

☐ **REGULATION of 18 October 2019 on the organization and operation of the People's Advocate institution**

☐ **CHAPTER I: General provisions**

☐ **Art. 1**

The People's Advocate institution, hereinafter referred to as the Institution, is organized and operates according to the provisions of Art. 58-60 of the **Constitution of Romania**, republished, of **Law no. 35/1997** regarding the organization and operation of the People's Advocate institution, republished, and of this Regulation.

☐ **Art. 2**

The regulation on the organization and operation of the People's Advocate institution, hereinafter referred to as the *Regulation*, establishes the organizational structure, the duties of the specialized departments, the procedure for receiving and resolving complaints, the procedure for visits, the status of the staff, as well as their disciplinary liability.

☐ **Art. 3**

The provisions of the regulation are in accordance with the provisions of Law no. 35/1997, republished, and are completed by the legal regulations applicable to the specialized staff as well as the staff working under individual employment contracts.

☐ **CHAPTER II: Management of the institution**

☐ **SECTION 1: The Ombudsperson**

☐ **Art. 4**

☐ **(1)** The Ombudsperson leads the institution, exercising his/her authority and competence provided by law, having the following powers and duties:

- a)** signs the reports, points of view, objections and exceptions of unconstitutionality, recommendations, appeals in the interest of the law, administrative litigation actions, court actions, referrals to judicial bodies, visit reports, as well as any other documents necessary for the smooth running of the institution's activity ;
- b)** approves ex officio notifications;
- c)** approves investigations, in the case of collaboration between the institution's departments;
- d)** approves the list of functions and the job description for the staff of the institution;
- e)** approves the organization of contests for filling vacant positions within the institution;
- f)** appoints, promotes and dismisses staff, according to the legal provisions;
- g)** orders or, as the case may be, approves the transfer of personnel from one structure to another, within the institution;
- h)** approves work trips abroad for the staff of the institution;
- i)** approves the training and professional training program for specialized staff;
- j)** empowers specialized personnel to fulfil some of the Ombudsperson's duties, according to the law;
- k)** approves compensation for hours worked overtime;
- l)** approves the leaves of the staff of the People's Advocate institution, of the deputies of the Ombudsperson, of the management staff, as well as the annual planning of the leaves of the staff;
- m)** establishes or, as the case may be, approves the hearings and dispatch schedule;
- n)** exercises any other duties assigned to the Ombudsperson according to the law.

(2) The Ombudsperson can delegate, by order, the exercise of some of the powers provided for in paragraph (1) to his/her deputies or to persons with management positions within the institution.

☐ **Art. 5**

In exercising the powers related to the institution's internal activity, the Ombudsperson issues orders, instructions, methodological norms and regulations.

☐ **SECTION 2: Deputies of the Ombudsperson**

☐ **Art. 6**

(1) The deputies of the Ombudsperson, specialized in different fields of activity, perform, mainly, the following duties:

a) coordinate their field of activity, as well as the activity of the territorial offices and zonal centres assigned to them by the Ombudsperson;

b) inform the Ombudsperson about the activity of their field, the territorial offices or the zonal centres under their coordination;

c) distribute complaints within their fields of activity;

d) endorse reports, recommendations, as well as any other documents subject to the approval of the Ombudsperson;

e) coordinate the activity of drawing up special reports;

f) perform, in the order established by the Ombudsperson, his/her duties in case of temporary impossibility of exercising the function;

g) approve the leaves of staff within the department, territorial offices or regional centres that they coordinate;

h) approve investigations and sign the powers of attorney for the personnel they coordinate;

i) propose and coordinate the professional training program for specialized personnel, with the approval of the Ombudsperson;

j) collaborate with the other deputies of the Ombudsperson in carrying out their legal duties;

k) perform any other duties assigned to them by the Ombudsperson.

(2) In the absence of the deputy Ombudsperson, his/her duties are exercised by one of the other deputies or, as the case may be, by a staff member with non-managerial position designated by the deputy Ombudsperson, with the approval of the Ombudsperson.

☐ **SECTION 3: The coordinating director**

☐ **Art. 7**

(1) The coordinating director is appointed in accordance with the law, by order of the Ombudsperson and reports directly to the Ombudsperson.

