



**PEOPLE'S ADVOCATE INSTITUTION**



*Summary of the*  
**2023 ACTIVITY REPORT**

**Bucharest**  
**2024**

# CHAPTER I

## DEFENSE, PROTECTION AND PROMOTION OF CHILDREN'S RIGHTS

In 2023, at the level of the Department on defense, protection and promotion of children's rights, were registered a total number of:

- **653 complaints;**
- **2016 ex officio notifications;**
- **81 investigations;**
- **78 recommendations;**
- **111 participations** in debates, conferences, symposia with the theme of promoting and respecting children's rights.

Of these, at the central headquarters, were registered 461 complaints, 799 ex officio notifications, 26 investigations were conducted, 10 recommendations were issued, and there were 40 participations in debates, conferences, and symposiums focused on promoting and respecting children's rights. The activity of territorial offices, detailed in Chapter VII, resulted in: 192 complaints, 1,217 ex officio notifications, 55 investigations, 68 recommendations, 70 participations in debates, conferences, symposiums related to promoting and respecting children's rights, 164 hearings were granted, and 415 calls to the dispatch center regarding possible violations of children's rights.

Additionally, 96 awareness raising activities were conducted, aimed at presenting the duties of the Ombudsman for Children, as well as other topics related to the protection and promotion of children's rights.

The complaints and ex officio notifications mainly concerned the following issues: sexual abuse of minors; verbal and physical violence against minors by other minors; juvenile delinquency; requests for information regarding the establishment of a child's paternity; child custody and the respect of parental rights and obligations following a divorce; parental alienation; access to medical treatments or the way they are provided in pediatric medical units; transcription of civil status documents issued by foreign authorities; granting of school scholarships; granting of state child allowances; conditions in educational units; inappropriate behavior of teachers towards students; conditions in residential-type institutions, as well as any other situations where children's rights are not respected.

Moreover, the staff of the department are part of several working groups: the Inter-institutional Working Group within the "Protection of Crime Victims" Project, funded by the "Justice" program of the Norwegian Financial Mechanism 2014-2021, managed by the Ministry of Justice; the Working Group on the respect of the rights of refugees from Ukraine (People's Advocate Institution); the Working Group on Data for Children (UNICEF Romania); the i-Restore 2.0 project Working Group (Terres des Hommes); the National Coordination Committee of the Child-Friendly Cities Initiative (UNICEF Romania); the Coordination Committee of the "Romania for Every Child" Project (UNICEF Romania).

In addition, participation in the professional training course on Restorative Justice for Children, organized by Terres des Hommes, is also mentioned.

Other relevant activities of the Department on Defense, Protection, and Promotion of Children's Rights:

- ◆ On the occasion of the International Children's Rights Day, the department organized a webinar on the theme of the Specifics of Investigations Conducted by the Ombudsman for Children;
- ◆ Participation in the prevention action of the National Anti-Drug Agency: on the night of August 10-11, 2023, the National Anti-Drug Agency (ANA) conducted an operation in the Old Town area of the Capital, aimed at identifying homeless people, unaccompanied children, and minors consuming drugs/alcohol/tobacco. The operation was organized in collaboration with the General Police Directorate of Bucharest (DGPMB) – Police Sectors 3 and 4, General Directorates for Social Assistance and Child Protection, Bucharest Ambulance Service – Ilfov, the Organized Crime Combat Brigade, with the support of observers from the People's Advocate Institution and the National Federation of Parents Edupart;
- ◆ Representatives of the department participated in the convocation organized by the Romanian Police; the aim of the event was to identify guidelines and unified actions to implement a national program aimed at reducing juvenile delinquency in pre-university educational institutions;
- ◆ Checking the state of playgrounds in Bucharest. Analyzing media reports, it was found that in recent years there have been several accidents at playgrounds, resulting in serious injuries to children, both in Bucharest and in other counties of the country. Furthermore, during daily inspections in Bucharest, the field personnel observed that the poor condition of some playgrounds poses a real danger to children's safety, caused either by the physical wear of the equipment or by acts of vandalism (broken benches, swings with detached chains, mud, garbage, etc.). Therefore, to ensure that children's right to spend time outdoors in a safe, clean, and welcoming environment is respected, all sector city halls in Bucharest were requested to provide detailed information regarding playgrounds.
- ◆ Another relevant action is checking the compliance with the provisions of Law no. 8/2023, amending and supplementing art. 6 of the Law on Physical Education and Sports no. 69/2000, to ensure free access for children/students to schoolyards after school hours and during school holidays. Thus, letters were sent to all County Councils, Prefecture Institutions, and School Inspectorates across the country.

## THE DEPARTMENT REGARDING 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)



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

By ratifying the *Optional Protocol of December 18, 2002 to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)*, Romania assumed the obligation to establish the National Mechanism for the Prevention of Torture in Places of Detention (NPM). Thus, in 2014, by the Government Emergency Ordinance no. 48, it was established that the People's Advocate institution, through the Department regarding the prevention of torture and other cruel, inhuman or degrading punishments or treatments in places of detention, shall fulfill the specific duties of a national preventive mechanism. The NPM mainly exercises a **preventive mandate**, its role consisting in identifying situations with potential risk of ill-treatment and strengthening the protection of persons deprived of liberty against ill-treatment and ensuring the non-discriminatory exercise of fundamental rights.

The activity of the NPM mainly consists in: making periodic visits, announced or unannounced, to places of detention; formulating recommendations to the management of the places visited and hierarchically superior authorities; the formulation of legislative amendment proposals; awareness raising activities regarding the NPM mandate and the professional training of staff working in places of detention, regarding the prohibition of torture and the prevention of ill-treatment; maintaining liaison with the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT).

NPM includes: The central structure, which also includes Bucharest zonal center and the Territorial structure, made up of 3 zonal centers: ● Alba zonal center; ● Bacău zonal center; ● Craiova zonal center. Within the 4 zonal centers, during the year 2023, were working: specialized staff - 7 jurists, 4 doctors, 2 psychologists, 1 social worker - and 4 staff

members with administrative duties (drivers), at the end of the year being 2 vacancies, one social worker and one psychologist, at the Bucharest zonal center.

In the NPM activities are co-opted and external collaborators, based on service contracts, selected by the Ombudsperson, on the proposals received from the Romanian College of Physicians, the Romanian College of Psychologists and the National College of Social Workers. Thus, in 2023, the People's Advocate institution had 67 external collaborators (12 doctors, 13 social workers and 42 psychologists). Also, representatives of non-governmental organizations active in the field of human rights protection, selected by the Ombudsperson, participate in the torture prevention activity. Currently, collaboration protocols are concluded with 43 non-governmental organizations.

#### Monitoring visits to places of detention

During 2023, NPM carried out **80 of visits** to places of detention (part of the visits also having as purpose to verify the implementation of the recommendations formulated through previous visit reports):

- **Penitentiaries – 10 visits:** Miercurea Ciuc Penitentiary, Harghita County; Focșani Penitentiary, Vrancea County; Brăila-Tichilești Detention Center, Brăila county; Ploiești Penitentiary, Prahova County; Mărgineni Penitentiary, Dâmbovița County; Ploiesti Women's Penitentiary - Târgșorul Nou, Prahova county; Giurgiu Penitentiary, Giurgiu County; Bucharest-Rahova Penitentiary, Bucharest; Buziaș educational center, Timiș county; Arad Penitentiary, Arad County;

- **Psychiatric hospitals – 5 visits:** Zam Psychiatric Hospital, Hunedoara county; Brașov Neurology and Psychiatry Hospital - Vulcan Chronic Psychiatry Outpatient Department, Brașov County; Brașov Neurology and Psychiatry Hospital - Zărnești Chronic Psychiatry Outpatient Department, Brașov County; Târgoviște County Emergency Hospital – Chronic Psychiatry Department Gura Ocnitei, Dâmbovița county; "Costache Nicolescu" Drăgășani Municipal Hospital - Department of Psychiatry, Vâlcea county;

- **Detention and Remand Centers – 10 visits:** Alba Detention and Remand Center; Vaslui Detention and Remand Center; Giurgiu Detention and Remand Center; Ialomița Detention and Remand Center; Detention and Remand Center No. 1 Bucharest; Teleorman Detention and Remand Center; Călărași Detention and Remand Center; Constanța Detention and Remand Center; Mehedinti Detention and Remand Center; Timiș Detention and Remand Center;

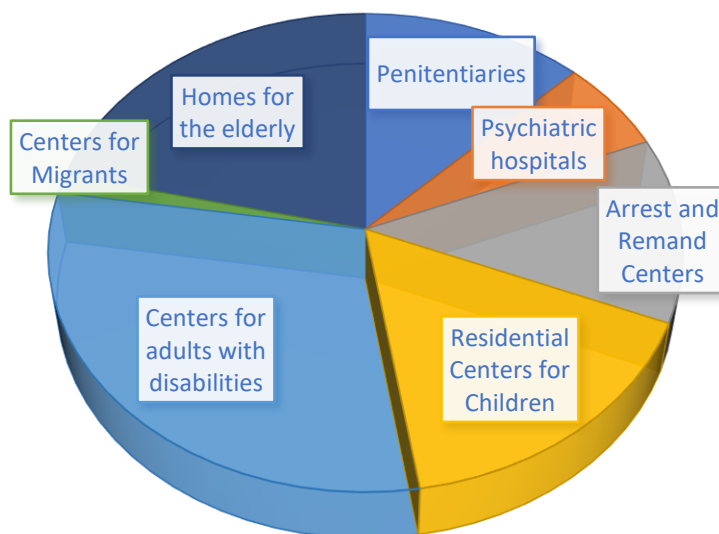
- **Residential centers for children – 13 visits :** The "Sfânta Ana" family house in Alba Iulia, Alba county ; Emergency Reception Center Zalău, Sălaj county; "Viișoara" family house, Bistrița Năsăud county; "Casa Maria" placement center Făgăraș, Brașov county; Placement Center no. 2 Cluj Napoca , Cluj county; Phoenix Maternal Center Oradea, Bihor county; Casa "Felicia" Piatra-Neamt, Neamt county; "Mihail Sadoveanu" residential center Pașcani, Iasi county; The emergency reception center "St. Maria" Călărași, Călărași county; The Family House within the Residential Services Complex for children "Sfânta Maria" Balș, Olt county; The family-type apartment intended for the residential protection of "Primăverii" Motru children, within the Complex of Community Services for Children in Difficulty Târgu Jiu, Gorj county; Family Home for children temporarily or permanently separated from their parents "Petrești", Gorj county; Family House Bdul Carpati, no. 52 bis within the "Sfânta Elena" residential services complex for children, Corabia, Olt county;

● **Centers for adults with disabilities – 24 visits:** Center for Care and Assistance for Adults with Disabilities (CCA) Brad, Hunedoara county; CCA Tinca, Bihor county; CCA Filipești, Bacău county; CCA Armonia - Budai, Podu Iloaiei, Iasi county; CCA "Sf. Daniel" Leorda, Botoșani county; CCA Nicolae Bălcescu, com. Nicolae Bălcescu, Predești village, Vâlcea county; CCA Ciolpani, Ilfov county; CCA Videle, Teleorman county ; CCA **Slătioara**, Slătioara commune, Milostea village , Vâlcea county ; CCA Amara, Ialomita County; CCA "Sfântul Gheorghe" Dioști, Dolj county; CCA Spineni, Olt county; CCA Gura Văii, Mehedinți county; Center for Habilitation and Rehabilitation for Adults with Disabilities ( CHR ) Zvoriștea, Suceava county; CHR Tătărei, Prahova county; CHR Râmnicu Sărat, Buzău county; CHR Bălăceanca , Ilfov county; CHR "Sfântul Iustin" Videle, Teleorman county; CHR "Uverturii", Bucharest; Dedulești Medical and Social Assistance Unit, Dedulești village, Morărești commune, Argeș county; Pogoanele Medical-Social Assistance Center, Buzău County; The medical-social assistance unit Boldești-Scăeni, Prahova county; Center for Medical and Social Assistance Nicleşti, Dâmbovița county; Bucșani Medical -Social Assistance Center, Dâmbovița county;

● **Centers for migrants – 1 visit:** Triage room within the Territorial Service of the Calarasi Border Police;

● **Homes for the elderly – 17 visits :** Home for the Elderly Sibiu, Sibiu county; Home for the Elderly Pui, Hunedoara county; Moinești residential center for elderly people within the Moinești social services complex, Bacău county; Home for the elderly Agapia, Neamț county; Home for elderly people Focșani, Vrancea county; Social center for the recovery of elderly people Zimnicea, Teleorman county; Home for the Elderly - Care center for the elderly, Breaza, Prahova county; The "Pasărea" nursing home, Brănești commune, Ilfov county; Villa Orchidea Residential Care and Assistance Center, Răzvad commune, Valea Voievozilor village, Dâmbovița county; Home for the Elderly Serenity Home Bucharest; Residential Center for the Elderly - pensioners, Fântânele commune, Prahova county; Casa bunicilor Confidence, Mihăilești commune, Giurgiu county; Social Center for Elderly Care Saelele, Teleorman county; Home for Voluntary Elderly Persons, Ilfov county; Home for the Elderly Topliceni, Buzau county; Nikolas Costinești Residential Center for the Elderly , Constanța County; Home for the Elderly Mozăceni, Argeș county.

## NPM VISITS



### Collaboration of the authorities with the NPM teams during the visits

In the case of the majority of the units visited, there was a very good collaboration of the management and staff with the members of the NPM, both during the visits and afterwards, being made available to the visiting teams, the requested information and documents.

In the case of the visit to the Târgoviște County Emergency Hospital - Gura Ocnitei Chronic Psychiatry Department, throughout the visit there was a permanent dialogue with the doctors - heads of departments and other staff members, who provided the requested information. However, the documents requested by NPM were only partially communicated, in some situations it was impossible to get relevant information. And with regard to the requests of the NPM team, to provide a set of images captured by the video surveillance cameras in sections 4 and 5 of the unit, the institution failed to provide them, and sent a letter stating that the unit had a functional video surveillance system, while the team was told by phone that this system (at least in the departments for which the request was made) did not work.

In this context, the NPM reminds that, by ratifying the OPCAT, Romania assumed the obligation to establish the National Preventive Mechanism and to allow its visits to all places under its jurisdiction where persons are or could be deprived of liberty.

In fulfilling his mandate, according to Art. 20 of OPCAT, NPM has access to: all information regarding the number of persons deprived of liberty in places of detention, as well as the number of these places and their location; all information regarding the treatment applied to those persons, as well as detention conditions; all places of detention and their facilities. NPM has the possibility to have private meetings with persons deprived of liberty,

as well as with any person who can provide relevant information and the freedom to choose the places they want to visit and the people they want to have meetings with.

Also, in accordance with Art. 40 para. (1) from Law no. 35/1997, republished: the visited institutions are obliged to make available to the representatives of the visiting team, before, during or after the visit, any documents or information that are at their disposal or that they can procure, requested by the visiting team in order to fulfill their legal duties.

Another problem encountered by the NPM teams was the lack of knowledge of the legal provisions regarding the competence of the NPM in monitoring residential centers for the elderly. Thus, according to the management of the Sibiu Social Assistance Directorate, the objective of the visit made by the NPM in The Home for the Elderly Sibiu (strengthening the protection of people in places of detention against torture and inhuman or degrading punishments and treatments), does not overlap with the center's activities and objectives, the results of the visit report, in the opinion of the Social Assistance Directorate's management, cannot be conclusive for the activity carried out, since the specific activity of the home is not one of detention.

Also, in the case of the NPM's visit to the Home for the elderly in Focșani, although the provisions of Law no. 35/1997, republished, on the basis of which the visit was being carried out, were presented, the head of the center specified that in the Explanatory Dictionary of the Romanian Language detention is explained differently and claimed that the institution he leads is not a detention center and is not subject to NPM monitoring. The same point of view was also held by the lawyer of the Focșani Social Assistance Directorate, called by the head of the center. Considering the attitude of the head of the center, inadmissible in relation to the rules of ethical conduct and professional deontology, the NPM team decided not to continue the visit and addressed the Ministry of Labor and Social Solidarity, as well as the Mayor of Focșani. Following the actions of the NPM, the Mayor of Focșani city apologized for the incident created and ordered measures to sanction the head of the center, and the National Agency for Payments and Social Inspection carried out, between April 25-26, 2023, a control mission, after which measures were ordered to remedy some deficiencies. Also, in December 2023, the NPM team visited the dormitory, under good conditions.

