsman Institute - EOI, which took place in Novi Sad (Voivodina) - Serbia;
- the seminar on *Economic, Social and Cultural Rights* in the Republic of Moldova: development of the methodological framework for evaluation and monitoring, organized by the Academy of Economic Studies from the Republic of Moldova;
- the webinar on *Institutional care, EU funds and lessons learned in the pandemic*, organized by the European Network of Ombudsmen;
- the 13th *International Conference of Ombudsman for the Armed Forces* (ICOAF), organized online by the Geneva Centre for Security Sector Governance and the Inspector General of the Australian Defence Force;
- the European preparatory meeting of the General Assembly of the Association of Francophone Ombudsman and Mediators - AOMF;
- annual ENOC conference, with the theme of *COVID-19 and children's rights: learning for the future*, organized by the European Network of Ombudsmen for Children.

3.4. From the actions that took place *internally*, we recall:

- the meeting of the Working Group on the problem of victims of crimes, constituted at the level of the Ministry of Justice;
- the meeting of the People's Advocate with the president of the Monitoring Council for the implementation of the UN Convention on the rights of persons with disabilities;
- the meeting of the People's Advocate with the representatives of the Constanța Student Association;

- the event with the theme Importance of doctor-patient communication and medical malpractice, organized by the Promedica Doctors Union and the Romanian Doctors Alliance;
- the meeting of the People's Advocate with the president of the Economic and Social Council;
- the round table on the topic Combating discrimination in the classroom - a guide for teachers, organized by the National Council for Combating Discrimination and the Institute for Public Policies Bucharest;
- the consultation session of the Inter-ministerial Committee for Ensuring the Implementation of the United Nations Convention on the Rights of Persons with Disabilities, organized by the National Authority for the Rights of Persons with Disabilities, Children and Adoptions.

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In order to make the activity more efficient and to strengthen relations with the public authorities willing to collaborate with the People's Advocate in the interest of the citizens, for the defence of their rights and freedoms, **collaboration agreements** were concluded:

The People's Advocate and the ACCEPT Association have concluded a **Collaboration Agreement**, with the aim of cooperating on identifying and agreeing the ways to carry out joint actions for the implementation of the activities related to the project *Partnership for the equality of LGBTI persons: the implementation of ECHR jurisprudence on sexual orientation and identity gender*.

Within the framework of the good collaboration relations with other institutions, it should be mentioned the collaboration with the Faculty of Law within the University of Bucharest, as well as the one with the Faculty of Law within the "Titu Maiorescu" University of Bucharest, materialized by the conclusion of two **Partnership Agreements regarding the internship for students**, between the People's Advocate institution and the two universities.

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Starting from March 2021, in order to support students who requested internships within the People's Advocate institution, the **internships** were conducted online, through the Zoom Platform:

Thus, throughout the year there were 5 online internships, attended by **85 students** from the Faculty of Law - University of Bucharest, the Faculty of Law - "Titu Maiorescu" University of Bucharest, the Faculty of Law - "Babeş" University -Bolyai" from Cluj-Napoca and the Faculty of Law within the Academy of Economic Studies.

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With regard to **professional training**, at the level of the Bureau on Analysis of Normative Acts, External Relations and Communication, 4 activities were carried out: training organized by the Association of Francophone Ombudsman and Mediators - AOMF, which had as its themes: *Communication Plan / Strategic Communication Vision for an Ombudsman institution; the training course on the normative system of the European Union*, organized by the European Institute in Romania; the online professional training meeting in the field of personal data protection and the training program on Management and conflict resolution, organized by the Association of African Ombudsmen and Mediators - AOMA and the African Centre for Ombudsman Research.

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Over the years, the activity of the People's Advocate institution was briefly presented, quarterly or semi-annually, as the case may be, depending on the volume of data, information and files, in the *Informative Bulletins*.

For the year 2020, due to the COVID-19 pandemic, the institution's activity was presented in a single Annual Information Bulletin, because, for the period March 16-September 10, 2020, the *Special Report on the observance of human rights and the exceptional measures ordered* was drawn up during the state of emergency and state of alert, which absorbed a large part of the institution's efforts, made during this period.

3.5. The communication and relations of the People's Advocate institution with the media

Despite the persistence of the pandemic situation generated by the Coronavirus, the People's Advocate maintained a pro-active attitude in the relationship with civil society and the authorities, continuing to be a concerned observer of the respect for citizens' rights and freedoms, especially in the context of the measures taken by the authorities in order to combat the pandemic.

Despite the limitation of interaction with civil society and the press, in the context of the pandemic, the People's Advocate maintained a close connection with the media, by issuing press releases, publishing the actions on the institution's website, but, first of all, by organizing press conferences/meetings with the press, when the pandemic context allowed it, and with strict observance of hygiene and sanitary measures.

In 2021, the activity of the People's Advocate institution was reflected in **505** radio-TV shows, **2624** articles in the central and local press, **14** press releases. Also, **5** press conferences were organized.

The communication and relations of the territorial offices with the mass media resulted in the publication in the local press of **276** articles, regarding the activity of the territorial offices, and their representatives participated in **96** radio and television shows.

CHAPTER IX

HUMAN RESOURCES, MATERIAL RESOURCES AND BUDGET

Section 1 – Human Resources

The institution is led by the Ombudsperson, assisted by 6 deputies, who have the capacity of state secretary, specializing in six areas of activity.