(2) The main duties and responsibilities of the coordinating director are the following:

a) ensures the organizational-administrative, informational and material conditions for the smooth running of the institution's activity;

b) monitors and controls the elaboration of periodic statistical reports of the People's Advocate institution in the economic-administrative field, provided by the regulations in force;

c) organizes the management of the institution's assets and takes measures to ensure their integrity;

d) organizes the maintenance and procurement activity and establishes measures for the guarding and use of the institution's headquarters and its assets, through the relevant structures;

e) monitors the execution of contracts for the provision of utilities (water, heat, electricity, telephone, etc.);

- f)** oversees the annual inventory of all assets from the institution's patrimony and submits a report on this inventory to the head of the institution;
 - g)** is responsible for ensuring compliance with the legal provisions regarding the use of the funds contained in the institution's income and expenditure budget and for the preparation of the institution's annual budget project;
 - h)** is responsible for the organization and implementation of the institution's general IT system;
 - i)** orders the measures to be taken regarding the circulation and transfer of goods;
 - j)** organizes the fire prevention and extinguishing activity, as well as the labour protection activity;
 - k)** approves the inventory value of the books received free of charge;
 - l)** performs other duties provided by law or entrusted by the Ombudsperson.
- (3)** In the absence of the coordinating director, his/her duties are exercised by one of the heads of bureaus or, as the case may be, by a person with non-managerial position designated by the coordinating director and approved by the Ombudsperson.

☐ **SECTION 4: Head of the Constitutional Litigation Service, appeal in the interest of the law, administrative and legal litigation, analysis of normative acts, external relations and communication**

☐ **Art. 8**

- (1)** The Head of the Constitutional Litigation Service, appeal in the interest of the law, administrative and legal litigation, analysis of normative acts, external relations and communication, hereinafter referred to as the *Litigation Service*, is appointed under the terms of the law by order of the Ombudsperson and reports directly to the Ombudsperson.
- (2)** The main duties and responsibilities of the head of the Litigation Service are the following:
- a)** coordinates the activity of the Litigation Service;
 - b)** approves and, as the case may be, signs the papers drawn up by the bureaus within the Litigation Service;
 - c)** endorses, at the request of the Ombudsperson, the orders, instructions, regulations and any other documents issued by the Ombudsperson;
 - d)** formulates and signs requests on behalf of the People's Advocate institution, makes proposals and presents the necessary and useful evidence for the defence of the institution's legal interests before the courts and the Constitutional Court, based on the power of attorney granted by the Ombudsperson;
 - e)** represents the institution before the public authorities, the courts and the Constitutional Court, based on the power of attorney granted by the Ombudsperson;
 - f)** represents the institution before public authorities and natural persons in relation to the activity which makes the object of the Litigation Service, when requested by the Ombudsperson;
 - g)** performs any other duties established by the Ombudsperson.
- (3)** In the absence of the head of the Litigation Service, his/her duties are exercised by one of the heads of bureaus or, as the case may be, by a person with non-managerial position designated by the head of the Litigation Service, with the approval of the Ombudsperson.

☐ **CHAPTER III: The organization and duties of the staff and structures within the People's Advocate institution**

☐ **SECTION 1: The organizational structure**

☐ **Art. 9**

The fields of activity, coordinated by the deputies of the Ombudsperson, are the following:

- a)** human rights, equal opportunities between men and women, religious cults and national minorities;
- b)** the rights of the family, young people, pensioners, people with disabilities;
- c)** defending, protecting and promoting the rights of the child;
- d)** army, justice, police, penitentiaries;
- e)** property, labour, social protection, taxes and fees;
- f)** prevention of torture and other cruel, inhuman or degrading treatments or punishments in places of detention through the National Preventive Mechanism.

Art. 10

(1) The litigation service is organized and works directly subordinated to the Ombudsperson.

(2) Within the Litigation Service, operate the Bureau for Constitutional Litigation and Appeal in the Interest of the Law, the Bureau for Administrative and Legal Litigation and the Bureau for Analysis of Normative Acts, External Relations and Communication.

Art. 11

The financial, payroll and human resources bureau and the administrative bureau are directly subordinated to the coordinating director.

Art. 12

The internal public audit activity is organized and takes place under direct subordination to the Ombudsperson, according to the law.

Art. 13

(1) The Cabinet of the Ombudsperson is organized in accordance with the provisions of Art. 59 para. (3) from Law no. 35/1997, republished.

(1¹) In order to carry out its legal duties, the People's Advocate institution organizes 15 territorial offices and 4 zonal centres in the field of prevention of torture and other cruel, inhuman or degrading treatment or punishment in places of detention, as structures without legal personality, according to annex no. 1.

(as of 09-Apr-2021 Art. 13, paragraph (1) of chapter III, section 1 supplemented by Art. I, point 1. of Order 44/2021)

(2) The organizational structure of the People's Advocate institution is provided in annex no. 1.

Art. 14

(1) Within the institution, operates an Advisory Council, which includes the Ombudsperson, his/her deputies, the coordinating director, the head of service, the heads of bureaus, as well as other persons appointed by order of the Ombudsperson.

(2) The Advisory Council is convened by the Ombudsperson monthly or whenever necessary.

(3) The agenda of the meetings of the Advisory Council is established by the Ombudsperson. The agenda can be supplemented at the proposal of the participants, with the consent of the Ombudsperson.