**In this context, the NPM specifies that, in accordance with Art. 34 of Law no. 35/1997 regarding the organization and operation of the People's Advocate institution, republished: by *place of detention* is meant any place where persons are deprived of liberty based on a decision of an authority, at its request or with its express or tacit consent, and *deprivation of liberty* means any form of detention or imprisonment or the placement of a person in a public or private place of detention that he cannot leave at will, by the decision of any judicial, administrative or other authority. Also, *any place that is part of the social assistance system* is a place of detention, or, as the case may be, a place where the People's Advocate institution exercises its powers regarding the prevention of torture.**

**Therefore, the centers in the social assistance system are subject to the monitoring of the NPM, considering: the inclusion in Art. 34 para. (1) from Law no. 35/1997, republished (respectively, in Art. 4 of OPCAT); the existence of a decision of a judicial, administrative or other authority, respectively the request or with the it express or tacit consent. And according to Government Decision no. 797/2017 for the approval of the**



**organizational framework regulations and operation of the public social assistance services and the indicative personnel structure, the local public authorities are obliged to communicate or, as the case may be, make available to the institutions with duties regarding the prevention of torture, the requested information, giving them support in carrying out the monitoring visits, in accordance with the law.**

**Examples of good practices found during monitoring visits**

- Following the visit made to *the Center for Habilitation and Rehabilitation for Adults with Disabilities in Tătăraii, Prahova county*, the NPM team noted the special interest shown by the center and the General Directorate of Social Assistance and Child Protection Prahova in order to rehabilitate people with disabilities. Between January 2022 and February 2023, a number of 11 people with disabilities were integrated into the labor market, as follows: 4 young people with disabilities (2 girls and 2 boys) were employed at a furniture factory and transferred to a social service of the Directorate - Minimum Protection Housing for Adults with Disabilities Brebu, where the furniture factory also operates; 4 beneficiaries (2 girls and 2 boys) were employed at a company in the city of Bucharest, as unskilled workers, packing solid and semi-solid products and who still lived in the center; 1 beneficiary (boy) was employed as a security guard at a catering company in the city of Bucharest; 2 beneficiaries were employed at a motel in Brazi commune, Prahova county, as a cook's helper, with accommodation provided in the motel where they worked.

- During the visit to *the Detention and Remand Center no. 1 Bucharest*, the members of the NPM team noted that it was implemented, at least at the level of the center visited, the recommendation to the Ministry of Internal Affairs regarding *the introduction of the provisions of Art. 71 para. (6) from Law no. 254/2013 regarding the execution of punishments and custodial measures ordered by the judicial bodies during the criminal process, both in the standardized Minutes, provided in Annex no. 2 of the Regulation on the organization and operation of detention and pretrial detention centers, approved by the Order of the Minister of Interior no. 14/2018, as well as in the extract that was displayed on the doors of the cells (in which the rights and obligations of the incarcerated persons during the period of detention were listed), in the sense that the person deprived of their liberty has the opportunity to benefit from an examination carried out by a doctor, at their choice, and at their expense*. Thus, in all the minutes from the individual files of the analyzed persons deprived of liberty, this provision was inserted, which was also found on the extract displayed on the doors of the detention rooms.

In addition, **this recommendation was also included in Government Decision no. 850/2023** for the amendment and completion of the Regulation on the application of Law no. 254/2013, approved by Government Decision no. 157/2016, in force since September 20, 2023.

Also, during the visit to the center, the members of the NPM team noticed that outside the detention rooms, above the doors, warning lights (blue and red) were mounted, which signaled the presence of a person in the bathroom. The system was installed in order to prevent negative events (suicide attempts, self-harm, etc.). Thus, if it was observed that a person was staying in the bathroom longer than average, prompt intervention could be made.

- In *the Home for the Elderly - Elderly care center, Breaza locality, Prahova county*, all spaces were very clean and sanitized; the living rooms were spacious, airy, bright, warm,

comfortable, equipped with new furniture, with TV, with air conditioning and with its own bathroom, properly equipped (for example: bathroom grab rail, shower chair with back and non-slip carpet). The floors were covered with anti-static PVC linoleum, and the staircase and terrace had non-slip granite flooring. All accommodation rooms were equipped with a panic button; the beneficiaries immobilized in bed had anti-bedsore mattresses, equipped with a pump with an electric regulator, which are very effective in treating and preventing bedsores. The staff employed was kind, knew the problems of each individual beneficiary and was very well trained.

- Villa ***Orchidea Residential Care and Assistance Center, Răzvad commune, Valea Voievozilor village, Dâmbovița county*** was equipped with a lift for stretcher transport, which ensured vertical access to all levels (mezzanine, ground floor, first floor and second floor), including from inner courtyard and ramp for people with disabilities. On the 1<sup>st</sup> floor, there was a bathroom with a special bathtub for people with locomotor dysfunctions, a toilet and a sink. The meal was served in the dining rooms, and for the more affected people, who could not eat properly, there was a special room where their meals were served and helped to eat. Immobilized beneficiaries (3 beneficiaries) were taken to the dining hall daily.

- On the ground floor ***of the Home for the Elderly in Sibiu, Sibiu county***, a mini-kitchen equipped with specific furniture, stove, oven, sink was also set up, where the beneficiaries had the opportunity to prepare certain dishes by themselves, depending on their preferences.

- In ***the "Vișoara" family home, Bistrița Năsăud county***, where all the beneficiaries were classified as severely disabled and had severe somatic and neuro - psycho - motor diagnoses, the members of the visiting team noted the professionalism and dedication of the care and assistance staff, but also of the management and specialty staff, who were professionally and actively involved in ensuring appropriate care, having knowledge of the history and problems of each individual beneficiary.

- In centers for children, such as: ***Placement Center no. 2 Cluj Napoca, Cluj county; Phoenix Maternal Center Oradea, Bihor county; Family Home for children temporarily or permanently separated from their parents "Petrești", Gorj county***, all children were enrolled in a form of education appropriate to their age. Also, the specialized staff had a good knowledge of the children's school situation, as well as their vulnerabilities, both academically and behaviorally, at school or in the center.

- The ***Miercurea Ciuc Penitentiary, Harghita county*** had an agro-zootechnical household, focusing on raising cattle and obtaining food products and growing vegetables for domestic consumption. It benefits from a generous space for walking (6 courts), equipped with tables for table tennis. There was also an indoor gym, which was equipped with exercise machines and table tennis.

- In ***the Filipești Care and Assistance Center for Adults with Disabilities, Bacău county***, it was prepared an Annual Professional Training Plan for the employed staff, which included various training topics such as: violent patient management, informed patient consent and data confidentiality, prevention and management of professional burnout. The staff also participated annually in additional trainings besides the Annual Plan, on topics such as: Respecting the beneficiary's rights; Procedures Manual; UN Convention on the Rights of Persons with Disabilities; Respect and encouragement for the individual autonomy and

independence of people with disabilities; Assistance and support in making a decision; De-escalation techniques in crisis situations; Respecting the dignity and privacy of beneficiaries; Communicating with people with disabilities and carrying out activities to maintain/develop communication skills; Prevention, recognition and reporting of forms of torture, cruel or inhumane treatment; Use of technologies and assistive devices necessary to maintain/develop cognitive skills; First aid.

• In *the Detention and Remand Center within IPJ Alba* there were 3 refrigerators at the disposal of persons deprived of liberty, in which they stored their personal, perishable food, identified by labeling, with the name of each owner, to which they had access, upon request, throughout the day; there was a room intended for personal hygiene maintenance activities, used by the detained persons (hairdressing, shaving).

#### Examples of deficiencies found during monitoring visits

The systemic deficiencies noted by the NPM in previous years, such as the lack of staff/insufficient number of staff and their inadequate/non-existent professional training, were also found in 2023. At Miercurea Ciuc Penitentiary, the 2 positions of family doctor were vacant and of the 4 psychologist positions provided, only one position was staffed by a specialized person, but who was on child care leave. At the Ploiești Penitentiary, the under sizing of the personnel list compared to the staff standards, approved by the Decision of the general director of the ANP no. 348/2016, led to an increase in the number of overtime hours performed by employed staff, especially specialists (psychologists, social assistance), who worked, during a single day, at all detention sections of the penitentiary unit, including the outer ones (Movila Vulpii and Moara Nouă Berceni), as well as at the External Work Point with permanent accommodation "Floresti". In the Boldesti- Scăeni medical and social assistance unit, Prahova county, a number of positions were vacant: 1 general medicine doctor position, 1 chief medical assistant position, 1 social assistant position, 1 medical assistant position, 1 nurse position, 6 caregiver positions, 2 stretcher bearer positions, 1 physiotherapist position part-time, 1 assistant physiotherapist position, 1 Deratisation, Disinfection, Disinsectisation agent position.

It was also found that there was no adequate supervision provided to the beneficiaries, elderly people. In the Home for the Elderly in Sibiu, although there were beneficiaries with total dependence, who required permanent supervision, there were no care and assistance staff during the night. On the recommendation of the NPM to *ensure appropriate assistance, by appropriate personnel, for the beneficiaries who require permanent supervision, in such a way as to cover the time interval 22.00-07.00* (interval when there was only one guard in the center, on the ground floor of the unit), the response of the management of the Sibiu Social Assistance Directorate was non-compliant: the recommendation could not be implemented, as the center had the full number of approved staff and no other employments were possible; also, in the opinion of the management, there were no cases in the center that required permanent supervision, reasoning that for emergency cases, during the night, the emergency service 112 was called (*by whom if there was no staff?*), and serious cases were transferred to medico-social assistance units or hospices. Following the steps taken by the NPM at the hierarchically higher authority (Sibiu City Hall), the mayor communicated that at the level of the Sibiu Social Assistance Directorate, the necessary steps were taken to hire adequate staff

(nursing), in order to properly manage unforeseen situations, which could occur during the night, as well as to provide permanent care to the beneficiaries of the home.

Another systemic problem found in all types of detention facilities is the lack of accessibility for people with locomotor disabilities (the lack of access ramps and grab rails in the center; lack of adapted bathrooms, travel routes). On the recommendation of the NPM regarding *equipping the bathrooms with grab rails*, the Nicolae Bălcescu Center for the Care and Assistance of Adults with Disabilities, Vâlcea County, communicated that, taking into account the provisions of the Government's Emergency Ordinance no. 90/2023 for the approval of some measures to reduce budget expenses for the year 2023, DGASPC Vâlcea cannot complete the procedure for purchasing the necessary materials and services in order to make the social service accessible for people with disabilities.

Most of the residential centers that accommodated people with disabilities could not ensure access to dental care for the beneficiaries. For example, following the visit made by the NPM to the Tinca Care and Assistance Center, Bihor county, upon the recommendation of the NPM to identify some dental practices/specialists, DGASPC Bihor communicated that steps were initiated, but they encountered problems. Beneficiaries of social services were mostly with multiple conditions (physical and mental disabilities) uncooperative and unpredictable in reactions, which, in order to be treated, require different types of anesthesia (local, regional, general or sedation). However, precisely for this reason, dentists avoided engaging in a collaborative relationship with DGASPC Bihor. In emergency situations, these cases were solved by the specialist in oral -maxillo-facial surgery, from the Emergency Reception Unit of the Oradea County Emergency Clinical Hospital.

During the visits made to the residential centers that were to be closed, as a result of the process of reorganization of social services, NPM noted the fear of the staff of the centers related to the future of their jobs, given that its members did not know details related to their activity after the closure of the center. Following the NPM recommendations, the employees were informed about the stages and conditions of closing the center, as well as the possibility of relocating the care and support staff to the family-type houses where the beneficiaries were to be moved.

A situation considered worrying by the NPM team, which can be assimilated to ill-treatment, is that of some of the former beneficiaries of CHR Bălăceanca, transferred to other centers, as they were not residents of Ilfov county (including the beneficiaries from Bucharest were to be transferred - "*Those who are not from Ilfov, leave* "). CHR staff told to the team about the dramatic situations created by these transfers, being separated lifelong friends/couples/families, which led to depression and even death (in the case of a beneficiary moved to another center).

**The NPM team emphasizes the fact that every step taken in the restructuring process of the residential centers must take into account, first of all, the interest of the beneficiary. At each activity/action, both at the macro level (legislative change/strategies/policies), but also at the micro level (regarding each individual beneficiary), the real impact on the beneficiary - the final recipient - must be assessed.**

Some of the deficiencies encountered by the NPM are presented below, [depending on the type of detention place visited](#):

- *homes for the elderly*: ● there was no clear record of the beneficiaries who present frequent swallowing disorders, given that this category of beneficiaries presents a high risk of death by drowning ; ● no activities were identified at the level of the home /recovery and functional rehabilitation services and no qualified personnel in this regard; ● in the Annual Professional Training Plan for the employed staff, there were topics regarding medical and hygiene aspects, regulations and internal rules, without including notions regarding national and international legislation on human rights; ● there is no written provision of the management of the center or the management of the hierarchically superior institution that regulates the access of the staff to the files and the use of the information contained therein; ● care plans and assistance /intervention plans from the beneficiaries' personal files were not signed by the beneficiaries or their legal representatives; ● the necessary conditions for socializing and leisure activities were not ensured, by diversifying leisure activities (organizing excursions, celebrating birthdays, religious holidays, entertainment activities, etc.); ● the accommodation rooms were not personalized; ● on the doors of the rooms where bedridden persons with total dependence were accommodated, yellow indicators were displayed, signaling the fact that there are no immobilized beneficiaries in the respective rooms who require priority and help in case of evacuation; the corresponding marking is, in such cases, the red one; ● the yard and the garden of the dormitory did not have a suitable layout with benches, canopies and gazebos, for recreational activities or relaxation in the open air;

- *psychiatry hospitals*: ● there is no psychologist position in the hospital; ● in the case of some patients with a legal representative, the consent forms were not signed; ● the restraint measures were not applied according to the legal provisions (they were not recorded in the Restraint Register and General Clinical Observation Sheets); ● the rooms were not personalized, and in some rooms, patients' luggage was stored under the beds; ● there were rooms in which the beds were pressed against the wall, with their heads towards the window, not respecting the provisions of the Norm regarding the functional structure of the compartments and services in the hospital (approved by Order of the Minister of Health no. 914/July 26, 2006, with subsequent amendments and additions), according to which the beds are placed parallel to the front of the window and are accessible on both long sides; ● at Târgoviște County Emergency Hospital – Chronic Psychiatry Department Gura Ocnitei, Dâmbovița county, the access doors to the balcony were locked and the door handles were missing, the staff explaining that some of them were very old and damaged, being reported for their replacement; however, this situation was found in many rooms, which indicates a systematic practice in the hospital, although there was no danger of patients falling, the balconies being equipped with grills; ● patients representing social cases were hospitalized; the number of these patients remained high (138 patients at the Gura Ocnitei Chronic Psychiatry Department), considering both the insufficient steps taken by the hospital representatives to transfer patients who were social cases, to social protection units or with a view to reintegration into the family, as well as weak involvement of the authorities in taking over patients with mental disorders; ● with regard to the management of situations in which the safety of the staff could be put at risk, given the specifics of the wards where they work, no courses/instructions were conducted in the hospital regarding their protection and the method of intervention in cases of aggressive manifestations of patients; the existence of

means of quick intervention was not identified (for example, panic buttons or pagers that can alert staff members from the department where the incident occurred or from the other departments, depending on the degree of danger); when they considered that there was a risk of being assaulted, the employees on the wards went in pairs, and the way to alert colleagues in case of danger was "screaming"; given the fact that during the visit to the Gura Ocnitei Chronic Psychiatry Department (Psychiatry Department 5, where patients considered more dangerous were hospitalized), one of the members of the NPM team was physically assaulted by a patient, although he was supervised by two doctors and supervisors were also present, the NPM team is concerned about the training of hospital/psychiatric ward staff in handling violent incidents, both between patients and between patients and staff.

NPM believes that it is necessary for staff to be trained upon employment and subsequently periodically on the procedure to be followed in case of risk situations (patients with aggressive behavior), both regarding the way of approaching the patient and regarding the protection staff in such situations. It is also required to equip the staff with means of rapid alerting (panic buttons, pagers, etc.).