Within the People's Advocate institution, the Constitutional Litigation Service, Appeal in the Interest of the Law, Administrative and Legal Litigation, Analysis of Normative Acts, External Relations and Communication operates, directly subordinated to the People's Advocate, being composed of three structures, with well-defined duties: Constitutional litigation and appeal in the interest of the law Bureau, the Administrative and Legal Litigation Bureau and the Bureau on Analysis of Normative Acts, External Relations and Communication.

In the territory, the activity is carried out through the 15 territorial offices, organized according to the geographical criteria of the Courts of Appeal, as well as through the 4 zonal centres of the National Mechanism for the Prevention of Torture in Places of Detention. The 15th territorial office became functional in 2021, and has 3 employees serving the population, at the regional level, in five counties.

The existing staff in the institution, 143 employees, consists of: 7 dignitaries, 1 coordinating director, 1 head of service, 3 heads of bureaus, 102 counsellors, 9 experts, 4 referents, 12 drivers to which are added 4 counsellors to the dignitary's office. Of these, 94 are women and 49 are men.

The organizational structure of the People's Advocate institution is provided in the Regulation on organization and operation of the institution and reflects the fields of specialization, as established by law.

The economic and administrative activity of the institution is coordinated by the coordinating director.

Within the institution, the Consultative Council operates, which is composed of the Ombudsperson, her deputies, the coordinating director, as well as other persons appointed by the Ombudsperson. The council meets once a week or whenever deemed necessary, being convened by the Ombudsperson.

The People's Advocate institution carried out its activity in 2021 with a personnel scheme that included a number of 165 funded positions, of which 157 positions were allocated to the headquarters and to the offices in the territory, as well as to the four regional centres; and 8 positions at the office of the Ombudsperson.

At the beginning of 2021, there were 146 employees and 19 vacancies, of which 2 management positions and 17 non-managerial positions. During the year, between January and December, there were 5 persons were employed and 8 ended their work relations with the institution.

At the end of 2021, 22 vacancies were registered, of which 2 management positions and 20 non-managerial positions (of which 4 positions at the Ombudsperson's office).

The staff of the People's Advocate institution are subject to the provisions of the Staff Statute of the Parliament's specialized structures.

Section 2 – Material and budgetary resources

This section deals with the financial resources of the institution and how they were consumed, the legal basis and the legislative changes regarding the credits made available through the institution's budget.

The situation of budget and commitment credits allocated and consumed by the People's Advocate institution in 2021 is presented in the following table:

Title	Initial budget Law no. 15/2021	Influences from transfers according to Art. 47 of Law no. 500/2002	Influences from budget rectification according to GEO no. 122/2021	Credit withdrawals according to Art. 54 of Law no. 500/2002	Reduced budget remaining to be executed	Budget consumed on 31.12.2021	Accomplished %
Total, of which	22.875.000	-	-300.000	-64.000	22.511.000	22.435.547	99,66
Staff expenses	18.500.000	-	-300.000	-64.000	18.136.000	18.080.912	99,70
Goods and services	4.109.000	+4.000	-	-	4.113.000	4.095.133	99,57
Other transfers	16.000	-	-	-	16.000	15.249	95,31
Other expenses	155.000	-4.000	-	-	151.000	149.936	99,30
Capital	95.000	-	-	-	95.000	94.317	99,28

In order to carry out the activity in 2021, the People's Advocate institution was allocated by **Law no. 15/2021 of the state budget for 2021**, budgetary and commitment credits in the amount of **22,875,000 lei**.

As a result of the establishment of the state of alert on the territory of Romania, the People's Advocate institution identified during the year 2021 savings in the amount of **364,000 lei**, savings which it returned to the state budget on the occasion of budget corrections or made available to the Fund of Budgetary Reserve at the disposal of the Government. The commitment and budget credits to be executed for the year 2021 were **22,511,000 lei**.

The budget execution of 2021 was achieved at the level of 99.66% of the allocated budget.

CHAPTER X

AUDIT AND RISK MANAGEMENT

In 2021, in the institution of the People's Advocate, audit missions were carried out regarding:

a) System audit. The themes chosen were:

- Evaluation of the process and stage of implementation of managerial control systems in light of the standards of the Order of the General Secretariat of the Government no. 600/2018 for the approval of the Internal Managerial Control Code for public entities;
- The audit of the control systems regarding the activities of ensuring the institution's physical security, safety and health at work.

b) Regularity/compliance audit. The themes chosen were:

- Public procurement audit;
- Audit of the management and accounting activity of tangible and intangible assets and stocks;
- Audit of funds intended for domestic and foreign trips;

c) Performance audit. The themes chosen were:

- Audit of the Iași and Ploiești Territorial Offices (the results of the territorial offices were evaluated in relation to the objectives; the comparison between the written and actual patrimonial situation, the IT, registry and archiving activities, the fulfilment of the minimum security and health requirements in the work).
- Audit of the fields of activity of the People's Advocate institution (the department on human rights, equal opportunities between men and women, religious cults and national minorities and the department of defence, protection and promotion of children's rights).

The audit reports prepared found the functionality of the internal control and governance processes, the reliability of the audited systems, but also aspects that require improvements both from a procedural and organizational point of view, as well as from the point of view of the human resources involved.

The People's Advocate institution has a specialized structure, established for the purpose of monitoring, coordination and methodological guidance of its own managerial control system, namely the **Monitoring Commission**. In 2021, the members of the Monitoring Commission met periodically to develop new procedures and review the existing ones. Also, the self-assessment activity of the implementation stage of the internal control standards in the People's Advocate institution was carried out, which was the basis for the preparation of the Annual Report on the internal control system.