(4) The conclusions adopted at the meetings of the Advisory Council are recorded in the minutes of the meeting, which are distributed by e-mail to the entire staff and are implemented by acts of the Ombudsperson.

(5) Members of the Romanian Parliament, representatives of the Government and central public institutions, representatives of the academic, professional, business environment, trade unions, and representatives of non-governmental organizations may be invited to the meetings of the Advisory Council.

☐Art. 15

(1) In order to carry out its duties according to the law, the People's Advocate organizes territorial offices and zonal centres.

(2) In order to ensure the necessary workspaces for the activity of the territorial offices and zonal centres, the Ombudsperson decides on the rental, concession or administration of the premises, from legal or natural persons, as the case may be, in compliance with the specific legal provisions.

☐Art. 16

(1) Within the organizational structure, by order of the Ombudsperson, directorates, services, bureaus, or other categories of departments or commissions with temporary activity can be organized, establishing the number of management positions, the duties, as well as the necessary personnel for each department, in relation to the competence of the institution, established by law.

(2) For the good organization and operation of the institution's activity, the Ombudsperson can approve, by order, the transformation of existing specialized non-managerial positions, under the provisions of the law.

☐Art. 17

(1) The number of posts of the People's Advocate institution is 165, including the 8 posts at the Cabinet of the Ombudsperson.

(2) The number of personnel necessary for the institution's activity is approved by the Ombudsperson, within the limits of the annual budget.

☐SECTION 2: Duties of the staff and structures within the People's Advocate institution

☐Art. 18

(1) The duties of specialized personnel within the fields of activity, territorial offices and zonal centres and the Litigation Service are detailed in the job description by the deputies of the Ombudsperson, respectively the head of the Litigation Service.

(2) The duties of the staff within the financial, payroll and human resources bureau and the administrative bureau are detailed in the job description by the coordinating director.

(3) The duties of the auditor are detailed in the job description by the Ombudsperson.

(4) All structures within the institution collaborate in order to fulfil the constitutional role of the People's Advocate.

☐Art. 19

The duties of the fields of activity, territorial offices and zonal centres, bureaus within the Litigation Service, the Financial, payroll and human resources bureau and the Administrative bureau are detailed by methodological rules/internal procedures, approved by order of the Ombudsperson.

☐ **Art. 20**

The specific duties of the staff within the Cabinet of the Ombudsperson are detailed in their job description by the Ombudsperson.

☐ **CHAPTER IV: The operation of the institution**

☐ **SECTION 1: The registers of the institution**

☐ **Art. 21**

(1) The registers of the institution are as follows:

- a) the general correspondence entry-exit register, in which all documents entering and leaving the institution are registered, in order, receiving a number and date of registration;
- b) file registers, in which all works related to the resolution of complaints are recorded;
- c) hearings register;
- d) the register of documents issued by the Ombudsperson in the exercise of his/her legal duties, in which they are registered in chronological order;
- e) the special register of secret and confidential correspondence, in which documents of this nature are registered;
- f) the alphabetical list;
- g) the archive register.

(2) Within the People's Advocate institution, the general electronic register operates in the intranet system, in which the staff upload the data and attach the documents they are working on, which the Ombudsperson, the deputies, as well as management and non-management staff both from the head office and from the territorial offices and zonal centres, have access to.

(3) In order to carry out the institution's activity effectively, the Ombudsperson can approve, by order, the creation of other registers apart from those provided for in para. (1).

☐ **SECTION 2: The procedure for receiving and resolving complaints. The procedure in the case of ex officio proceedings. The procedure for carrying out investigations**

☐ **Art. 22**

(1) Complaints addressed to the People's Advocate institution must be formulated in writing, in compliance with the conditions stipulated by law, and can be sent by mail, including electronic mail, fax, or can be submitted in person or by proxy.

(2) In the case of complaints sent to the institution by electronic mail (e-mail) that do not contain the identification data of the complainant (name and address), these will also be requested by means of electronic mail. If the complainant returns with a new complaint without communicating the requested identification data, the complaint will be considered anonymous and will be closed.

(3) If the complaint is submitted through a proxy, his/her identification data will be requested.

(4) For well-grounded reasons, at the request of the complainant, they may be allowed to present their complaint orally or through the dispatch service, which will be recorded by the persons providing the hearing and dispatch service, on the standard forms, the models of which are presented in annexes no. 2 and 3.

☐ **Art. 23**

(1) Persons aggrieved in their rights or civil liberties by public administration authorities may notify the People's Advocate institution within the hearings program. Hearings are granted by specialized staff, based on the schedule endorsed by the deputies of the Ombudsperson and

approved by the Ombudsperson. The territorial offices of the People's Advocate institution have the same hearings program as the institution's headquarters.

(2) Based on the prior approval of the coordinating deputy Ombudsperson, the representatives of the territorial offices may also grant hearings at the headquarters of some institutions within the area of territorial competence of the respective offices.