- **penitentiaries:** ● there was no clear record of persons classified in degrees and types of disability and no record of persons classified in a degree of disability; ● psychiatric medical evaluations were not performed on time; ● a psychological assistance office was not set up; ● the staff from the security and surveillance service were not trained on: managing conflict situations; permanent knowledge of the state of mind of the accommodated persons; taking measures to prevent negative events among the staff and inmates, as well as observing all the rules of conduct mentioned in the Internal Order Regulation and in the Organization and Operation Regulation of the center; ● a large number of sanctions regarding the right to receive visits were applied, which can have a negative impact on the process of reintegration of the person deprived of liberty (Ploiești Penitentiary); ● the accommodation conditions were inadequate: overcrowding - 128% of the legal capacity, at the Focșani Penitentiary, where it was also found: the presence of harmful insects, dirt and condensation in the rooms, damaged bedding and mattresses, water infiltration in the bathroom, dirt, rust and mold; the rooms had no furniture, the inmates being forced to eat in bed; in Ploiești and Mărgineni penitentiaries, overcrowding in some detention rooms/sections, used/old furniture and bedding, bunk beds stacked on 3 levels, insufficient cupboards for storing the personal belongings of persons deprived of liberty, dampness and peeling on the walls, unpainted walls, wear and tear on the floor, bed bugs and cockroaches; ● food was not distributed individually, to each person deprived of liberty, depending on the food norm to which it was allocated; it was not distributed in appropriate containers under conditions that prevent the modification of nutritional, organoleptic and physico-chemical properties as well as microbial contamination; ● spaces intended for educational activities and psychosocial assistance with prisoners were insufficient and provided at a minimal level compared to current requirements;

- **detention and remand centers:** ● the volume of activities and missions performed by the staff was relatively high compared to the number of staff and their complexity; ● minors' visits were granted only with a separation device; ● there wasn't arranged the necessary space for the personnel performing the thorough body search and baggage control; ● psychological assistance was not provided to all minors in custody at the center; ● a special register was not drawn up for traumatic marks or physical signs of ill-treatment/abuse or

torture of persons in custody; ● the national and international legal provisions regarding the principle of age separation, i.e. the accommodation of minors separately from adults, were not violated (for example, at the Giurgiu Detention and Remand Center, on the date of the visit, a minor was accommodated with 2 adults); ● the accommodation conditions were inadequate: the accommodation rooms were very narrow and dark, the windows being covered with bars that prevented the penetration of light and the ventilation of the rooms; the windows did not provide natural lighting and ventilation of the rooms, and the light bulbs placed above the doors were not sufficient to provide artificial lighting; the rooms had no furniture, apart from bunk beds on two levels and some plastic shelves, the detainees being forced to eat in bed (Vaslui Detention and Remand Center); ● in some centers, natural light and ventilation were deficient in all detention rooms, due to the fact that they were located on the semi-basement of the building, on the one hand, and, on the other hand, the windows were protected with metal bars covered with transparent polycarbonate material, which prevented the penetration of natural light, the rooms being dark, also during the day; ● emergency lighting was not provided in all the rooms of the center; ● the privacy of persons deprived of liberty was not ensured in the showers; ● the walking yard was not equipped according to the legal provisions, so that persons deprived of liberty couldn't exercise their right to walk properly;

- *residential centers for children*: ● the situation of the beneficiaries of legal age was not evaluated, in the sense of establishing the legal competence and possibly the appropriate measures so that these persons can exercise their rights and civil liberties in an unrestricted way, as provided and guaranteed by Art. 50 of the Constitution of Romania, republished, by the provisions of Law no. 140/2022 regarding some protection measures for persons with intellectual and psychosocial disabilities and the modification and completion of some normative acts, as well as the requirements imposed by the Convention on the rights of persons with disabilities; ● psychological assistance services were not available within the center, so that they could be known and accessed by children, whenever they are in vulnerable situations and not only during periodic assessment sessions; ● the psychologist did not have and did not use a Register of the professional activities carried out; ● the child's psychological assessment sheets, quarterly reports on the evolution of the child's physical, mental, spiritual, moral or social development and the way in which they are cared for, personalized psychological intervention plans were not drawn up; ● there were educational activity sheets, which were not signed by either the beneficiary or the staff who carried out the activity; ● the beneficiaries were not monitored regarding the possible adverse effects of the administered medication; ● deficient supervision of beneficiaries known to have aggressive behavior; ● the beneficiaries were not consulted regarding the composition of the daily menus; ● the accommodation conditions were inadequate: rooms with damaged walls and worn out furniture, with unsanitized balconies; the windows on the first floor were very low and had no safety elements (they could not be tilted, but only fully opened); lack of privacy in the bathrooms, the outer courtyard of the family-type house was not equipped with benches and tables for the outside and with gazebos for outdoor activities, relaxation and rest;

In the Emergency Reception Center "St. Maria" Călărași, in 2022, 26 cases of absences without permission were registered, and in 2023, until the date of the visit, 48 such cases, according to the unmotivated absences register; some of these incidents were caused by the consumption of alcoholic drinks, some of which were brought into the center. Following the

NPM recommendation, in the sense of a more careful supervision and a much more active psychological counseling of the beneficiaries, the co-optation of these beneficiaries in educational, recreational, occupational therapy activities (music, painting, drawing, etc.), sports, according to the response communicated, since the date of the NPM visit, there have been no more situations in which alcoholic beverages were brought into the center and no more absences without permission were registered, and the beneficiaries carried out multiple and diversified activities (outdoor games, walks, watching movies, listening to music, drawing on the asphalt, football games , etc.).

- **centers for adults with disabilities:** ● the center did not have an operating license, as the minimum specific mandatory quality standards for social services intended for adults with disabilities were not respected (approved by Order of the Minister of Labor and Social Justice no. 82/2019) (CHR Bălăceanca ); ● informative materials regarding the services provided within the center were not prepared; ● there was video surveillance, in the external spaces and, internally, in the common spaces, but also in the rooms, as well as in the area of the sinks in the bathrooms; thus, the right to privacy and private life of the beneficiaries was not respected, for some of them toilet activities were carried out in their room, being immobilized in bed ( CHR Bălăceanca ) ; ● the annual ophthalmological and dental assessment was not performed; ● in CHR Bălăceanca, mechanical restraint was applied to the beneficiaries, upon the recommendation of the psychiatrist; ● a social worker was not employed, nor was this service outsourced on the basis of a service contract with an individual social assistance office/professional social assistance company; ● a case manager was not appointed to coordinate the objectives established in the individualized intervention plans; ● in the content of the initial evaluation form, headings such as: “ethnicity” and “records regarding misdemeanors and crimes” were entered, aspects that can lead to discriminatory attitudes, there was a risk of treating the beneficiaries differently because of their belonging to certain social groups; ● the notes on the integration/social reintegration services component of the monthly monitoring forms, were brief and uniform, the documents not being customized according to the beneficiary's needs; ● the evaluations of certain beneficiaries were not carried out every 6 months and the stamps of the specialists of the multidisciplinary team to whom the cases were referred were not found on the documents; ● the accommodation conditions were inadequate: the center building was in an advanced state of decay, both externally and internally; overcrowding of some rooms (5 beds); small maneuvering space between the beds, which made impossible maneuvering a wheelchair; placement of beds in closed balconies; walls, furniture and doors in a state of deterioration; some bedrooms and bathrooms were provided with thresholds, thus there was a risk of injuries to the beneficiaries; insufficient storage spaces for clothing and bedding; there were no emergency panic buttons; on the doors of the rooms, the red indicators indicating the existence of a person with locomotor disabilities or difficult-to-move person inside the room were not displayed; the shower cabins were not provided with doors or curtains, to ensure the privacy of the beneficiaries; dilapidated and insufficient bathrooms and toilets; toilet seats and lids missing; the impossibility of access to the floors due to the lack of an elevator; the hospital aspect prevailed, due to the lack of color, personalization, both in the rooms and in the corridors; in Videle Center for Assistance and Care, in the case of male beneficiaries, the aspect of “military” uniformity, was found in terms



of their clothing and haircut; ● a box for suggestions and complaints was not placed in a place accessible to the beneficiaries.

► In the visit reports drawn up in 2023, **752 recommendations were made** to the monitored units and the hierarchically superior authorities. **For the most part, the recommendations have been implemented.**

In the case of the recommendations that were in the process of being implemented, implementation deadlines were specified, and in the case of the recommendations remaining unimplemented, the reasons were generally justified (mainly lack of necessary funds and blocking of positions). To the recommendations for taking the necessary steps to fill the vacant medical and care staff positions, the most frequent answer was: the vacant positions cannot be put out to competition, because they are blocked according to the Government's Emergency Ordinance no. 34/2023 regarding some fiscal-budgetary measures, the extension of some terms, as well as for the modification and completion of some normative acts. The Center for Care and Assistance for Adults with Disabilities Ciolpani, Ilfov county, where there were vacancies for specialist staff (doctor, physiotherapist, nurse and carer) announced that, in view of the "Austerity Ordinance", Government Emergency Ordinance no. 90/2023 and the budget allocation for personnel expenses, will start the competition procedure for the post of doctor and physiotherapist, in January 2024.

The Giurgiu Detention and Remand Center, regarding the recommendation aimed at identifying a location where the detention and remand center will operate, to correspond to European standards, communicated the following: *"At the Giurgiu County Police Inspectorate there is a technical project for the construction of two bodies within the headquarters of the inspectorate, located in Giurgiu city, bd. CFR, no. 9. Within this project, the construction of a detention and remand center with 12 accommodation rooms that include all the facilities required by the legislation in force is foreseen.*

*For this investment no funds have been allocated since 2020, and the inspectorate requested the General Directorate of Logistics to review the project and allocate funds.*

*Efforts will also be made to identify and access non-reimbursable European funds programs."*

#### **Examples of successfully implemented recommendations**

• In the case of *the Zam Psychiatry Hospital, Hunedoara county*, upon the recommendation of the NPM in the sense of *resuming the activities of the occupational therapy and recovery, physical medicine and balneology departments*, in the reply letter it is stated that the ways of implementing this recommendation were established, in the meeting of the Management Committee of the Hospital, as follows: ▪ instructions will be sent to the occupational therapy department (which includes an occupational therapy assistant and a nurse), by which these workers will be requested to intensify the specific activities carried out with patients; ▪ a change will be made to the hospital's state of functions, in the sense of placing a psychologist in this department to coordinate the department's activity and to better identify the needs and abilities of patients to participate in different recovery programs, and the proposed change of the state of functions will be submitted for approval to the Ministry of Health; ▪ simultaneously with these steps, the procedure for filling by competition the position of medical assistant in the recovery, physical medicine and balneology department will be started.

Also, to the recommendation of *drawing up and permanently updating the nominal situation with patients who present frequent swallowing disorders and establishing appropriate behavior of the care staff, regarding the supervision of these patients when eating the meal, the appropriate portioning of dangerous foods, as well as the mixing of foods, so that they can be swallowed without difficulty by those in this situation*, during the meeting of the Board of Directors of the Hospital, the following measures were established, voted and approved unanimously by the five members of the Board of Directors, participating in the meeting:

**A.** Drawing up a separate protocol for the identification and highlighting of patients with swallowing disorders - the identification will be done at admission, in parallel with the assessment of the risk of falling, aggressiveness, etc., or during hospitalization, if the general condition worsens; further highlighting can be done on nominal lists or/and by noting on the observation sheet with a specific color code (in addition to those already implemented: red for risk of falling, purple for risk of aggression, etc.);

**B.** Periodic training, with the mandatory presence of all medical staff (assistants, nurses, caregivers), highlighting the main ideas of the protocol and the conduct to be followed, respectively: ▫ establishing a general list of pathologies that can affect the patient's eating behavior; ▫ the patient with problems must be actively assisted at the meal (if necessary, fed with a spoon or equivalent), all other patients are passively assisted, by the presence of a nurse in the meal serving area; ▫ if needed, solid food can be blended for easier administration; ▫ all food packages received from relatives shall be checked, even for independent patients; ▫ in general, food is portioned in small quantities, especially eggs, bread, cheese; ▫ checking bedside tables, mattresses, etc., to detect hidden food (especially unsliced bread), which can be gobbled up in a hurry, in the absence of supervision.

• In the *The Brăila-Tichilești Detention Center, Brăila county*, where the large number of disciplinary violations registered among detainees (157 sanctions and 162 incident reports between January and July 2023) revealed the fact that the degree of violence and aggression was high, on the recommendation of the NPM, it was ordered to periodically check, even at short intervals, the mental state of the people in the detention center, considering that, sometimes, the detained people do not request psychological assistance for various reasons (they are not informed in this regard, they do not have the courage to take such steps, or are simply not aware of their mental state), in order to decrease the high rate of aggressive behaviors and violence, therefore the strategies for prevention and reduction of these phenomena remain important.

• Following the NPM recommendation, within *the Mozăceni Home for the Elderly, Argeș county*, measures were taken to notify in writing, within 5 days of the beneficiaries leaving the center, the public social assistance services at the level of the town halls of the localities in whose territorial radius the beneficiaries were to live, regarding their presence in the localities.

• In *the family-type apartment for residential protection of children "Primăverii" Motru, within the Complex of Community Services for Children in Difficulty Târgu Jiu, Gorj county*, after the visit of the NPM, the management of DGASPC Gorj instructed all the staff for compliance with the duty of drawing up and applying, for each child, in the first 15 working days after admission, the child's health intervention plan.

- In *the Care and Assistance Center for Adults with Disabilities in Gura Văii, Mehedinți County*, on the recommendation of the National Ministry of Health, a Questionnaire was drawn up and approved to identify the opinion of the beneficiaries about general activities/services/attitudes and, according to the communicated report, the questionnaire was applied to a number of 24 beneficiaries institutionalized in the center after the NPM visit.

- During the visit to *the Mehedinți Preventive Detention and Arrest Center*, the NPM found the lack of space necessary for the personnel who carry out the thorough body search and baggage control. Following the NPM recommendation, in a room located within the center, a space was set up with this destination, in compliance with the provisions of Art. 35 para. (2) from the Order of the Minister of Internal Affairs no. 14/2018.

- In the *Residential Center for Care and Assistance Villa Orchidea Home, Dâmbovița County*, NPM recommended *the urgent identification of a solution for employment/collaboration based on a service contract with a social worker to carry out field-specific activities*. NPM found that in all the documents issued at the level of the home, in the headings covering the social component, the data input was brief and contained general information, showing that there was an acute need for a specialist in this field. This recommendation was fulfilled, as an employment contract was signed with a social worker, who carries out specific activities - social counseling, socializing and leisure activities; both the social integration/reintegration plan and the social monitoring form are completed in detail and customized according to the beneficiary's needs.

- After the visit to *the Triage Room within the Territorial Service of the Călărași Border Police*, the NPM recommended: *its rehabilitation, ensuring natural lighting, equipping it with furniture, ensuring heating directly at the level of the Triage Room, considering that the heat source (the heater) located in the surveillance room would not be able to ensure, in the cold season, a normal temperature for the person in custody; removal of metal bars from the Triage Room; ensuring the bedding to be distributed in case of necessity in the Triage Room, to avoid using bedding provided for other situations and purposes*.

According to the response received, the triage room was moved to another building from the headquarters of the Territorial Service of the Călărași Border Police, where all the conditions related to furniture, bathroom, shower, heating were ensured, according to the recommendations made, and the room's bedding will be used exclusively in that space.

- During the visit to *the Habilitation and Rehabilitation Center for Adults with Disabilities "Sfântul Iustin" Videle* (CHR "Sf. Iustin" Videle) it was found that some of the contracts for the provision of social services did not contain the signature of the beneficiaries. According to the statements of the center's management, this practice was adopted after the checks carried out in the unit by the representatives of the National Authority for the Protection of the Rights of Persons with Disabilities, who specified that the fingerprint should not be put (as was previously done in the case of these beneficiaries), because "anyway, the beneficiary does not understand". The same situation was found in *the Care and Assistance Center for Adults with Disabilities Videle* (CIAPAD Videle). The NPM recommended *compliance with the provisions of Order 82/2019 regarding the approval of specific mandatory minimum quality standards for social services intended for adults with disabilities, according to which the social service provider shall conclude the contract for the provision*

*of services with the beneficiary or, as the case may be, with his legal representative , and in the case of beneficiaries without a legal representative, if it is assessed that the establishment of a protective measure is required, according to Law no. 140/2002 (situations being analyzed individually), shall take the necessary steps in this regard.*

According to the answers received, the persons who require protective measures have been identified, according to Law no. 140/2022 (14 people in CHR "Sf. Iustin" Videle and 50 people in CIAPAD Videle). The files for the court were drawn up (copies of the beneficiaries' documents). Also, a request was made to DGASPC Teleorman for the psychological evaluation for the respective beneficiaries (as provided for in Law no. 140/2022), which was to be performed by the attending psychiatrist. Addresses were sent for the beneficiaries who had relatives, in order to express their agreement/disagreement to be appointed as their guardians.