(3) If the reported issues refer to acts of the public administration authorities or of the autonomous state enterprises provided by Law no. [35/1997](#), republished, the complainant can notify the institution, by completing a standard application form, which receives a registration number and date. If the complaint is submitted through a proxy, his/her identification data will be requested. For valid reasons, at the request of the complainant, the standard application form will be completed by the expert/counsellor on duty who grants the hearing.

(4) After being granted the hearing by the specialist staff, the dissatisfied persons can request a hearing with the deputy Ombudsperson specialized in the notified issue, who shall decide on the merits of the request and whether the hearing will be granted or not.

(5) Complainants who request a hearing with a deputy Ombudsperson shall submit a request regarding the issues complained of, and they will be notified, depending on the merits of the request, of the date on which the deputy Ombudsperson can grant them a hearing.

(6) If, after completing the procedure mentioned above, the complainants request a hearing with the Ombudsperson, they will be directed to formulate a reasoned request in writing, and the Ombudsperson will then decide on the merits of the request and on the granting of the hearing.

(7) The hearings requested by the persons whose complaints were handled by the Litigation Service are granted by the person who handled the respective file together with the head of the Bureau on Constitutional Litigation and Appeals in the interest of the law, the head of the Bureau on Administrative and Legal Litigation or the head of the Litigation Service, as the case may be.

☐Art. 24

(1) The complaints, with their envelopes attached, are submitted to the registry office of the institution, where, on the same day, are registered in the general entry-exit mail register and receive a registration number and date, after which they are handed over to the deputies of the Ombudsperson or the persons designated by them, in order to be sorted by fields of activity and distributed.

(2) The deputy Ombudsperson or a person designated by him/her distributes the complaints according to the field of activity, and the person to whom the complaint is assigned shall sign for the receipt, in a register.

(3) In the situation where the subject of a complaint falls within the competence of two or more fields of activity, the deputies of the Ombudsperson will designate the department responsible for resolving the complaint, while maintaining the obligation of the other departments to collaborate.

(4) Submission and receipt of complaints are done under signature, in the handover and receipt book.

☐Art. 25

(1) Anonymous complaints shall not be registered.

(2) Complaints received electronically, the content of which does not reveal the identification data of the complainant or complaints that contain insults, licentious language, exclusively images without text, or references to links, shall be closed, without being assigned to the fields of activity.

(3) Complaints with similar content receive the same registration number, for which a single response will be drawn up and will be displayed on the website of the People's Advocate institution.

(4) If a person addresses several complaints, notifying the same problem, the staff member to whom the complaint is assigned proposes to the deputy Ombudsperson to connect them, and the complainant will receive a single answer, which will refer to all the complaints sent.

(5) If, after sending the answer, a new complaint is received with the same content and without bringing new evidence, the complainant will be informed that the complaint will be dismissed. The file shall be closed after connecting the last complaint to the initial number, making mention of the fact that it was answered.

☐Art. 26

(1) The person to whom the complaint was assigned, hereinafter referred to as the *task assignee*, analyses its object, verifies whether the complainant has previously addressed the People's Advocate institution with complaints having the same object, and proposes the draft response which he/she submits for analysis and approval to the deputy Ombudsperson who coordinates the department where he/she works.

(2) The expert or counsellor to whom the complaint was assigned registers the receipt of the complaint in the general electronic register as task assignee.

(3) In the event that the complaint does not fall within the object of activity of the People's Advocate institution, the draft response is approved and signed by the deputy Ombudsperson who coordinates the department.

(4) If the complaint falls within the scope of the institution's activity, the task assignee checks whether the requirements provided by the law are met and, if necessary, requests, with the approval of the Deputy Ombudsperson, additional information, by telephone or in writing, from the complainant or the authority. When necessary, the presence of the complainant can be requested. In this case, a file will be opened that will bear the registration number of the complaint, registered according to Art. 24.

(5) The complainant will be informed, in writing, of both the steps taken by the People's Advocate and of the final answer.

☐Art. 27

(1) In the event that, following the preliminary analysis, it is necessary to carry out an investigation, the task assignee makes the investigation proposal, motivated in fact and in law, and submits it for approval to the deputy Ombudsperson who coordinates the department or the territorial office where he/she works. The deputy Ombudsperson who coordinates the department or the territorial office empowers the persons who will carry it out, also taking into account a fair distribution of tasks between the staff from the headquarters and to those from the territorial offices.

(2) The investigation is carried out within the term established by order of the Ombudsperson.

(3) Weekly or whenever the case may be, the Ombudsperson will be informed by his/her deputies about the investigations to be carried out.

☐Art. 28

(1) The Ombudsperson may interrupt the investigation whenever he/she finds that the complaint has been settled amicably or that the grounds for which it was ordered have ceased.

(2) The termination of the procedure is brought to the attention of the complainant.

☐Art. 29

(1) According to the same procedure, if following preliminary analysis or investigations it is found that the aggrieved person's complaint is well-founded, the People's Advocate institution will notify the authority of the public administration that violated the rights of the complainant, asking it in writing to reform or revoke the administrative act and repair the damages caused, as well as restore the aggrieved person to the previous situation.

(2) If a violation of the complainant's rights or the illegality of the administrative act is found, the Ombudsperson issues a recommendation addressed to the public administration authority that violated the respective rights or issued the illegal act.

(3) The task assignee of the file in which the recommendation was issued follows-up its implementation and informs the Ombudsperson of the method in which it was implemented.

☐Art. 30

(1) In the event that the public administration authority in question adopts the recommendation, the Ombudsperson approves the proposal to close the file.

(2) Otherwise, the Ombudsperson will proceed to notify the hierarchically superior authorities or, in the situation where it is still within the legal term, can file an administrative litigation action.

(3) If, in the process of resolving complaints or during investigations/visits, the existence of solid indications regarding the commission of acts sanctioned by the criminal law are found, the Ombudsperson shall be notified immediately.

(4) The note will be forwarded, for endorsement, to the deputy of the Ombudsperson coordinating the department that found the commission of possible criminal acts and, subsequently, to the Ombudsperson, for approval.

(5) In the situations provided for in para. (3) and (4), the Ombudsperson will proceed according to Art. 47 of Law no. [35/1997](#), republished.

☐Art. 31

(1) The Ombudsperson can approve the ex officio proceeding when he/she finds out, by any means, that the rights or freedoms of natural persons have been violated.

(2) The ex officio proceeding is registered in the general register of incoming and outgoing correspondence and in the register of ex officio proceedings and also in the general electronic register.

(3) All works performed by the task assignee will be attached to the electronic register.

(4) The resolution procedure is the one provided in this section.

(5) The procedure carried out as a result of the ex officio proceeding also stops at the request of the person aggrieved in his/her rights and freedoms.

(6) With the exception of ex officio proceedings, in all cases, the final results are brought to the notice of the complainant and will be entered into the general electronic register. If the person who was the subject of an ex officio proceeding can be identified, he/she will be informed of the steps taken and their result.

☐Art. 32

(1) Complaints are resolved within 30 days from the date of registration, except for cases in which a file is opened, according to Art. 26 para. (4).

(2) If the file is opened, the complainant will be notified of the action taken within a maximum of 3 days from the date the file was approved or the action was taken, as the case may be.

☐ **Art. 33**

The provisions relating to the procedure for receiving and resolving complaints and the procedure in the case of ex officio proceedings provided for in this regulation shall be applied accordingly to the territorial offices.

☐ **SECTION 3: The procedure for resolving complaints requesting referral to the administrative litigation court**

☐ **Art. 34**

(1) The complaints by which the referral to the administrative litigation court is requested are distributed to the department specialized in the respective violated right, in order to carry out the control through the specific instruments of the People's Advocate institution.

(2) The complaints requesting the referral to the administrative litigation court registered at the territorial offices are resolved according to the procedure described in the 2nd section.

(3) In order to comply with the deadline for filing the action provided by Art. 11 of the Administrative Litigation Law no. [554/2004](#), with subsequent amendments and additions, the steps taken by the departments of the People's Advocate institution, as well as the territorial offices, are undertaken within a maximum period of 4 months from the date of registration of the complaint at the People's Advocate institution.

(4) If, following the control carried out by the department / the territorial office having competence in the violated right, it is assessed that the illegality of the administrative act or the refusal of the administrative authority to carry out its legal duties can only be removed through the courts, the task assignee prepares, within 5 days from the expiration of the term provided for in para. (3), a note addressed to the Ombudsperson, subject to the prior approval of the deputy Ombudsperson in whose competence the work is, which must contain:

a) the object of the complaint;

b) the control performed and the results obtained;

c) conclusions and the proposal for referral to the competent administrative litigation court by the Administrative and Legal Litigation Office;

d) supporting documents: the complaint, the allegedly illegal administrative act, the documents submitted by the complainant, the letters drawn up by the specialized department/territorial office, the answers received and others.

(5) The Ombudsperson can approve the note or send it back to the department/territorial office for additions and changes.

(6) The referral procedure to the administrative litigation court is detailed by methodological norms/internal procedures, approved by order of the Ombudsperson.

☐ **SECTION 4: 4: The procedure for resolving complaints requesting the referral to the Constitutional Court with an objection of unconstitutionality of a law before its promulgation or with an exception of the unconstitutionality of a law or an ordinance**

☐ **Art. 35**

(1) In the case of complaints through which the People's Advocate is requested to notify the Constitutional Court directly through an objection of the unconstitutionality of a law before promulgation or through an exception of the unconstitutionality of a law or an ordinance, after

examining the complaint, the task assignee submits to the approval to the Ombudsperson a note with the proposal to resolve the complaint.