• In *the Videle Center for the Care and Assistance of Adults with Disabilities*, training was carried out with all employees, the head of the CSPAH Videle being responsible, based on an annual plan, on topics such as: the Regulation of Organization and Operation of the Center, the Code of Ethics, Respect and encouragement for individual autonomy and independence of people with disabilities, respect for the dignity and privacy of beneficiaries, etc. In the plan drawn up for the year 2023, the theme "Anger management - Crisis intervention" was also found. However, during the visit, when asked by the NPM team how they manage the situations of psycho-motor agitation of the beneficiaries, there were also employees who mentioned "the blanket on the head, that's the practice inherited for 10-20 years". In the center, the Operational Procedure regarding the management of risk situations was prepared, which mentioned how to intervene in the case of aggressive and/or destructive behavior of the beneficiary in crisis, but the above-mentioned answer raised serious doubts about the knowledge, and especially its understanding, by some employees.

At the recommendation of the NPM for *theoretical and practical training of the staff upon employment and subsequently periodically, regarding the procedure to be followed in case of risk situations (beneficiaries with aggressive and/or destructive behavior), both regarding the manner of approaching the beneficiary and regarding the protection of personnel in such situations (preferably, by external professional training providers)*, staff training sessions were organized at the center level by the psychologist of the center - explaining the procedure to be followed in case of risk situations. DGASPC Teleorman also requested the participation of the center's specialists, between September 30 and October 1, 2023, in professional training courses - Anger Management.

► During 2023, **NPM collaborated with the other departments and Territorial Offices of the People's Advocate institution**, by conducting joint visits/investigations and preparing responses to various entities (for example, NPM collaborated with the Department for human rights, equality of opportunities between men and women, religious cults and national minorities, **regarding the questions of ECRI - European Commission against Racism and Intolerance, regarding the situation of migrants and combating racism and racial discrimination**).

NPM members were part of the Working Group set up within the People's Advocate institution, in order to monitor the observance of fundamental human rights during involuntary hospitalizations in psychiatric hospitals, in the context of the judgments issued by the

European Court of Human Rights regarding these hospitalizations. They were involved in the Project on "Monitoring the implementation of ECtHR decisions in the case of involuntary hospitalizations in psychiatric hospitals", initiated by the Department for the rights of the family, young people, pensioners, and persons with disabilities, completed with a special report. As part of this project, the NPM representatives carried out monitoring visits, in collaboration with members of the Territorial Offices of Ploiești, Oradea, Cluj and Galați, in the following psychiatric hospitals/wards: Clinical Hospital of Psychiatry "Prof. Dr. Alexandru Obregia" Bucharest; Săpoca Psychiatry and Safety Measures Hospital, Buzău county; Poiana Mare Psychiatric Hospital, Dolj county; Emergency County Hospital "Sf. Pantelimon" Focșani - Department of Psychiatry, Vrancea county; Psychiatric Hospital "Sf. Pantelimon" Brăila, Brăila county; Socola Iași Institute of Psychiatry, Iași county; Zalău Emergency County Hospital - Psychiatry Department, Sălaj County; Sighetu Marmăției Municipal Hospital – Psychiatry Wards, Maramureș County.

#### Legislative amendment proposals

During the visit to the Bălăceanca Habilitation and Rehabilitation Center for Adults with Disabilities, the NPM team found that mechanical (but also chemical) restraints was applied to the beneficiaries, on the recommendation of the psychiatrist.

The NPM team considers that the application of restraint in a habilitation and rehabilitation center for adults with disabilities is not covered by the current legal provisions, even if it is done on the recommendation of the psychiatrist, considering that Law no. 487/2002 on mental health and the protection of people with mental disorders, republished applies to people admitted to recovery and rehabilitation centers (and to patients in psychiatric units), and Order no. 82/2019 regarding the approval of the specific mandatory minimum quality standards for social services intended for adults with disabilities no longer provides, among the social services for adults with disabilities, recovery and rehabilitation centers (provided in the previous order - Order no. 67/2015).

**Given that some of the current habilitation and rehabilitation centers (or care and assistance centers) are, in fact, former neuropsychiatric recovery and rehabilitation centers, a clarification is required, in Law no. 487/2002, republished, of services where restrictive measures to freedom of movement can be applied; whether these measures can be applied in residential centers housing people with mental disorders at high risk of aggression and self-harm or only in psychiatric hospitals/wards.**

**According to the current legislation, recourse to this measure must be avoided in residential centers for adults with disabilities; the focus must be on the prevention of such situations (in this sense, staff training on the rights of people with mental disabilities and their approach is essential). In situations of aggression and self-harm, when the competence of the center's staff is exceeded, the assessment of the patient at the hospital/psychiatry ward must be taken into account, in order to establish the conduct to be followed.**

**Actions to publicize NPM duties, participation in conferences, internal and international symposia, staff training, working groups**

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

accordance with the provisions of OPCAT and Law no. 35/1997, republished, NPM carried out professional training activities for staff from places of detention, in the sense of Art. 4 of OPCAT, but also of its own members.

► **In order to increase awareness regarding the prevention of torture and ill-treatment, as well as the mandate and activity of the NPM, its members carried out, also in 2023, an extensive awareness raising activity** addressed both to persons deprived of their liberty and to the staff of places of detention and the authorities that subordinate units subject to NPM monitoring, for example:

- The national training school for penitentiary agents Târgu Ocna, Bacău county;
- Bucharest Hospitals and Medical Services Administration;
- Romanian Border Police;
- *Professional colleagues* (physicians, psychologists, social workers, dentists);
- *Professional associations* (National Society of Family Medicine/General Medicine Association, Bucharest Family Physicians Association, Romanian Obstetrics and Gynecology Society);
- *general directorates of social assistance and child protection* (Sibiu; Ilt; Mehedinți; Vâlcea; Dolj; Gorj; Argeș);
- *centers for adults with disabilities* (CHR Galda de Jos, Alba county; Care and Assistance Center Hunedoara, Hunedoara county; Care and Assistance Center "Henri Coandă" Bacău; CHR Râmnicu Sărat, Buzău county; Care and Assistance Center Timișul de Sus, Brașov county; Care and Assistance Center "Sf. Anton ", Brașov county; Care and Assistance Center "Sf. Elena" Bucharest; Care and Assistance Center " Sfânta Maria" Cornetu, Ilfov; the Residential Center "Floarea Soarelui" from complex of services for children with disabilities, Ialomița county);
- *homes for the elderly* (Mircești Home for the Elderly, Iași County; Măgura "Viață Liniștită" Nursing Home, Bacău County; Topliceni Home for the Elderly, Buzău County; Voluntari Home for the Elderly, Ilfov County; Nikolas Home for the Elderly, Constanța County; Center for the Elderly, Ocnești, Giurgiu county; Center for Elderly Persons "Hotarele", Giurgiu County; Services Complex for Elderly and Assisted Persons Alexandru Marghiloman – residential center, Buzău County; Răzvad Care Center for the Elderly, Valea Voivozilor village, Dâmbovița County; "Sfânta Ecaterina" Geriatric Center, Bucharest; Kronos Association's Residential Center, Constanța County);
- *penitentiaries* (Galați; Botoșani; Craiova; Craiova Pelendava; Tulcea; Bucharest-Rahova; Giurgiu; Bucharest-Jilava);
- *preventive detention and remand centers* (Brașov; Preventive Detention and Remand Center no. 1; Buzău, Călărași and Constanța; Dâmbovița; Ialomița);
- *centers for migrants* ( Regional Center for Procedures and Accommodation of Asylum Seekers Bucharest );
- *centers for children* (Sibiu Maternal Center; Speranța Maternal Center Alba Iulia; Protected Housing for Victims of Domestic Violence Alba Iulia; Community Services Complex No. 1 Vaslui; Mărășești Residential Center, Vrancea County; "My Family" Service Complex Roman, County Neamț; The Center for Children in the Special Protection System Șotânga, Dâmbovița County; The Family Type Center Irina, Greaca commune, Giurgiu County;

Sfânta Maria Sătuc residential center for children, Buzău county; Stejarul Family Type House and Iris Family House from Brebu commune, Prahova county); • *hospitals* (Voila Psychiatric Hospital, Prahova county); • *non-governmental organizations* (European Association for Human Rights; "Împreună creștem valori" Bucharest Association, "Viață pentru Suflete" Association Bucharest, "Împreună pentru viitor" Association Constanța).

► **NPM members participated** (physically or online) **in a series of webinars, meetings, conferences, symposiums, working groups organized at national and international level**, for example:

**at the national level:** • meetings with the president of the Romanian National College of Social Workers, respectively with the president of the Romanian College of Dentists; • Summer ELSA Law School Cluj Napoca - Criminal Law; • The conference "Human rights and the evolution of society: realities, interpretations, trends" 7<sup>th</sup> Edition 2023, organized at the National Training School for prison officers Târgu Ocna, Bacău county; • meeting with the representatives of the Fundamental Rights Office (FRO) within the European Border and Coast Guard Agency (Frontex); • round table with the theme "Attracting medical staff to the Romanian penitentiary system - current challenges and the way forward", the presentation of the evaluation report/analysis of the legislation on mental health, by CoE experts and the closing conference of the Council of Europe project (CoE) - " Consolidation of medical and mental health services in Romanian prisons" , implemented in partnership with the Ministry of Justice, the National Administration of Penitentiaries and the Ministry of Health; • interview conducted within the *ENABLE project: Facilitating inclusion and access to justice for defendants with intellectual and psychosocial disabilities*, conducted by the Legal Resources Center, in collaboration with the Validity Foundation and co-financed by the European Union; • National Conference "Medical and Scientific Days of the Psychiatry Hospital "Prof. Dr. Al. Obregia " Bucharest"; • The training course with the theme " Enforcement of ECtHR judgments: design of mechanisms for the protection of the rights of institutionalized persons with disabilities " , organized by the Center for Legal Resources , within the AdaptJust project - Accessible justice for persons with disabilities carried out in partnership with the Public Ministry; • work meeting organized by Romanian National Council for Refugees Foundation, within the "Monitoring of forced return missions" Project; • Conference on "Promoting access to justice for suspects or defendants with intellectual and/or psychosocial disabilities", organized by the Center for Legal Resources, Validity and Mental Health Perspectives within the ENABLE Project "Facilitating inclusion and access to justice for suspects and defendants with intellectual and psychosocial disabilities" co-financed by the European Union; • working meetings organized by the Ministry of Labor and Social Solidarity within the Technical Working Group referring to improving the legislation in the field of the quality of social services; • the round table with the theme "Mental Health Services, current events and strategic development directions" organized by the Ministry of Health; • the meeting with the delegation of the Office of the Commissioner for Human Rights of the Council of Europe.

**at the international level:** • the webinar on "Monitoring mental health in prisons" organized by the Council of Europe ( CoE ) in cooperation with the Association for the Prevention of Torture (APT); • the regional meeting on the prevention of torture in the OSCE region " Joining forces for the prevention of torture and other ill-treatment" organized by the

OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), CoE, APT and the Danish Ombudsman; • webinars organized by the African Ombudsman Research Center (AORC), with topics such as: Strengthening cyber security in Ombudsman institutions; Mediation/Alternative Dispute Resolution; Presentation of the People's Advocate institution to higher education students; Ombudsman Institutions in the Digital Age: Navigating Challenges and Opportunities; Addressing gender-based violence and harassment: the role of the Ombudsman in protecting and empowering women; • the webinar "Launch of WHO/OHCHR guidelines and common practice on mental health, human rights and legislation" organized by the World Health Organization (WHO) and the Office of the United Nations High Commissioner for Human Rights (OHCHR); • Conference on the HELP Network of the Council of Europe on human rights training organized by the Committee of Ministers of the Council of Europe (CoE).

► NPM carried out **professional training activities for staff from units subject to its monitoring**: Deva Detention and Remand Center; Brăila penitentiary; General Directorate of Social Assistance and Child Protection Brăila; Care and Assistance Center for Adults with Disabilities from Vârfu Câmpului commune, Botoșani county; Blijdorp neuro - psycho - motor recovery complex - "O Nouă Viață" Suceava, Suceava county; The Care and Assistance Center for Adults with Disabilities "Sf. Elena" Bucharest; Detention and Remand Center no. 1 Bucharest, on topics such as: the concepts of torture and ill-treatment; the importance of activities to prevent torture and ill-treatment in places of detention as well as the presentation of the duties and activities of the NPM; issues found during NPM visits, etc.

► Regarding **the professional training of NPM members**, during 2023, alongside the national and international seminars and workshops attended by NPM members (mentioned above), *professional training activities were organized at internal level*, within the People's Advocate institution, with themes such as: • The specifics of social assistance activity in Romanian penitentiaries; • Psychological rehabilitation of children in residential centers; • General rules of professional conduct of the staff within the People's Advocate Institution; • June 20 World Refugee Day; • Fundamental guarantees against ill-treatment of persons in police custody (CPT standards and APT practical guide); • The rights, obligations and prohibitions of foreigners in centers for the accommodation of foreigners taken into public custody; • The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules); • Identifying and respecting the best interests of the child in the case of minors with psycho-behavioral disorders; • Social services for preventing and combating domestic violence ; • Ensuring health assistance in social services with accommodation, organized as residential centers for children temporarily or permanently separated from their parents; • The Ombudsman's investigations, a means of defending the rights and freedoms of the person. Aspects within the activity of the Department on army, justice, police, penitentiaries; • Dealing with beneficiaries/patients with swallowing disorders, from places of detention monitored by the NPM; • CPT standards – juveniles deprived of liberty according to criminal law.

Also, NPM members (doctors, psychologists and social workers) participated in professional training courses organized by the Professional Colleges of which they belong, on topics such as: The rights and responsibilities of the social worker; Bullying – from



indifference to intervention; A voice for sick children; Infectious syndromes in medical practice; News in Pediatric Pathology, etc.

NPM members participated in the second professional training session of the People's Advocate institution, organized in Albac commune, Alba county, between September 12-14, 2023, among the topics discussed being: Investigations - procedures and discussions; Aspects related to the protection and processing of personal data; Actions carried out by the People's Advocate institution jointly with other state institutions/authorities; Cyber security etc.

► **NPM meetings** took place with non-governmental organizations with which the People's Advocate institution has signed collaboration protocols, for example: "Împreună pentru ei" Humanitarian Association Baia Mare; ANAIS Association; Romanian Group for the Defense of Human Rights; European Association for Human and Child Protection; European Association of Human Rights and Social Protection; Galați "Familia" Foundation; Association of Christian Roma "Calea, Adevărul și Viața" Bacău; Association for Community Support and Social Integration Iasi; "Aproape de Oameni" Association Iași; Organization for the Defense of Human Rights - Craiova Regional Branch; Foundation for the Defense of Citizens Against State Abuses, within which topics related to the mandate, organization, main attributions and mode of action of the NPM were addressed, the organization of monitoring visits and aspects found during 2022, as well as the main obligations that NGOs have in the relationship with the NPM, as a result of the visits they participate in.

► Meetings were held **with external collaborators** (doctors, psychologists and social workers) on professional topics: national and international legislation regarding the prohibition and prevention of torture, aspects found in the NPM visits regarding the provision of medical/psychological/social assistance, drawing up reports visit, presentation of the report on the NPM activity for the year 2022, etc.

#### **Collaboration with CAT, SPT, CPT and other international partners**

► **Committee against Torture (CAT** – established by the Convention against Torture or other Cruel, Inhuman or Degrading Treatment or Punishment)

For the first time since its establishment, NPM had an online (private, plenary) meeting with members CAT, on July 17, 2023, during the 77<sup>th</sup> CAT session, in the context of the analysis of Romania's third periodic report on the implementation of the Convention against Torture or other Cruel, Inhuman or Degrading Treatment or Punishment in Romania (CAT/C/ROU/3). Also, at the CAT's request, the NPM communicated information regarding the implementation of the Convention in Romania and the situation of the NPM (its achievements and challenges under the Convention).

► **The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT)**

The NPM members had online meetings and corresponded with the SPT rapporteurs for Romania: with Ms. Suzanne Jabbour, SPT president and SPT responsible for Romania, on topics such as: "The operation and activity of the NPM /current priorities and challenges/ the involvement of the People's Advocate institution / NPM in the Ukrainian refugee crisis" and with Mr. Martin Zinkler (the SPT rapporteur for Romania, starting with March 2023), on the following topics: the main concerns arising from the visits; the situation in institutions for

people with psychosocial disabilities; mental health in prisons; The NPM report for the year 2022, etc.