(2) The departments and the territorial offices that receive complaints requesting the direct notification of the Constitutional Court through an objection of unconstitutionality of a law before promulgation or through an exception of unconstitutionality of a law or an ordinance by the People's Advocate, shall submit them to the Constitutional Litigation Office and Appeal in the Interest of the Law, for competent resolution.

(3) The referral procedure to the Constitutional Court is detailed by methodological norms/internal procedures, approved by order of the Ombudsperson.

☐ **SECTION 5: Resolution of the points of view submitted by the Constitutional Court**

☐ **Art. 36**

(1) Requests for the formulation of a point of view are distributed by the head of the Litigation Service, depending on the object of the normative act subject to constitutionality control, under the conditions established by order of the Ombudsperson.

(2) The points of view expressed in the sense of the unconstitutionality of laws or ordinances and those under reserve of interpretation are kept by the task assignee until the publication of the decision of the Constitutional Court in the Official Gazette of Romania, Part I. After the publication of the decision, the task assignee prepares a sheet containing the opinion of the People's Advocate and the solution pronounced by the Constitutional Court.

☐ **SECTION 6: Resolution of complaints requesting to be filed an appeal in the interest of the law**

☐ **Art. 37**

(1) Pursuant to the provisions of Law no. [134/2010](#) regarding the [Code of Civil Procedure](#), republished, with subsequent amendments and additions (Code of Civil Procedure), respectively of Law no. [135/2010](#) regarding the [Criminal Procedure Code](#), with subsequent amendments and additions (Criminal Procedure Code), the People's Advocate can file an appeal in the interest of the law to the High Court of Cassation and Justice, on legal matters that were resolved differently by the courts.

(2) In order to initiate proceedings regarding the formulation of an appeal in the interest of the law, it is necessary for the complaint to include the legal matter and the legal provisions whose different interpretation and application have determined the non-unitary judicial practice and to be accompanied by at least two final contradictory court decisions pronounced by courts in the jurisdiction of two different courts of appeal.

(3) In order to identify a non-unitary practice at the level of the country, the People's Advocate requests from the courts of appeal the court decisions pronounced in the matter.

(4) The referral procedure to the High Court of Cassation and Justice is detailed by methodological norms/internal procedures, approved by order of the Ombudsperson.

☐ SECTION 7: The procedure for resolving requests regarding information of public interest

☐Art. 38

The procedure regarding the settlement of requests that have as their object the information regulated by Law no. [544/2001](#) regarding free access to information of public interest, with subsequent amendments and additions, is approved by order of the Ombudsperson.

☐ CHAPTER V: The status and remuneration of the institution's staff

☐Art. 39

(1) Within the People's Advocate institution are working staff with specialized studies necessary to carry out the duties conferred by the Constitution and the law, referred to in this chapter as *specialized personnel*.

(2) The staff of the People's Advocate institution consists of:

a) contractual management and non-management specialized personnel, to whom the provisions of the Statute of Parliamentary Civil Servants apply: coordinating director, head of the Litigation Service, heads of offices, counsellors, experts and referents;

b) contractual management and non-management staff, to whom the provisions of the contractual staff within the services of the Parliament are applicable: the cabinet of the Ombudsperson and the drivers.

☐Art. 40

(1) The remuneration of contractual management and specialised non-management personnel to whom the provisions of the Statute of Parliamentary Civil Servants are applicable, is based on according to annex no. VIII "Occupational family of budgetary functions «Administration»" chapter I letter A "Salaries of civil servants" section I "Salaries for the central public administration" of the Framework Law no. [153/2017](#) regarding the remuneration of staff paid from public funds, with subsequent amendments and additions.

(2) The remuneration of the staff from the cabinet of the Ombudsperson and the drivers is based on the chapter II letter A "Salary of contractual staff from the specialized central public administration, decentralized services of ministries and other specialized central bodies, prefectures, county councils, municipalities, local public administration - councils, town halls and public services subordinate to them", section I "Salaries for the central public administration" point 2.8 "Cabinet of the dignitary and the services of the Parliament", from the Framework Law no. [153/2017](#) regarding the remuneration of staff paid from public funds, with subsequent amendments and additions.

☐Art. 41

The specific conditions for occupying management positions, as well as non-management positions, are established by order of the Ombudsperson.

☐Art. 42

The evaluation of the professional activity of the institution's staff is done under the conditions provided by the legal regulations in force for similar functions in the Parliament apparatus.