Also, NPM participated in events organized by SPT: "Anniversary of the 20<sup>th</sup> anniversary of the existence of OPCAT and 15 years of activity of SPT" (February 9, 2023); "Strengthening the role of the NPM in the prevention of torture", with the participation of the European National Prevention Mechanisms (June 7, 2023), as well as at the public debate on the First General Comment on art. 4 of OPCAT - *definition of places of detention* (June 8, 2023), in the elaboration of which the documents sent by NPM Romania were taken into account (both directly, by NPM, and through the Ministry of Foreign Affairs - Department of International Organizations and Multilateral Affairs).

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

NPM representatives are part of the working group set up at the Prime Minister's Chancellery to analyze the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), after the visit to Romania, between September 18-30, 2022.

In this context, it should be noted that, unlike previous CPT visits to Romania, this time, the representatives of the Romanian Government involved did not make the CPT report available to the NPM, before it was published. The report was communicated by a CPT representative, who was perplexed by the attitude of the Romanian state, given that NPM Romania collaborated with the CPT (by providing information and having meetings) on the occasion of its visit to Romania. NPM mentioned this situation in the correspondence with the Control Body of the Prime Minister who requested, from the NPM, information regarding the evaluation of the findings, conclusions and recommendations contained in the CPT report.

► **National Prevention Mechanisms - SEE NPM Network**

NPM Romania is part of the South-Eastern Europe Network of National Preventive Mechanisms. Also in 2023, NPM members maintained contact with other NPMs and participated in meetings/training sessions organized by them: round table dedicated to the 75<sup>th</sup> anniversary of the adoption of the Universal Declaration of Human Rights with the theme "Implementation of the Human Rights Action Plan for 2022-2024", organized by the National Center for the Prevention of Torture of the Kyrgyz Republic and the round table organized by the NPM in Great Britain, with the theme " Self-harm, women at risk of self-harm in prison".

## CHAPTER III

### THE DEPARTMENT ON HUMAN RIGHTS, EQUAL OPPORTUNITIES BETWEEN MEN AND WOMEN, RELIGIOUS CULTS AND NATIONAL MINORITIES

The department on human rights, equal opportunities between men and women, religious cults and national minorities carries out its activity by addressing a large number of fundamental rights that are protected by law, such as: the right to health protection, the right to life and to physical and mental integrity, equal rights, the right to education, the right to a healthy environment, the right to free movement, freedom of expression, the right to vote, the right to complain, the right of the person aggrieved by a public authority, etc.

During 2023, at the level of the department, a number of **960 complaints** were registered, **88 files** being opened, in which steps were taken to the concerned public institutions/authorities. Among the complaints assigned to this department, most signaled the violation of the right to complaint, the right to information, but also the right of the person aggrieved by a public authority. Based on the department's analysis, it was found that most cases were resolved in favor of the complainants, either by providing the requested information or by responding to the complaints submitted to the institutions.

In 2023, **two investigations** were conducted to discuss, analyze, and clarify situations reported by complainants in relation to public institutions and authorities. **Nine recommendations** were issued, urging the authorities to take the necessary measures to apply and comply with the law.

The department initiated **59 ex officio actions**, considering both general interest situations and specific cases reported in the media, regarding health, education, information, environment, etc.

The department also prepared **two special reports**, of which one in collaboration with the Department of Property, Labor, Social Protection, Taxes, and Duties. Both reports were presented at meetings with media representatives and submitted to Parliament and other relevant authorities for analysis and implementation of the formulated proposals.

The first Special Report, prepared by the department, is titled "*Patient Access to Services Provided by the Romanian Medical System.*" It analyzed patients' access to services offered by the Romanian medical system, including waiting times for treatment, treatment outcomes, the range of services available, and access to medicines. The report highlighted issues such as access to medical services for certain categories of patients (cancer patients, those with rare diseases, burn victims, pregnant women), the issue of hospital-acquired infections, medicine shortages, medical infrastructure, patient access to treatments abroad, and reimbursement for these treatments.

The second report, created in collaboration with the Department of Property, Labor, Social Protection, Taxes, and Duties, is titled "*Special Report on Workplace Harassment and Violence.*" It provides an analysis of legal regulations and practical situations regarding workplace harassment and violence and offers several proposals aimed at creating a coherent legislative and administrative framework to ensure workers' rights to perform their duties in

an appropriate work environment. The report also considered the case law of the People's Advocate Institution and the provisions of Convention No. 190/2019 on the elimination of violence and harassment in the world of work, adopted at the 108<sup>th</sup> session of the International Labor Conference of the International Labor Organization in Geneva on June 21, 2019. The draft law for Romania's accession to Convention No. 190/2019 is currently in the legislative process at the Chamber of Deputies (PL-x No. 735/2023).

Among the authorities that **did not provide the necessary support** to the People's Advocate Institution's in fulfilling its duties, the following stand out: Bucharest Sector 4 City Hall, the Ministry of Education, and the Bucharest Municipality City Hall.

### **Participation in Events, Conferences, and Working Groups**

In 2023, the Department of Human Rights, Equality of Opportunity Between Men and Women, Religious Cults, and National Minorities actively participated in several governmental and non-governmental projects, focusing mainly on:

1. Active participation as a permanent guest in the implementation procedure of the Strategy for Preventing and Combating Anti-Semitism, Xenophobia, Radicalization, and Hate Speech for the period 2021-2023;
2. Permanent member in the drafting of the new Strategy for Preventing and Combating Anti-Semitism, Xenophobia, Radicalization, and Hate Speech for the period 2024-2027;
3. Active involvement in the implementation of the Romanian Government's Inclusion Strategy for Romanian Citizens Belonging to the Roma Minority for the period 2022-2027, addressing eight action directions. The department was represented in all working groups formed for this purpose. The department's staff attended several events related to the implementation of this Strategy, including: the Progress Conference of the Working Group on Protecting Victims of Hate Crimes, organized by the Prosecutor's Office attached to the High Court of Cassation and Justice; the seminar "Combating Discrimination. Hate Crimes," organized by the National Institute of Magistracy; the European Roma Holocaust Memorial Day; the Meeting on Implementing Specific Measures, Combating Discrimination, Anti-Roma Attitudes, and Hate Speech, etc.;
4. The People's Advocate Institution has long supported the implementation of decisions issued by European courts regarding the rights of LGBT individuals and their incorporation into national legislation. Additionally, it intervened in administrative matters arising from the implementation of such decisions, such as steps taken regarding the case of a complainant whose marriage certificate, issued between two people of the same sex in the UK, was not transcribed by the relevant authorities, thus violating their right to private and family life and leading to discrimination based on gender identity. In this case, the People's Advocate Institution notified the administrative litigation court, following the department's efforts.
5. The Universal Periodic Review (UPR) is a mechanism created for the universal assessment of the human rights situation in all 193 UN member states. In this context, on May 1-2, 2023, the People's Advocate Institution was represented by Mr. Molnár Zsolt, Deputy Ombudsman, during the periodic evaluation, where the progress made by Romanian authorities in the field of human rights was presented, with an emphasis

on policies in the areas of prevention and combating human trafficking, the rights of persons belonging to minorities and those in vulnerable situations, as well as the prevention and combating of anti-Semitism, xenophobia, radicalization, and racial hate speech, and other justice-related issues.

6. With the 2018 amendment to Law No. 35/1997 on the organization and operation of the People's Advocate Institution, republished, the People's Advocate Institution was designated by the Romanian Parliament as National Human Rights Institution, as defined by the United Nations (UN) General Assembly Resolution No. 48/134 of December 20, 1993, adopting the Paris Principles. Additionally, successive amendments to the legislation on the organization and operation of the People's Advocate Institution have strengthened and expanded its mandate, making the institution today the only National Human Rights Institution that fully complies with international standards. Thus, in the fall of 2018, the People's Advocate Institution initiated steps to be accredited as a National Human Rights Institution. Due to the SARS-CoV-2 pandemic, the accreditation process was delayed, but the institution resumed dialogue with the Sub-committee on Accreditation in July 2023, reiterating its 2018 request to initiate the accreditation process. The procedure is currently under review.
7. Participation in the *UN Climate Change Conference of Youth*, organized in the United Arab Emirates, in the context of applying the UN Framework Convention on Climate Change (UNFCCC).

## CHAPTER IV

### THE DEPARTMENT FOR THE RIGHTS OF FAMILY, YOUTH, PENSIONERS, PEOPLE WITH DISABILITIES

In 2023, the **Department for the rights of family, youth, pensioners, people with disabilities** received 760 complaints. From this total, 168 case files were created. Based on the department's areas of expertise, these 760 complaints were categorized as follows:

1. **Youth and Family Rights:** 119 complaints
2. **Pensioners' Rights:** 389 complaints
3. **Rights of Persons with Disabilities:** 252 complaints

#### **Youth and Family Rights**

Most requests related to family rights protection come from complainants with low or occasional incomes, or those without any income, lacking housing, or living in inadequate conditions. Despite their efforts to seek help from competent authorities, these attempts often remain unaddressed. Public authorities usually acknowledge the challenges faced by the complainants and consider them eligible for various forms of social assistance. However, due to lack of funds, the support cannot be provided.

In 2023, the department also addressed domestic violence by initiating investigations and participating in events (conferences, round tables, and working groups) concerning the application of national and international domestic violence regulations. These events included the Romanian Social Services Forum on November 20, 2023, and other round tables addressing child protection and gender-based violence, particularly in the context of refugee flows to Romania.

As in previous years, complaints regarding the violation of family and youth rights were often resolved without opening a formal case file, with complainants seeking legal advice on issues such as:

- Delays in resolving social housing applications and measures to prevent and combat social marginalization
- Difficulties in the social integration of young adults raised in residential institutions
- Failure to award study scholarships within the university senate's set deadlines
- Family obligations to support a relative in a private care facility
- Obtaining or adjusting child support / alimony
- Widow's pensions for war veterans' widows
- The legal regime of assets acquired during marriage or inheritance rights.

There were also complaints regarding families' rights to a guaranteed minimum income, as a form of social assistance under Law No. 416/2001, or the provision of social vouchers as per Government Emergency Ordinance No. 63/2022. To assist citizens, the People's Advocate Institution provided guidance on legal provisions and on file preparation for obtaining this income from municipal social services.

Some complaints concerned issues with receiving social vouchers for food and hot meals, either due to not receiving electronic vouchers or not having funds credited to their cards. The

institution contacted the National House of Public Pensions, the Ministry of Labor and Social Solidarity, and the Ministry of Investments and European Projects to resolve these issues.

Another area of concern involved the distribution of energy cards. Complainants reported that due to administrative errors, they were deemed ineligible for these financial benefits. In response, we addressed the relevant authorities, including the Ministry of Labor and Social Solidarity, the Ministry of Investments and European Projects, and the National Romanian Post Company, to resolve these disputes.

Several complaints also involved family violence. Many complainants prefer to seek the assistance of the People's Advocate for resolving family disputes instead of taking legal action. Sometimes, they request direct intervention in family matters, while other times, they seek information on how to resolve their conflicts. Most complainants hesitate to pursue court actions, hoping that intervention from another authority might resolve their issues more quickly and efficiently.

### **Rights of Persons with Disabilities**

In 2023, the People's Advocate received numerous complaints concerning the rights of persons with disabilities. Whenever cases of violations of fundamental rights and freedoms for this category were reported in the public sphere, the People's Advocate also initiated investigations on its own.

A total of 252 complaints were analyzed, submitted by individuals with disabilities or regarding the violation of their rights. These complaints mainly addressed issues related to:

- Hiring a personal assistant for individuals with severe disabilities by the municipality;
- Payment of allowances for severely disabled individuals entitled to personal assistance under Article 42(4) of Law No. 448/2006;
- Priority for individuals with disabilities in obtaining appropriate social housing;
- Slow processing of requests by individuals with disabilities or their families and failure to take action within the legal timeframe;
- Public authorities' passivity in addressing issues related to the implementation of legal norms, inter-institutional communication gaps, and poor financial resource management in the disability protection system;
- Failure to respect or correctly apply legal provisions, including priority access for individuals with motor disabilities to residence parking;
- Difficulties in accessing suitable residential care centers for persons with disabilities, inadequate care conditions in public residential centers, and the restructuring of old-type residential centers;
- Violation of the right of severely disabled adults to have personal assistants, by local public authorities;
- Access to tourist and recreational facilities for persons with disabilities;

Complaints filed in 2023 also brought to the attention of the People's Advocate's systemic, direct, or indirect violations of fundamental rights of persons with disabilities. Neglect or violation of their rights within the social assistance, education, or healthcare systems highlighted either a lack of understanding or incorrect application of the law by those responsible, or a lack of diligence by public authorities in finding appropriate administrative and/or legal solutions.

Also, in 2023, based on resolved complaints, the People's Advocate established a working group on involuntary psychiatric hospitalizations and launched the project *"Monitoring the Implementation of ECHR Decisions on Involuntary Admissions in Psychiatric Hospitals."* The project aimed to evaluate, through institutional means specific to the People's Advocate, the respect for fundamental human rights during involuntary hospitalizations, in line with the general measures required by the European Court of Human Rights (ECHR) rulings. Mixed teams (lawyers, social workers, doctors) conducted monitoring visits to the hospitals mentioned in the Court's rulings. The conclusions and recommendations resulting from these investigations were published in a Special Report in January 2024. Additionally, in a spirit of loyal collaboration and in consideration of the general public interest, these recommendations were sent to the Government's technical working group for implementing ECHR rulings in the field of mental health, set up within the Romanian Prime Minister's Office.

#### **Participation in Various Working Groups**

In 2023, representatives of the department participated in several working groups, including the one organized by the Ministry of Labor and Social Solidarity to discuss amendments to the social assistance law package. The People's Advocate's opinion on the draft law for amending and completing some social assistance laws, which was under public consultation, was submitted after participating in discussions organized by the ministry. These observations were integrated into the draft law.



## CHAPTER V

### THE DEPARTMENT FOR MILITARY, JUSTICE, POLICE, PENITENTIARIES

In 2023, the Military, Justice, Police, Penitentiaries department was assigned **3,342** cases, divided into subdomains as follows:

- Military: **24** complaints;
- Justice: **1,228** complaints;
- Police: **239** complaints;
- Penitentiaries: **1,787** complaints;
- Others: **64** complaints.

The complaints addressed within the department primarily concerned the following aspects:

- Dissatisfaction with the procedures for notifying the Superior Council of Magistracy (especially regarding electronic signatures);
- Complaints from police officers regarding logistical support, wages, and working conditions;
- The manner of handling and term of resolution of the cases pending before the courts or in the instrumentation of the prosecutor's offices, the execution of court decisions, the manner of performance of duties by the bailiffs
- Prison conditions, especially related to food, violence by prison staff against detainees, inter-detainee violence, denial of conditional release, and transfer to other prisons;
- Clarifications requested by citizens regarding procedures in various legal cases.

As a result of some of these complaints, **841 files were opened:**

- Military: 6 files;
- Justice: 51 files;
- Police: 51 files;
- Penitentiaries: 730 files;
- Others: 3 files still under review.

Additionally, **118** files were initiated based on ex officio proceedings.

In 2023, the department conducted **70 investigations**, resulting in **44 recommendations**, primarily targeting the Police and Penitentiaries subdomains. These investigations focused on equipment (weapons, customs scanners, communication tools, laboratory equipment and solutions), working conditions for staff, detainee accommodations, food, relationships with staff, and medical care in prisons.

As in the previous year, some investigations were conducted online via Skype.

## CHAPTER VI

### PROPERTY, LABOR, SOCIAL PROTECTION, TAXES AND DUTIES

Within the **Property, Labor, Social Protection, Taxes, and Fees Department**, complaints regarding violations of citizens' rights and freedoms through administrative acts or actions by public authorities and autonomous administrations are examined. These complaints primarily involve issues related to property, labor, social protection, and taxes and fees.

A total of **2,481 complaints** were examined, **33 investigations** were conducted at the reported public institutions, **one recommendation** was issued, and **four meetings** were held at the institution's headquarters with representatives from various authorities. Additionally, the People's Advocate **initiated 43 ex officio cases**.

This year, two special reports were prepared within the department:

a) *The Report on Occupational Safety and Health of Workers*;

b) *The Report on Workplace Harassment*, which analyzed national legislation in light of the Convention on the Elimination of Violence and Harassment in the World of Work, in collaboration with the Department for Human Rights, Gender Equality, Religious Cults, and National Minorities.