☐ **Art. 43**

- (1) The staff of the institution has the right to paid annual rest leave, established in relation to the seniority, according to the regulation on leaves, approved by the Ombudsperson.
- (2) The staff is entitled to receive, according to the law, monetary compensation, corresponding to the number of days of rest leave not taken, only in case of termination of the individual employment contract.
- (3) The staff of the institution benefits, under the law, from study leaves, additional leaves, medical leaves, unpaid leaves, paid days off and overtime.
- (4) The staff of the People's Advocate institution benefits from increases/bonuses under the law. The conditions for granting them are established by order of the Ombudsperson.
- (5) The staff of the institution has both the right and the obligation to permanently improve their professional training, including by participating in professional training courses.
- (6) The administrative bureau, the departments specialized on fields of activity, the territorial offices and the zonal centres will collaborate in order to ensure the participation of the institution's staff in the training courses and organized by the People's Advocate institution or by the providers of professional training services in the country or from abroad.
- (7) The training and continuous improvement of professional competencies, are organized, financed and carried out according to the program approved by the Ombudsperson.

☐ **Art. 44**

In exercising their duties, the staff of the institution has the following duties:

- a) to solve the assigned works in accordance with Law no. [35/1997](#), republished, the organization and functioning regulations of the institution, and the orders and instructions of the Ombudsperson;
- b) to respect the deadlines set for the settlement of the works;
- c) to show solicitude and politeness;
- d) to ensure in the process of drawing up and applying decisions, as well as in resolving complaints, equal treatment, without privileges and without discrimination;
- e) to exercise the powers conferred by their position only for the purpose provided by law;
- f) not to be influenced in their conduct by personal interests or political interventions;
- g) to ensure people's access to documents, in accordance with the legal provisions.

☐ **CHAPTER VI: Disciplinary liability**

☐ **Art. 45**

- (1) The culpable violation of service duties attracts the disciplinary liability of the institution's staff.
- (2) Constitutes disciplinary misconduct:
 - a) violation of the legal provisions regarding the prohibitions of the staff of the People's Advocate institution;
 - b) participation in political activities;
 - c) unjustified refusal or procrastination in the fulfilment of duties according to Law no. [35/1997](#), republished, Law no. [53/2003 - Labour Code](#), republished, with subsequent amendments and additions (Labour Code), of this regulation, of the orders of the Ombudsperson or of the task assigned by the superior hierarchical leader;
 - d) serious or repeated negligence in solving the works;
 - e) repeated and unjustified delay of the task assignee in carrying out the works assigned to him/her;
 - f) unjustified absence from work or repeatedly being late or leaving work early;

- g)** rude attitude during the exercise of their function;
- h)** non-compliance with the legal regulations regarding work secrecy, professional secrecy or the confidentiality of works, when applicable.
- (3)** The disciplinary sanctions that the employer can apply if the employee commits a disciplinary offense are:
 - a)** the written warning;
 - b)** demotion to a lower position, with the granting of the salary corresponding to the position in which the demotion was ordered, for a duration that cannot exceed 60 days;
 - b)** reduction of the basic salary for a duration of 1-3 months by 5-10%;
 - d)** disciplinary termination of the individual employment contract.
- (4)** The disciplinary sanction shall be removed by law within 12 months from its application, if a new disciplinary sanction is not applied to the employee within this period. The removal of disciplinary sanctions is confirmed by decision of the employer's issued in written form.

☐ **Art. 46**

- (1)** The disciplinary investigation is carried out by a commission established by order of the Ombudsperson.
(as of 09-Apr-2021 Art. 46, paragraph (1) of Chapter VI amended by Art. I, point 2. of Order 44/2021).
- (2)** The disciplinary commission established by order to carry out the disciplinary investigation proposes, through a reasoned report, the dismissal of the notification or the application of a disciplinary sanction from those provided for in Art. 45.
(as of 09-Apr-2021 Art. 46, paragraph (2) of Chapter VI amended by Art. I, point 2. of Order 44/2021).
- (3)** The Ombudsperson applies the disciplinary sanction by order. This power can be delegated to one of the deputies of the Ombudsperson.
- (4)** The employee dissatisfied with the applied disciplinary sanction may appeal the sanctioning order to the competent court, according to the provisions of the Labour Code.

☐ **Art. 47**

The removal of disciplinary sanctions does not lead to the cancellation of their patrimonial effects.

☐ **Art. 48**

Employment relationships are terminated under the conditions provided by the Labour Code.

☐ **CHAPTER VII: Final provisions**

☐ **Art. 49**

The People's Advocate institution maintains relations with similar authorities from other states and can participate in the activity of international organizations in its field of activity or can become a member of these organisations.

☐ **Art. 50**

The norms of expenses for the protocol, trips abroad, procurement of cars and monthly fuel consumption are established by order of the Ombudsperson, according to the law.

☐ **Art. 51**

The organization and operation regulation of the People's Advocate institution is completed by the legal provisions in force.