#### **Property**

The complaints examined in this sub-department primarily concerned violations of private property rights. These mainly involved: the application of restitution laws regarding property; delays in restoring possession; delays in issuing/modifying property titles; lack of response from authorities to requests submitted by beneficiaries of laws on property rights restitution; difficulties in establishing property rights over land associated with construction, in light of amendments to Law No. 18/1991 by Law No. 213/2018 and Law No. 87/2020; delays/refusals by the State Domain Agency (ADS) to make land available to local land commissions for restoring possession to entitled individuals; difficulties in registering public property rights of the state or territorial-administrative units over forest land, which led to delays in issuing government decisions to change the legal status of the areas in question, and consequently delays in preparing minutes for possession restoration and issuing property titles; delays in resolving cases under Law No. 10/2001; dissatisfaction with compensation decisions issued by the National Commission for Real Estate Compensation (CNCI); delays in resolving cases under Law No. 9/1998 and Law No. 290/2003; failure to update monthly compensation for individuals persecuted for political reasons during the dictatorship that began on March 6, 1945, as well as those deported abroad or taken as prisoners, in line with pension and other state social insurance indexations; failure to grant rights provided by Law No. 154/2021 amending Government Ordinance No. 105/1999 on the granting of certain rights to individuals persecuted by regimes established in Romania from September 6, 1940, to March 6, 1945, for ethnic reasons; difficulties in obtaining the necessary documents for the issuance of the construction certificate and building permit, among others.

To address the reported issues, efforts were made with the involved/responsible entities, including investigations through which the complainants' concerns were clarified. As a result, possession minutes were issued, followed by property titles, and the requested

documents were issued where applicable. For complaints beyond the institution's competence, complainants were informed of the procedures they could follow and the authorities they could contact to clarify/resolve their issues.

It is also worth noting that, although legislative amendments to land restitution through Law No. 123 amending and supplementing the Land Fund Law No. 18/1991 and Law No. 215 amending Law No. 165/2013 on measures for completing the restitution process, either in kind or by equivalent, of properties abusively seized during the communist regime in Romania, as well as amending and supplementing Law No. 46/2008 - the Forestry Code, have unblocked the process of restoring property rights over forest and agricultural land, this process continues to be slow, and most of the difficulties detailed in the 2022 special report on respecting property rights in the process of restoring/establishing private property rights over agricultural and forest lands by the People's Advocate Institution remain.

Moreover, even after the enactment of Law No. 215/2023, the National Authority for Property Restitution (ANRP) and the Ministry of Environment, Waters, and Forests (MMAF) initially shifted responsibility to each other for initiating government decisions regarding the change in legal status of forest lands from public to private state ownership to make them available to local commissions for the restoration of property rights. However, following efforts done by the People's Advocate Institution and discussions between the two involved entities, MMAF will draft the government decisions.

### **Labor**

As in previous years, the People's Advocate Institution was notified by complainants in numerous cases about the difficulties they faced from employers, both public institutions and private companies, concerning the execution of labor contracts. The People's Advocate took legal action with public institutions; however, for the issues encountered by complainants with private companies, they were directed to the institutions responsible for overseeing labor relations or informed of the legal provisions under which they could exercise their rights.

The issues brought to the institution's attention included, among others: non-payment of wage entitlements, such as the food allowance during public servants'/contractual staff's vacation leave; salary rights specific to the first teaching grade and the PhD allowance; non-granting of the allowance of up to 15% of the base salary under Framework Law No. 153/2017 for personal assistants of individuals classified with severe disabilities; breaches of individual labor contract clauses; denial of vacation leave; mandatory acquisition of certain permits/authorizations; reimbursement of maternity medical leave; non-granting of study leave for certain categories of personnel with special status; failure to issue the order declaring the termination by law of a mayor's mandate after being unable to work for six months within a year; and clear regulation of the status of personal assistants employed by public authorities.

Additionally, this year, as well as the previous year, a significant number of complaints/ex officio cases concerned acts of moral harassment in the workplace. Complainants reported abuse, moral harassment, and sexual harassment at work, both by superiors and colleagues. Most complainants had already initiated actions with the National Council for Combating Discrimination, the criminal authorities, and the courts by the time they addressed the People's Advocate Institution.

Workplace accidents and the manner in which the competent authorities/institutions took measures in accordance with legal provisions to prevent such events and comply with occupational safety and health regulations were also a key concern this year.

In collaboration with the Department for Human Rights, Gender Equality, Religious Cults, and National Minorities, a report on workplace harassment was prepared, which analyzed national legislation in light of the Convention on the Elimination of Violence and Harassment in the World of Work (ILO Convention No. 190), adopted in Geneva at the 108<sup>th</sup> session of the International Labor Conference on June 21, 2019, and the conditions required for Romania to ratify it. Following the report, efforts were initiated to ratify the Convention (currently, a draft law for Romania's accession to Convention No. 190/2019 is registered in the Chamber of Deputies – PL-x No. 735/2023).

In March 2023, the Report on Occupational Safety and Health of Workers was presented, analyzing the actual situation in relation to the competencies and activities of the institutions with responsibilities in the field, the relevant legislation concerning workplace accidents and occupational diseases, and the institution's case studies.

Following the report, the Ministry of Labor and Social Solidarity informed us that it is considering amending the legislative framework in this area, specifically *Law No. 346/2002, with its subsequent amendments*, especially to support the victims of workplace accidents/occupational diseases. Additionally, the Methodological Norms for the application of *Law No. 346/2002*, approved by *Order No. 450/825/2006*, will be updated (Ex officio notification No. 10129/2023).

### **Social Protection**

In this sub-department, during 2023, complaints were analyzed, mainly focusing on the limited number of available social housing units and complainants' requests to be granted such housing, getting social voucher cards, assistance for heating costs, refunds to county agencies for payments and social inspection, which authorities deemed to have been unjustly granted (eligibility conditions were not met), issues arising from the billing of electricity and natural gas, and requests related to payments under the 50/20 program for Ukrainian refugees, among others.

### **Taxes and Duties**

In 2023, the People's Advocate Institution analyzed complaints primarily related to issues such as: the calculation method for taxes/duties on buildings and lands; the content of tax decisions regarding building and land taxes/ duties, as well as vehicle taxes; dissatisfaction with the rejection of appeals against tax decisions, garnishments, enforcement titles, and summonses for forced execution; special taxes (e.g., habitat tax, sanitation tax for individuals, self-employed freelancers, and legal entities); and the requirement to settle tax obligations before the issuance of certain documents.

In order to solve certain complaints, the People's Advocate Institution addressed local tax and duties departments, public finance administrations, the General Regional Directorate of Public Finance in Bucharest, town halls, and others. For cases beyond the institution's jurisdiction, complainants were informed of the procedures they could follow, along with references to the relevant legal provisions and the authorities to which they could address their issues.

## Legislative Amendments

**A.** Following the identification of inconsistencies between the provisions of Article 3(2)(d) of the Methodological Norms for the implementation of Law No. 15/2003 on supporting young people in building a privately owned home and Article 3(1) of the same law regarding the conditions young people must meet to qualify for land allocation for home construction, the People's Advocate **initiated ex officio action** (Case No. 9760/2022). The institution first addressed the Ministry of Family, Youth, and Equal Opportunities and then the Ministry of Development, Public Works, and Administration.

Despite the amendments to Law No. 15/2003 through Law No. 175/2004 and the renumbering of articles after republication, the provision in Article 3(1)(c) regarding the condition that *"their parents do not own or have not owned, in the last 10 years, land exceeding 500 m<sup>2</sup> in urban areas or 5,000 m<sup>2</sup> in rural areas, regardless of the land's location"* was repealed. However, the corresponding provisions in the Methodological Norms for the implementation of Law No. 15/2003 were not updated accordingly.

As a result of these actions, on August 21, 2023, Government Decision No. 748 of August 18, 2023, was published in the Official Gazette of Romania, Part I, No. 756, which amended the Methodological Norms for the application of Law No. 15/2003. The decision repealed the provisions of Article 3(2)(d) of the Methodological Norms.

**B.** The Government Emergency Ordinance No. 42/2023 was adopted, amending Law No. 367/2022 on social dialogue and Law No. 53/2003 (the Labor Code). Among other updates, it aligned the provisions of Article 229(2) of the Labor Code (Law No. 53/2003) with the provisions of Article 97(1) of Law No. 367/2022 on social dialogue (Case No. 1127/2023).

## CHAPTER VII

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

In 2023, the activity of the territorial offices resulted in: resolving a number of **2,111 complaints**, **2,093 ex officio referrals**, conducting **123 investigations**, granting **4,648 hearings**, recording **5,443 telephone calls** through the dispatch service, formulating **115 recommendations** and **742 awareness raising activities / collaboration with other authorities**, as follows:

- **Alba Iulia Territorial Office:** resolved 101 complaints, held 242 hearings, received 299 phone calls through the dispatch service, conducted 2 awareness raising activities/collaboration with other authorities, initiated 248 ex officio notifications (137 concerning the protection of children and youth), carried out 2 investigations, and issued 1 recommendation.

- **Bacău Territorial Office:** resolved 127 complaints, held 365 hearings, received 356 phone calls through the dispatch service, conducted 36 awareness raising activities/collaboration with other authorities, initiated 56 ex officio notifications, conducted 1 investigation, and issued 11 recommendations.

- **Braşov Territorial Office:** resolved 220 complaints, held 349 hearings, received 342 phone calls through the dispatch service, conducted 207 awareness raising activities/collaboration with other authorities, initiated 63 ex officio notifications, conducted 14 investigations, and issued 14 recommendations.

- **Cluj-Napoca Territorial Office:** resolved 128 complaints, held 325 hearings, received 406 phone calls through the dispatch service, conducted 3 awareness raising activities/collaboration with other authorities, initiated 325 ex officio notifications (259 concerning the protection of children and youth), conducted 34 investigations, and issued 32 recommendations.

- **Constanţa Territorial Office:** resolved 143 complaints, held 390 hearings, received 641 phone calls through the dispatch service, conducted 47 awareness raising activities/collaboration with other authorities, initiated 154 ex officio notifications (118 concerning the protection of children and youth), conducted 1 investigation, and issued 6 recommendations.

- **Craiova Territorial Office:** resolved 61 complaints, held 385 hearings, received 473 phone calls through the dispatch service, conducted 4 awareness raising activities/collaboration with other authorities, initiated 69 ex officio notifications, conducted 6 investigations, and issued 1 recommendation.

- **Galaţi Territorial Office:** resolved 118 complaints, held 161 hearings, received 280 phone calls through the dispatch service, conducted 79 awareness raising activities/collaboration with other authorities, initiated 123 ex officio notifications (90 concerning the protection of children and youth), conducted 6 investigations, and issued 2 recommendations.

- **Iaşi Territorial Office:** resolved 174 complaints, held 251 hearings, received 243 phone calls through the dispatch service, conducted 17 awareness raising activities/collaboration with other authorities, initiated 180 ex officio notifications (102

concerning the protection of children and youth), conducted 12 investigations, and issued 12 recommendations.

● **Oradea Territorial Office:** resolved 160 complaints, held 275 hearings, received 481 phone calls through the dispatch service, conducted 17 awareness raising activities/collaboration with other authorities, participated in 7 conferences/webinars/trainings, initiated 141 ex officio notifications, conducted 1 investigation, made 2 visits to psychiatric hospitals (Sighetu Marmăției and Zalău), and issued 5 recommendations.

● **Pitești Territorial Office:** resolved 128 complaints, held 277 hearings, received 152 phone calls through the dispatch service, conducted 42 awareness raising activities/collaboration with other authorities, initiated 54 ex officio notifications, conducted 1 investigation, and issued 4 recommendations.

● **Ploiești Territorial Office:** resolved 355 complaints, held 770 hearings, received 876 phone calls through the dispatch service, conducted 94 awareness raising activities, 98 collaboration activities with other authorities, initiated 152 ex officio notifications, conducted 28 investigations, and issued 9 recommendations. Along with the Department of Family Rights, Youth, Pensioners, and People with Disabilities, the office also contributed to a special report on monitoring the implementation of ECHR decisions regarding involuntary hospitalizations in psychiatric hospitals. A cooperation protocol was signed with "Ferdinand I" College in Măneciu, Prahova County, for monthly awareness activities with students on minors' rights and responsibilities, the legal consequences of aggressive behavior, and the legal responsibility of minors. Similar activities continued in partnership with "Sfânta Vineri" School in Ploiești, "Nicolae Iorga" National College in Vălenii de Munte, "Sfântul Vasile" School in Ploiești, and "Ion Luca Caragiale" National College in Ploiești.

● **Slobozia Territorial Office:** resolved 35 complaints, held 96 hearings, received 78 phone calls through the dispatch service, conducted 1 investigation, issued 2 recommendations, conducted 17 awareness raising activities/collaboration with other authorities, and initiated 152 ex officio notifications based on media reports from Ialomița, Călărași, Ilfov, Giurgiu, and Teleorman counties (80 concerning the protection of children and youth). Additionally, promotion activities were carried out on the duties of the Ombudsman for Children and its representative in the region, held in schools in Ialomița County.

● **Suceava Territorial Office:** resolved 71 complaints, held 137 hearings, received 120 phone calls through the dispatch service, initiated 231 ex officio notifications (100 concerning the protection of children and youth), conducted 6 investigations, and issued 9 recommendations.

● **Timișoara Territorial Office:** resolved 197 complaints, held 175 hearings, received 304 phone calls through the dispatch service, conducted 42 awareness raising activities/collaboration with other authorities, initiated 60 ex officio notifications, conducted 9 investigations, and issued 6 recommendations.

## CHAPTER VIII

# THE CONSTITUTIONAL LITIGATION SERVICE, APPEAL IN THE INTEREST OF THE LAW, ADMINISTRATIVE AND LEGAL LITIGATION, LEGAL AFFAIRS, EXTERNAL RELATIONS AND COMMUNICATION

The Ombudsperson 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 appeals in the interest of the law Office and the Administrative and Legal Litigation Office.

Also, the People's Advocate carries out its activity in the field of external relations, mass media, communication, etc., with the support of the Office for Legal Affairs, External Relations and Communication.

### *Section 1. The activity of the Constitutional Litigation and appeals in the interest of the law Office*

**977 complaints** were analyzed and resolved, by which the referral to the Constitutional Court was requested regarding the normative acts considered by the complainants to be unconstitutional. 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.

#### *1.1. Direct referral to the Constitutional Court*

During 2023, the People's Advocate made a number of **8 referrals to the Constitutional Court** both in order to trigger the prior constitutionality control (**3 objections**) and in order to carry out the subsequent constitutionality control (**5 exceptions**).

Compatibility with the norms of the Constitution is analyzed from an **extrinsic** point of view (compliance with the parliamentary procedure, the rules of legislative technique from the perspective of compliance with the principle of legal security) and **intrinsic**, which usually involves the verification of the violation of the constitutional provisions regarding rights and freedoms.

Out of the total of **8 notifications of unconstitutionality** (objections and exceptions) raised directly by the People's Advocate, **1 notification was partially admitted, 2 notifications were rejected**, the remaining **5 notifications** being in **the report phase**.

#### *1.1.1. Pre-promulgation Constitutional Review*

In the framework of the constitutional review prior to promulgation, three objections of unconstitutionality were raised:



### *1.1.1. Previous control of constitutionality*

✓ *Objection of unconstitutionality regarding the provisions of the Law approving Government Emergency Ordinance No. 175/2022, establishing measures concerning investment objectives for the completion of hydroelectric power facilities under construction, as well as other major public interest projects utilizing renewable energy, and for the amendment and supplementation of certain legislative acts (PL-x No. 57/2023, L814/2022), as well as those of Article I of Government Emergency Ordinance No. 175/2022.*

**The solution of the Constitutional Court:** By Decision no. 497/2023 the Constitutional Court **rejected as unfounded the objection of unconstitutionality with a majority**, a **separate opinion being expressed** in the sense that the declaration of such projects as "exceptional situations" by Government Emergency Ordinance no. 175/2022 constitutes a manifestation of the delegated legislator, while the attributions the central authority for the protection of the environment for assessing the impact of such projects are eminently attributions for the implementation of Law no. 292/2018, **which reinforces the idea of excessive power on the part of the Government.**

✓ *Objection of unconstitutionality regarding the provisions of art. I, point 17 referring to art. 139<sup>1</sup> para. (1) and (2), as well as those of art. I point 38 with reference to the introduction of para. (1<sup>1</sup>) in the content of art. 345 of the Law amending and supplementing Law no. 135/2010 regarding the Criminal Procedure Code, as well as for the amendment of other normative acts (PL-x no. 246/2023)*

**The solution of the Constitutional Court:** The Constitutional Court partially **admitted** the objection of unconstitutionality and found that the provisions of art. I point 17 [with reference to art. 139<sup>1</sup> para. (2)] and of art. I point 62 [with reference to art. 595 para. (11) (b)] from the Law amending and supplementing Law no. 135/2010 on the Code of Criminal Procedure, as well as for the modification of other normative acts, are **unconstitutional.**

✓ *Objection of unconstitutionality regarding the Law for the amendment of art. 2 para. (4) of the Government Emergency Ordinance no. 155/2001 regarding the approval of the stray dog management program (PL-x no. 116/2023);*

**The Constitutional Court's solution:** In the meeting of **September 27, 2023**, the Constitutional Court **rejected, as unfounded, the objection of unconstitutionality formulated by the People's Advocate** and held that the implementation of the specialized service for managing stray dogs through legal entities and associations or foundations in the field of animal protection does not create a legislative parallel by reference to the Law for the amendment and completion of the Government Emergency Ordinance no. 155/2001 regarding the approval of the stray dog management program [ PL -x no. 291/2022], as the latter is not in force.

### *1.1.2. The subsequent control of constitutionality*

During *the subsequent control*, the People's Advocate formulated **5 exceptions of unconstitutionality**, as follows:

✓ *Exception of unconstitutionality of the provisions of art. 23 para. (1) from Law no. 554/2004 regarding administrative litigation, with subsequent amendments and additions, in the interpretation given by Decision no. 10/2015, pronounced by the High Court of Cassation and Justice - the Panel for resolving legal issues.*

**The solution of the Constitutional Court:** *The exception of unconstitutionality is pending, before the Constitutional Court.*

✓ *The exception of unconstitutionality of the provisions of art. 1 point 9 of Law no. 217/2023 for the amendment and completion of Law no. 286/2009 regarding the Criminal Code, of Law no. 135/2010 regarding the Criminal Procedure Code, as well as the Audiovisual Law no. 504/2002, with reference to art. 218<sup>1</sup> para. (7) by which a cause of non-punishment is instituted, considering that art. 1 paragraph (3) and (5), art. 22, art. 26, art. 34 and art. 49 of the Constitution are violated.*

**The solution of the Constitutional Court:** *The exception of unconstitutionality is being resolved by the Constitutional Court, with a deadline for the ruling set for January 30, 2024.*

✓ *The exception of unconstitutionality of the provisions of art. 170 of Law no. 367/2022 regarding social dialogue, with subsequent amendments and additions, with reference to staff with special status within the National Administration of Penitentiaries.*

**The solution of the Constitutional Court:** *At the time of the preparation of this report, the case was pending before the Constitutional Court.*

✓ *The exception of unconstitutionality of the provisions of art. 481 lit. a) from the Government Emergency Ordinance no. 57/2019 regarding the Administrative Code, with reference to the phrase "after entering the body of civil servants, a diploma of higher education", from the perspective of the violation of art. 16 para. (1), art. 11 and art. 20 of the Constitution, art. 1 of Protocol no. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, art. 21 point 2 of the Universal Declaration of Human Rights and art. 25 lit. c) from the International Covenant on Civil and Political Rights.*

**The solution of the Constitutional Court:** *At the time of preparing this report, the file was being resolved.*

✓ *The exception of unconstitutionality of the provisions of art. 15 para. (6) lit. d) and art. 15<sup>1</sup> of the Government Emergency Ordinance no. 77/2009 on the organization and operation of gambling, amended and supplemented by Law no. 326/2022 motivated by the violation provisions of art. 1 paragraph (5), art. 26 and art. 53 of the Constitution, as well as of art. 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms*

**The solution of the Constitutional Court:** *At the time of the preparation of this report, the file was being resolved by the Constitutional Court.*

### *1.1.3 Admission decisions issued in 2023 by the Constitutional Court with regard to referrals made before the reference year*

Decision no. 16 of January 31, 2023 regarding the unconstitutionality exception of Government Emergency Ordinance no. 50/2021 for the amendment and completion of the National Education Law no. 1/2011. The Constitutional Court decided that Government Emergency Ordinance no. 50/2021 for the amendment and completion of the National Education Law no. 1/2011 was unconstitutional.

### *1.1.4. Resolution of complaints requesting referral to the Constitutional Court*

As previously mentioned, in 2023, a **total of 977 complaints** requesting the notification of the Constitutional Court regarding normative acts deemed unconstitutional by the complainants were analyzed and resolved. **Resolving complaints submitted to the Constitutional Litigation Office, in which the notification of the Constitutional Court is requested, involves conducting a constitutionality analysis of the normative acts cited by the complainants, by referencing the constitutional texts allegedly violated, as developed in the jurisprudence of the Constitutional Court, the European Court of Human Rights, the High Court of Cassation and Justice, and in legal doctrine.**

To assist individuals who request the notification of the Constitutional Court, a sample complaint form is available on the institution's website.

### *1.1.5. Referral to the specialized Committees of the Parliament*

In certain situations, in order to resolve the complaints, it was necessary to refer them to the specialized Committees of the Parliament because either legislative inconsistencies were identified or legislative interventions were needed. The People's Advocate requested the following actions:

**a) Initiating a legislative proposal to regulate a clear procedure and source of funding for granting the rights provided by Law no. 56/2020 for other categories of forensic specialists who participated in medical actions against COVID-19 and died as a result, including staff employed in family medicine offices.**

**b) Adopting special regulations for the descendants of family doctors and staff employed in family medicine offices**, so that their descendants can also benefit from the provisions regarding medical assistance and medications under the conditions established by the Framework Contract regarding the conditions for the provision of medical assistance within the social health insurance system, approved by Government Decision no. 696/2021, with subsequent amendments and additions.

**c) Initiating a legislative proposal to eliminate the non-punishment clause or reduce to 3 years the age difference that triggers the application of the non-punishment clause**, as regulated by Article 218<sup>1</sup> paragraph (7) of the Criminal Code, introduced by Article I, point 9 of Law no. 217/2023, for the amendment and completion of Law no. 286/2009 regarding the Criminal Code, Law no. 135/2010 regarding the Criminal Procedure Code, and the Audiovisual Law no. 504/2002.

**d) Initiating an amendment to the provisions of the Law on Mental Health and the Protection of Persons with Mental Disorders no. 487/2002**, republished, either through a distinct legislative proposal or through amendments to a bill under legislative procedure,

with provisions concerning the disappearance of voluntarily hospitalized patients from psychiatric units, rules that would consider their unjustified absence as incidents to be resolved by health units in collaboration with the police, rather than discharging them *ex officio*.

#### **1.1.6. Letters sent to law enforcement authorities**

In the activity of the office, there are situations where, in order to resolve complaints requesting the notification of the Constitutional Court, it is necessary to request clarifications from law enforcement authorities.

We use this approach because, even if the legal text itself does not contain a constitutional flaw, its interpretation and application by authorities may violate constitutional norms. In relation to this practice by the authorities, the Constitutional Court has stated in its jurisprudence that the misapplication of legal regulations from their legitimate purpose, through a systematic misinterpretation and erroneous application **by the courts or other entities responsible for applying the legal provisions**, may result in the unconstitutionality of that regulation.

We briefly present the situations where clarifications were requested from law enforcement authorities:

- ✓ **The People's Advocate addressed the Romanian Intelligence Service**, requesting, in the context of public statements made by the director of the National Cybernet Center, a viewpoint regarding the effective and efficient legal guarantees that allow both political parties to fulfill their constitutional role of contributing to the definition and expression of citizens' political will, and news agencies to exercise their freedom of expression during the electoral period, considering that the election campaign lasts only 30 days before the election date.
- ✓ **The People's Advocate notified the Minister of Health**, requesting the initiation of an amendment to the provisions of the Law on Mental Health and the Protection of Persons with Mental Disorders no. 487/2002, republished, either through a distinct legislative proposal or through amendments to a bill under legislative procedure, with provisions regarding the disappearance of voluntarily hospitalized patients from psychiatric units. **These provisions should consider their unjustified absence as incidents to be resolved by the health units in collaboration with the police, rather than discharging them *ex officio*.**
- ✓ **The People's Advocate addressed the National Authority for the Protection of the Rights of Persons with Disabilities** to request its viewpoint on the interpretation of the phrase "*under disability conditions*" from Article 58 of Law no. 263/2010, according to Methodological Instruction no. 2/16.12.2021, specifically whether it refers to "*the period during which the person's condition was certified as a disability.*" In the People's Advocate's opinion, it is absurd to consider that the onset date of the disability is the date of issuance of the first certificate of classification into a disability degree, because if the legislator had intended this, they would have used such a notion, and not the term "*date of acquiring the disability.*"

#### **1.1.7. Recommendations**

- ✓ **Recommendation to the National Administration of Penitentiaries** regarding the gradual awarding of rewards, reevaluating the appropriate weighting of credits in the reward process based on the actual capacity to carry out educational or work activities,

establishing a differentiated crediting system depending on the execution regime of sentences, and streamlining the process of granting permission to leave the penitentiary.

- ✓ **Through a recommendation**, the People's Advocate requested the **President of the Superior Evaluation Commission for Adults with Disabilities** to amend the provisions in Methodological Instruction no. 2/16.12.2021 issued by this authority, which stipulated that the phrase "*under disability conditions*" in Article 58 of Law no. 263/2010 refers only to the period during which the person holds a certificate of classification into a disability degree. The document that should be mentioned in the section on the onset/acquisition date of the disability (point III of the disability certificate) is the first certificate classifying the person. The People's Advocate proposed that point III of the disability certificate should list the date of acquiring the disability, meaning the date the medical condition appeared. Since the authority did not adopt the recommendation, the complaints were forwarded to the Administrative and Legal Litigation Office to take steps for notifying the administrative court.
- ✓ **Recommendation to the Minister of Health**, requesting the necessary measures to amend the provisions of Article 6 paragraph (8) of the Norms for the application of the Law on Mental Health and the Protection of Persons with Mental Disorders no. 487/2002, approved by Order no. 488/2016, to bring them in line with the provisions of Law no. 487/2002, which do not provide for the ex officio **discharge of voluntarily hospitalized patients from psychiatric hospitals**.

### ***1.2. Notification of the High Court of Cassation and Justice with an appeal in the interest of the law***

In 2023, in exercising its role of unifying judicial practice, the People's Advocate filed an **appeal in the interest of the law regarding the interpretation and inconsistent application of the provisions of Article IV paragraph (1) of Law no. 236/2019, amending and supplementing Article 15 of Government Ordinance no. 42/2004 on the organization of veterinary and food safety activities, as well as the amendment of other normative acts. The object of the appeal was to determine whether these provisions were applicable in the absence of the adoption by the executive power of the methodological norms for application provided for in Article V of this law, for the period starting December 16, 2019.**

**The decision of the High Court of Cassation and Justice:** Through Decision no. 9 of May 29, 2023, the High Court of Cassation and Justice admitted the appeal in the interest of the law promoted by the People's Advocate and ruled that in the unified interpretation and application of the provisions of Article IV paragraph (1) of Law no. 236/2019, amending and supplementing Article 15 of Government Ordinance no. 42/2004 on the organization of veterinary and food safety activities, these provisions are applicable without the adoption by the executive power of the methodological norms for application provided for in Article V of this law, for the period between December 16, 2019, and July 23, 2020.

### *1.2.1. Resolution of complaints requesting the referral of the High Court of Cassation and Justice for the unification of inconsistent judicial practice*

During the analyzed period, **57 complaints** were resolved, in which the complainants requested the referral of the High Court of Cassation and Justice.

The resolution of complaints which require the referral of the High Court of Cassation and Justice involves: (i) identifying the legal provisions whose interpretation and application led to inconsistent judicial practice; (ii) identifying the same legal issue that received different rulings; and (iii) notifying the 15 Courts of Appeal.

Out of the 57 complaints:

a) In **9 cases**, requests were made to the Courts of Appeal across the country to communicate judicial decisions concerning non-unitary judicial practice. After reviewing the judicial decisions transmitted in **8 of the cases**, it was concluded that the legal conditions for referring the High Court of Cassation and Justice with an appeal in the interest of the law were not met. However, **in one case**, the supreme court was referred, as noted above.

b) In **1 case**, since the non-unitary judicial practice was not found nationwide but only at the level of a single Court of Appeal, the respective Court of Appeal was requested to unify the inconsistent judicial practice through monthly meetings of judges. During these meetings, the legal issues leading to different rulings or legal norms of great novelty that could generate inconsistent practice were to be discussed.

## *Section 2: Activities of the Administrative and Legal Litigation Office*

### *2.1. Resolving complaints requesting the referral of the administrative litigation court*

In the office's activity, **30 cases** were resolved involving requests to refer administrative litigation courts regarding the illegality of certain administrative acts.

Regarding the possibility of filing a lawsuit with the competent administrative litigation court, it is noted that such action can be taken if, **following the review conducted under its organic law**, the People's Advocate determines that the illegality of the act or the refusal of the administrative authority to fulfill its legal duties can only be remedied through judicial means. After the case is submitted to the competent court, the complainant automatically acquires the status of plaintiff and will be summoned in that capacity. If the complainant does not assume the action filed by the People's Advocate at the first court hearing, the administrative litigation court will dismiss the claim.

In this context, and given that there are complainants requesting specialized support in cases pending in court that they initiated, or in administrative litigation actions promoted by the People's Advocate Institution, we emphasize that the **People's Advocate does not have the legal capacity to assist or represent complainants, as this role belongs to lawyers registered with the bar.**

### *2.2. Filing five administrative litigation actions as follows:*

1) **An action concerning the annulment of the Azuga Local Council Decision No. 61/2023 and the demolition of advertising means, in accordance with the law regarding**

the interpretation and application of the provisions of Article IV para. (1) letter b) para. (2) and Article VII of Law No. 154/2017, which amends and supplements Law No. 185/2013 on the placement and authorization of advertising means.

2) An administrative litigation action aimed at establishing the unjustified refusal of a public authority to issue the necessary prior approval for the transcription of a marriage certificate, as well as obliging the Mayor to transcribe the marriage certificate issued by the authorities of the United Kingdom of Great Britain and Northern Ireland.

3) An action for the partial annulment of two decisions issued by the Local Council of Romanu Commune, Brăila County, regarding the habitat tax.

4) An action for the partial annulment of Decision No. 366/2015, issued by the Local Council of Botoșani Municipality, specifically the provisions of Article 1 point 2 letter d) of this decision, as well as subsequent acts issued under these provisions, which violated the rights of persons with disabilities.

5) An action for the annulment of Decision No. 293/26 May 2022, issued by the Craiova Local Council, regarding the modification of the Regulation on the establishment of certain measures for the managing of Craiova city.

### 2.3. Resolving preliminary complaints

The Administrative and Legal Litigation Office resolved **4 preliminary complaints**.

The preliminary complaints submitted by complainants primarily focused on their dissatisfaction with either the response to a complaint addressed to the People's Advocate Institution, which did not result in actions with public authorities because the situation presented did not fall within the institution's scope of activity, or with the outcome of the institution's actions, where the issues raised were not resolved as desired.

### 2.4. Cases in which the People's Advocate is a party and the procedural acts drafted

In 2023, the Administrative and Legal Litigation Office handled **55 cases** (newly registered cases and cases from previous years, at different procedural stages), for which, as appropriate, the following procedural acts were drafted: a) 30 statements of defense; b) 9 written submissions; c) 5 additional notes; d) 6 opinions; e) 11 written conclusions; f) 2 other requests; g) representation in 24 cases pending in court; h) 1 criminal complaint filed by the People's Advocate Institution against the staff of Urziceni Municipal Hospital, following the results of actions taken in a complaint initiated ex officio; i) handling 55 cases.

### 2.5. Additionally, in 2023, the Administrative and Legal Litigation Office formulated:

1) A criminal complaint against the medical staff of Urziceni Municipal Hospital, following an ex officio notification by the People's Advocate Institution.

2) A recommendation requesting the partial amendment of Article 3 of Order No. 299/29.05.2023 concerning the maximum tariffs charged by authorized economic operators for archival services.

3) An opinion on the interpretation of the *phrase "seniority in the specialty corresponding to the completed studies, related to the job requirements"* for police officers who held positions requiring only secondary education but whose duties and responsibilities

were expanded under specific procedures during the reference period, in order to benefit from a salary increase for higher education corresponding to the field of activity.

4) An **opinion** on the status of recommendations and responses from the People's Advocate.