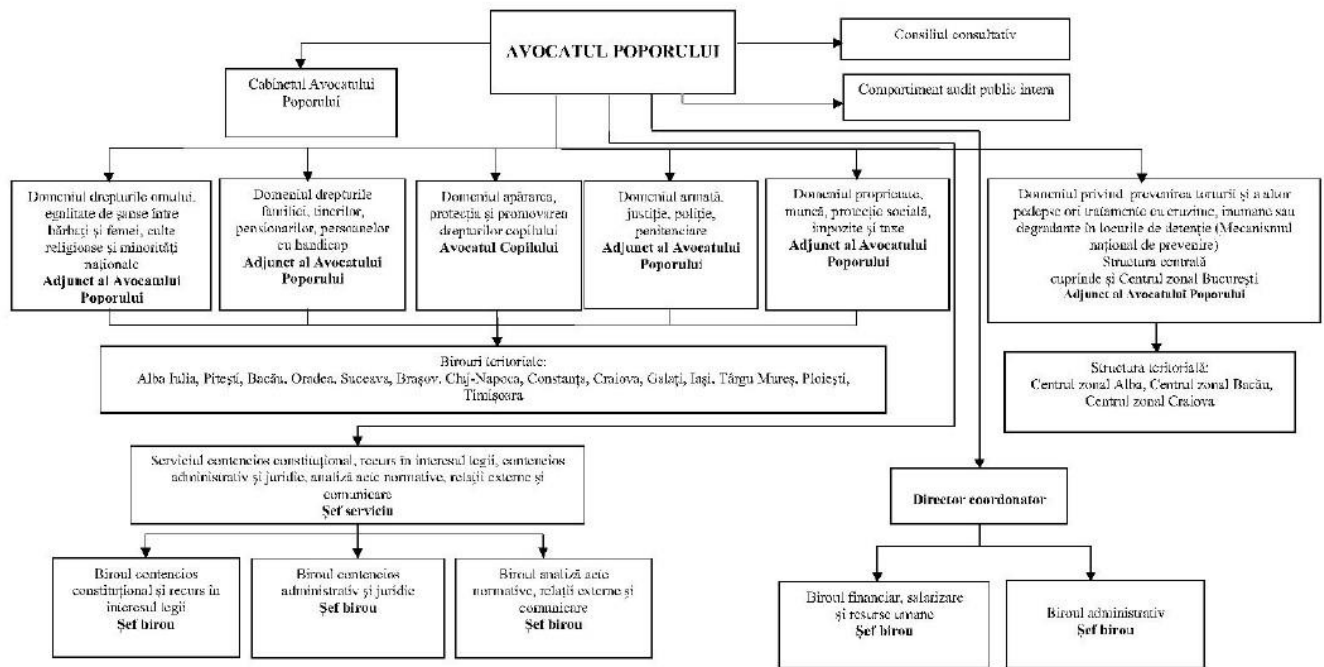
Art. 52

(1) From the date of entry into force of this regulation, its provisions apply to the entire staff of the institution.

(2) Appendices no. 1-3 are an integral part of this regulation.

APPENDIX no. 1: ORGANIZATIONAL STRUCTURE of the People's Advocate institution

(on 09-Apr-2021 annex 1 amended by Art. I, point 3. of Order 44/2021)



▣APPENDIX no. 2: Complaint Form

- 1.** Name and surname (in capital letters), domiciled in (address from the identity card, specifying, when applicable, also the mailing address), street. no., building., entrance., apartment., phone
- 2.** The date you became aware of the violation of your rights:
- 3.** Brief presentation of the violated rights and freedoms:
- 4.** The administrative authority or civil servant complained of:
- 5.** Brief description of the alleged facts, by which your rights were violated: (you can continue on another page, which you can attach to the application)
- 6.** The public authorities that were previously notified:
- 7.** The answer received and the reasons why you still consider yourself wronged:
- 8.** In proof of what has been stated, I submit the following documents (in copies, not in originals):
- 9.** Mandatory mention if the request is the subject of a case pending before a court or if it was the subject of a court judgment:
- 10.** I wish all information and the results of this request to remain confidential:
YES NO
- 11.** The complaint is submitted
 personal
 by proxy

Date

Signature

APPENDIX no. 3: SHEET

THE PEOPLE'S ADVOCATE

Dispatch Service

Name and surname (in capital letters), domiciled in (address from the identity card, specifying, when applicable, also the mailing address), street. no., building., entrance., apartment., phone

The date on which the person became aware of the alleged violation of his rights or freedoms:

The rights and freedoms allegedly violated:

The administrative authority or civil servant who violated the right or freedom of the applicant or of another person:

The brief description of the alleged facts, by which the rights or freedoms invoked were violated:

The public authorities that were notified previously:

The answer received and the reasons why the complainant considers himself wronged:

The following documents were invoked to prove what was stated:

The respective case is or was the subject of a case pending before a court or a criminal investigation:

Recommended solution:

Drafted by:

.....

(name and surname)

(expert)

Date