5) An **opinion** (formulated in a case where the People's Advocate Institution was a party) regarding the necessary measures for the correct application by the State of Israel of the Agreement concluded on 28 February 2011 between Romania and Israel on social security, specifically recognizing the right to obtain the additional amount due to the old-age pension for work performed in Israel.

## 2.6. Other activities

In addition to the activities mentioned above, the office also carried out other specific legal activities, such as: a) drafting/modifying/completing, as appropriate, and ensuring the legality of all orders, regulations, methodologies, or other acts issued by the People's Advocate; b) drafting opinions or notes on various acts or actions, prepared at the request of the People's Advocate; c) providing legal review of all protocols, contracts, and additional acts concluded by the People's Advocate Institution, as well as other legal acts, as needed.

Additionally, for public information purposes, the Administrative and Legal Litigation Office prepared daily reports on the normative acts affecting citizens' rights, adopted and published in the Official Gazette, from Monday to Friday.

## *Section 3: Activities of the Legal Affairs, External Relations and Communication Office*

### **3.1. For the reporting period, the activity can be summarized as follows:**

#### **√ Initiatives at the level of Romanian authorities:**

- Preparing the People's Advocate Institution's response to the Ministry of Foreign Affairs regarding the conclusions of the U.S. State Department's 2022 Annual Human Rights Report;
- Preparing the People's Advocate Institution's response to the Ministry of Justice, in the context of the European Commission's preparation of the fourth report on the rule of law;
- Preparing the People's Advocate Institution's response to the request from the General Secretariat of the Government regarding the Annex on the results of monitoring compliance with the standards regulated by Law no. 544/2001 on free access to public information, at the level of the People's Advocate Institution;
- Preparing the People's Advocate Institution's response to requests from non-governmental organizations;
- Correspondence with the Government Agent for the European Court of Human Rights, the National Institute of Statistics, and the National Institute of Magistracy.

#### **√ Initiatives at the level of European Ombudsman institutions, as well as other European authorities:**

- Preparing responses to various requests/inquiries received from European Ombudsman institutions, associations, and organizations of which the People's



Advocate Institution is a member: the International Ombudsman Institute, the European Ombudsman Institute, and the Association of Francophone Ombudsmen and Mediators;

- Correspondence with the Directorate-General for Human Rights and the Rule of Law, and the Department for the Execution of Judgments of the European Court of Human Rights, within the Council of Europe.

### √ **Other specific activities of the Office for Legislative Analysis, External Relations, and Communication:**

- Preparing the 2022 Annual Report of the People's Advocate Institution;
- Receiving, analyzing, and reviewing summaries from various departments and the 15 regional offices regarding the institution's relevant initiatives and posting them on the institution's website;
- Verifying, correcting, drafting, documenting, and distributing special reports;
- Managing documents received/sent through the Special Post;
- Translating all invitations and requests received from Ombudsmen or other organizations collaborating with the People's Advocate Institution;
- Preparing press releases;
- Responding to requests from the media/NGOs;
- Managing the following sections on the website: News, Updates, Documents Adopted by International Bodies, Monitoring the Rights of Refugees from Ukraine, by updating and posting all relevant initiatives of the People's Advocate and responses received, as well as documents adopted by international bodies in which the People's Advocate Institution is a member or collaborator.

Additionally, the head of the Office for Legal Affairs, External Relations, and Communication serves as the secretary of the Monitoring Commission within the People's Advocate Institution, carrying out a series of tasks in this capacity: preparing the Commission's meetings, drafting the minutes of the meetings, compiling the annual centralized report on the status of implementation and development of the internal managerial control system as of December 31, 2022, as well as the Report on the internal managerial control system as of December 31, 2022, in accordance with the provisions of Order no. 600/2018 regarding the approval of the internal managerial control code for public entities.

### **3.2. Information regarding legislation impacting citizens' rights**

For informing the public but also the staff of the People's Advocate Institution regarding legislative changes, **42 notifications** were prepared by the office.

### **3.3. External activities in 2023**

In 2023, many events continued to be held online, but some were also organized in the traditional format. 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, and other European institutions with which we collaborate.

Events include:

- The international conference on “*The Future of Human Rights in the 21st Century*” organized by the Turkish Ombudsman Institution in celebration of its 10<sup>th</sup> anniversary;
- Online bilateral discussions with European Commission experts regarding the new European Rule of Law Mechanism;
- Webinars on topics such as the Role of the Ombudsman in Higher Education, Strengthening Cybersecurity in Ombudsman Institutions, and Addressing Gender-Based Violence and Harassment, organized by the African Ombudsman Research Centre;
- The International Ombudsmen Conference organized by the Ombudsman of Lazio;
- The international conference on "*Protection and Promotion of Fundamental Human Rights in the Context of New Challenges and Realities in Modern Societies*" organized by the People’s Advocate Institution of the Republic of Moldova, marking its 25<sup>th</sup> anniversary;
- The European Ombudsman Network Conference on "*Protecting Human Rights: Approaches to Migration and Artificial Intelligence*" organized by the European Ombudsman.

### **3.4. Internal events**

Notable internal events include:

- A presentation conference on the project "NIAct - Updating Integrity Legislation and Supporting Authorities and Declarants in the Transition to Digital Declaration of Assets and Interests", implemented by the National Integrity Agency in partnership with the Ministry of Justice and the Romanian Transparency Association;
- A meeting with the Deputy Director of FRONTEX and representatives from the Fundamental Rights Office within the European Border and Coast Guard Agency - FRONTEX;
- A debate on “*Children’s Safety in the Online Environment: Parental Consent for Access to Social Media*”, organized by the Senate’s Committee on Defense, Public Order, and National Security;
- A debate on legislative proposals aimed at updating the legal integrity framework concerning conflicts of interest, incompatibilities, and asset declarations, organized by the National Integrity Agency, the Ministry of Justice, and the Romanian Transparency Association;
- The "*Day of Treaties, Time of Excellence!*" Conference, organized by the "Titu Maiorescu" University in Bucharest;
- A meeting between the People’s Advocate and Ms. Alexandra Shema, Political Officer, and Mr. Alexandru Climescu, Political Specialist, from the U.S. Embassy, to discuss the activities of the People’s Advocate Institution and human rights issues in Romania, in the context of the U.S. Embassy’s preparation of the Department of State’s Human Rights Report on Romania;
- A meeting between the People’s Advocate and the UNICEF representative in Romania;

- A meeting with representatives of the Office of the Commissioner for Human Rights for a technical mission to Romania, following the Commissioner's visit in November 2018;
- An online meeting between the People's Advocate and the Dutch Ombudsman in preparation for the 13<sup>th</sup> World Conference of the International Ombudsman Institute.

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To support students seeking **internships** at the People's Advocate Institution, internships were conducted in both physical and online formats via the Zoom platform. In 2023, *two online/hybrid internships* were completed by **10 students** from the Faculty of Law at the University of Bucharest.

Additionally, internship agreements were signed with several universities for undergraduate and master's degree programs:

- A framework agreement between the People's Advocate Institution and the Academy of Economic Studies for internships in undergraduate and master's programs;
- A collaboration agreement for student internships between the People's Advocate Institution and "Titu Maiorescu" University in Bucharest.

#### *Actions and events organized together with higher education institutions*

- The event *People's Advocate Institution visits UTM*, organized by the People's Advocate Institution and the Faculty of Law within "Titu Maiorescu" University of Bucharest, a social and civic-themed event dedicated to students of the Faculty of Law.
- The visit of 30 students from the Faculty of Law at the University of Bucharest, as part of a project aimed at familiarizing them with the activities of central institutions.
- Meeting with students from the Faculty of Law at the University of Bucharest, organized as part of the *Freshers' Week* event.

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Regarding **professional development**, two activities were carried out at the level of the Office for Legal Affairs, External Relations, and Communication:

- May 22-24, 2023, professional training session organized by the People's Advocate Institution, in Albac, Alba County, attended by personnel from the following structures: Ombudsman for Children (central office and territorial offices); Constitutional Litigation Service; coordinators of all territorial offices; Financial, Payroll, and Human Resources Office; and Administrative Office.
- September 12-14, 2023, professional training session organized by the People's Advocate Institution, in Albac, Alba County, attended by personnel from the following structures: Department of Human Rights, Gender Equality, Religions, and National Minorities; Department for the Rights of Family, Youth, Pensioners, and Persons with Disabilities; Ombudsman for Children; Department for Army, Justice, Police, and Penitentiaries; Department for Property, Labor, Social Protection, Taxes and Duties; NPM; Constitutional Litigation Service; territorial offices and regional centers; Financial, Payroll, and Human Resources Office; and Administrative Office.

To assist citizens interested in the activities of the different departments and territorial offices, since 2022, dedicated sections have been created on the institution's website – *Activity* – where examples of relevant casework are posted weekly.

### 3.5. Communication and media relations of the People's Advocate Institution

In 2023, the People's Advocate Institution focused on strengthening its relationship with the media by monitoring issues raised by local press at the central level. Representatives of regional offices also maintained proactive contact with local media by participating in broadcasts, interviews, or issuing statements.

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On February 16, 2023, a meeting with health journalists was held at the People's Advocate Institution to launch the Special Report on Patients' Accessibility to Services Offered by Romania's Medical System.

On March 9, 2023, a meeting with health and labor journalists was held to launch the Special Report on Workers' Occupational Safety and Health.

On April 12, 2023, a meeting with labor journalists was held to launch the Special Report on Workplace Harassment and Violence.

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In 2023, the People's Advocate Institution's activities were featured **in 55 radio-TV programs and 1,104 articles in central and local press.**

Communication and media relations of the regional offices resulted in the publication of **366 articles** in the local press, and their representatives participated in **77 radio and television broadcasts.**

## CHAPTER IX HUMAN, MATERIAL, AND BUDGETARY RESOURCES

### *Section 1 – Human Resources*

The institution is led by the Ombudsperson, assisted by six deputies, who hold the rank of secretary of state, each specializing in one of six areas of activity.

Within the People's Advocate Institution, under the direct supervision of the Ombudsperson, works the Constitutional Litigation, Appeal in the Interest of the Law, Administrative and Legal Litigation, Legal Affairs, External Relations, and Communication Service. This service consists of three distinct structures with clearly defined responsibilities: the Constitutional Litigation and Appeal in the Interest of the Law Office, the Administrative and Legal Litigation Office, and the Legal Affairs, External Relations, and Communication Office.

In the territory, activities are carried out through 15 territorial offices, organized based on the geographic criterion of the Courts of Appeal, as well as through the four regional centers of the National Preventive Mechanism.

The institution has 145 employees, composed of: 7 dignitaries, 1 coordinating director, 1 head of service, 5 heads of office, 107 counselors, 5 experts, 4 referents, and 11 drivers, along with 4 counselors at the Ombudsperson's cabinet. Of these, 94 are women and 51 are men.

The organizational structure of the People's Advocate Institution is established by the institution's organization and operation regulations and reflects the areas of specialization as defined by law.

The institution's economic and administrative activities are coordinated by the coordinating director.

The institution has a Consultative Council, composed of the Ombudsperson, her deputies, the coordinating director, as well as other individuals designated by the Ombudsperson. The Council meets weekly or as often as necessary, convened by the Ombudsperson.

In 2023, the People's Advocate Institution operated with a personnel structure consisting of 165 funded positions, of which 157 were allocated to the central office, territorial offices, and the four regional centers, and 8 positions in the Ombudsperson's cabinet.

At the beginning of 2023, there were 143 employees and 22 vacant positions, of which 2 were management positions and 20 were non-management positions. According to the provisions of Article 546 of the Government Emergency Ordinance no. 57/2019 regarding the Administrative Code, as amended by Article XVII, point 1, letter (d) of the Government Emergency Ordinance no. 34/2023 concerning some fiscal-budgetary measures, extension of deadlines, and the amendment and completion of certain normative acts, the maximum number of positions within the minister's office is 4 positions.

During 2023, between January and December, there 8 new employees were hired and 6 ended their work relations with the institution.

At the end of 2023, there were 20 vacant non-management positions.

The provisions of the Statute of the Personnel in the Specialized Structures of Parliament apply to the staff of the People's Advocate Institution.

Regarding the professional training of the staff within the People's Advocate Institution, according to Article 43, paragraph (5) of the institution's organization and operation regulations, which stipulates that "the institution's staff has both the right and the obligation to continuously improve their professional training, including by participating in professional training courses," the institution organized two training sessions for all staff on May 22-24, 2023, and September 12-14, 2023.

Additionally, to fulfill the Annual Professional Training and Development Plan, the institution's staff participated in a series of courses, seminars, webinars, and training sessions.

### *Section 2 – Material and Budgetary Resources*

This section analyzes the institution's financial resources, how they were utilized, the legal basis, and legislative changes concerning the budgetary credits made available to the institution.

The situation of the budgetary and commitment credits allocated and spent by the People's Advocate Institution in 2023 is presented in the following table:

Title	Initial budget approved by Law no. 368/2022	Influences of transfers according to art. 47 of Law no. 500/2002	Influences of budget cutbacks according to GEO no. 78/2023	Influences of budget cutbacks according to art. 54 of Law no. 500/2002	Reduced budget remaining to be executed	Budget consumed on 31.12.2023	Executed %
<b>Total, of which:</b>	<b>26,934,000</b>	-	<b>-547,000</b>	<b>-2,260,000</b>	<b>24,127,000</b>	<b>24,008,092</b>	<b>99.51</b>
Personal expenses	21,450,000	-	-	-2,117,000	19,333,000	19,293,800	99.80
Goods and services	5,063,000	-20,000	-506,000	-125,000	4,412,000	4,344,097	98.46
Other transfers	16,000	-	-	-	16,000	15,302	95.64
Other expenses	200,000	+20,000	-20,000	-	200,000	199,878	99.94
Capital	205,000	-	-21,000	-18,000	166,000	155,015	93.38
<i>Payments made in previous years and recovered in the current year</i>	-	-	-	-	-	-440,299	-

In 2023, the People's Advocate institution was allocated budgetary and commitment credits in the amount of **26,934,000 lei** by **Law no. 368/2022 of the state budget for the year 2023**.

The People's Advocate institution achieved, during 2023, savings in the amount of **2,807,000 lei**, an amount that it returned to the state budget on the occasion budget cutbacks, thus remaining executed budgetary and commitment credits of **24,127,000 lei**.

## CHAPTER X AUDIT AND RISK MANAGEMENT

In 2023, the internal public audit activity was carried out with an interruption during the interval between 01.02.2023, when the position remained vacant and 15.03.2023, when it was occupied by competition.

The planning of the internal public audit missions carried out aimed at respecting the principle of periodicity, (which implies the inclusion in the multi-annual program of all auditable activities, at the latest once every four years), the requests of the Ombudsperson and the recommendations of the Central Harmonization Unit for Internal Public Audit within the Ministry of Finance.

In this regard, the following missions were carried out:

- A formalized advisory mission, at the request of the Ombudsperson, aimed at identifying additional information to gain an in-depth understanding of the process concerning post-employment restrictions (*pantouflage*) for external collaborators of specialties other than the permanent employees, contracted for service provision in activities related to the Department on the Prevention of Torture in Places of Detention - National Preventive Mechanism (NPM);

- A regularity mission concerning the National Anticorruption Strategy (SNA), assessing the compliance of actions with the principles, procedural rules, and methodologies applicable to the implementation of preventive measures such as wealth declarations, gift declarations, risk assessments of corruption, and evaluations of integrity incidents;
- A regularity mission assessing the compliance with legal and regulatory frameworks concerning human resource management and career development.

**The main findings in the audit reports for 2023 highlighted the good organization and execution of the audited activities**, except for the following aspects, which in no way affected the achievement of the institution's strategic/specific objectives:

- The validity of the mandate of the commission for inventorying goods received free of charge during protocol actions;
- Incomplete job descriptions for individuals responsible for tasks related to the implementation of legal provisions on wealth declarations, the methodology for evaluating integrity incidents, and occupational safety and health;
- Formalization of activities related to the process concerning post-employment restrictions (*pantouflage*).

**The recommendations made** to address the non-compliance issues emphasized the need for the following actions:

a) Issuing internal orders regarding the validity of the mandate of the commission for inventorying goods received free of charge during protocol actions and designating the person responsible for activities related to post-employment restrictions (*pantouflage*);

b) Updating the job descriptions of individuals responsible for tasks related to wealth declarations, occupational safety and health, and the implementation of the methodology for evaluating integrity incidents.

As of the date of this activity report, all the audit recommendations have been implemented.