



PEOPLE'S ADVOCATE



2019 ACTIVITY REPORT

Bucharest
2020

The report was sent
to the President of the Chamber of Deputies
and to the President of the Senate
for discussion in Parliament's sitting,
according to Art. 60 of the Constitution of Romania

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Foreword

Mr. Ion-Marcel Ciolacu, President of the Chamber of Deputies,

Mr. Teodor-Viorel Meleşcanu, President of the Senate,

Ladies and gentlemen, deputies and senators,

The Constitution envisaged the People's Advocate as the guarantor of the fundamental rights and freedoms, overseeing the relationship between administrative authorities and citizens, when the latter consider that their rights have been violated. The People's Advocate is, first and foremost, the voice of the voiceless, of the children, of those who are in centers where they no longer have freedom or their freedom is severely limited and cannot express themselves, be it psychiatric hospitals, centers for elderly persons, penitentiaries, centers for refugees, etc.

In 2019, the institution proceeded ex-officio in 1749 cases and were conducted 429 investigations.

In order to fulfill its constitutional role, the People's Advocate acts, despite its name, as a mediator, trying to find and propose solutions, either by bringing to the same table those involved, or by issuing recommendations and, based on these premises, appreciates the good collaboration we had, in many cases, with the administrative authorities, especially at the local level.

The People's Advocate would have expected to be consulted by the initiators of the draft laws and ordinances, which, through the content of their regulations, concern the rights and freedoms of citizens. Thus, it would have been avoided the use the means of referral to the Constitutional Court, in order to rectify any regulations that the People's Advocate considered unconstitutional and, implicitly, the perception of its involvement in the disputes of political nature between State institutions.

In this regard, the present Report contains several proposals for improving the legislative framework regarding the rights of citizens and their relations with public authorities.

For the People's Advocate it is of utmost importance to preserve its independence, as the Constitution itself provides, so that there is no possibility for the institution to be used by representatives of the political sphere, which would distort its role as defender of the fundamental human rights and freedoms.

Ombudsperson,

Renate Weber

Bucharest, January 2020

PEOPLE'S ADVOCATE INSTITUTION

The department for human rights, equal opportunities between men and women, religious cults and national minorities

The department for the rights of youth, family, pensioners, people with disabilities

The department for the defense, protection and promotion of the rights of the child

The department for army, justice, police, penitentiaries

The department for property, labor, social protection, taxes and fees

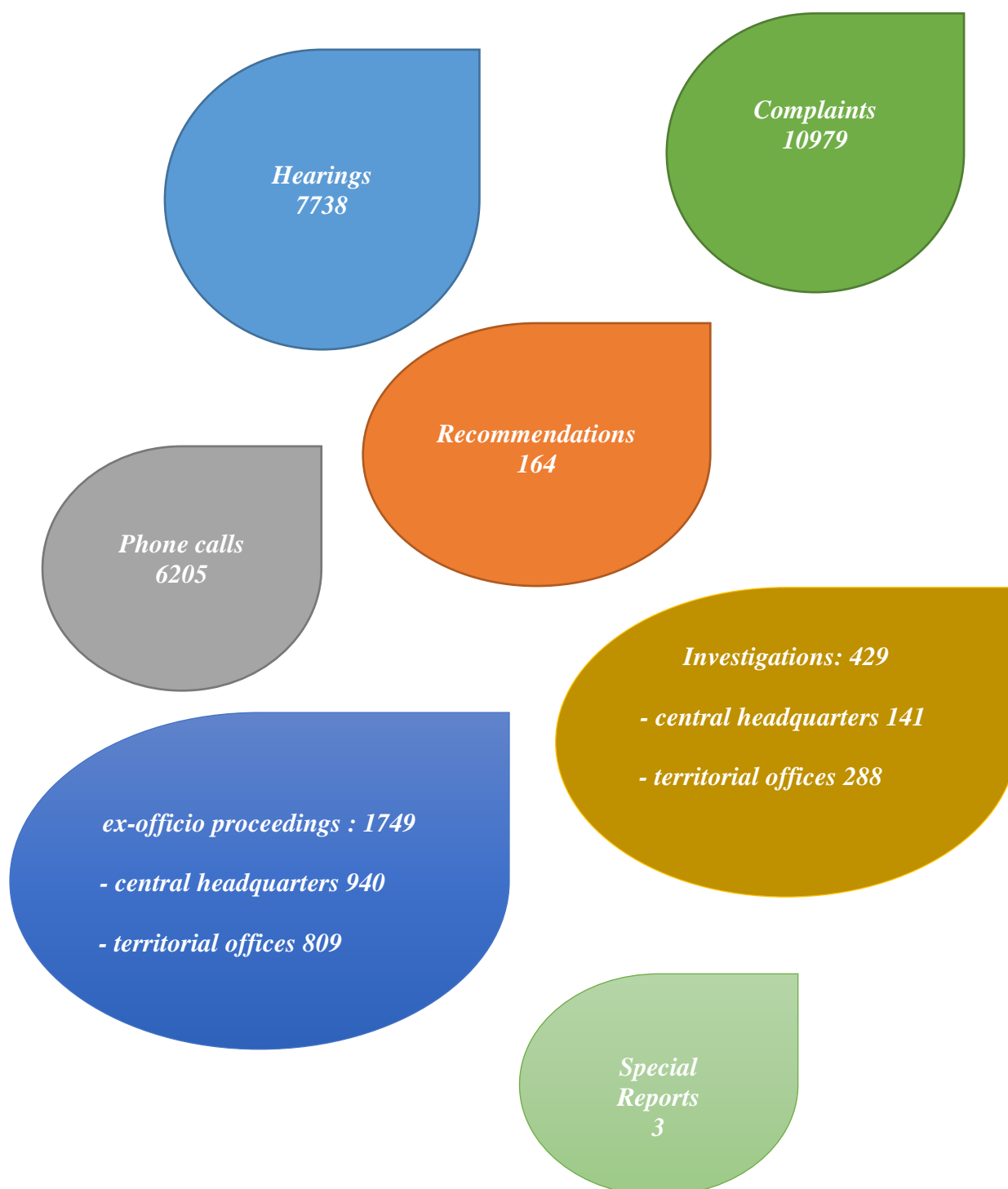
The department for the prevention of torture and other cruel, inhuman or degrading treatment or punishment in places of detention (National Preventive Mechanism): Zonal Center Bucharest, Zonal Center Alba, Zonal Center Bacău, Zonal Center Craiova

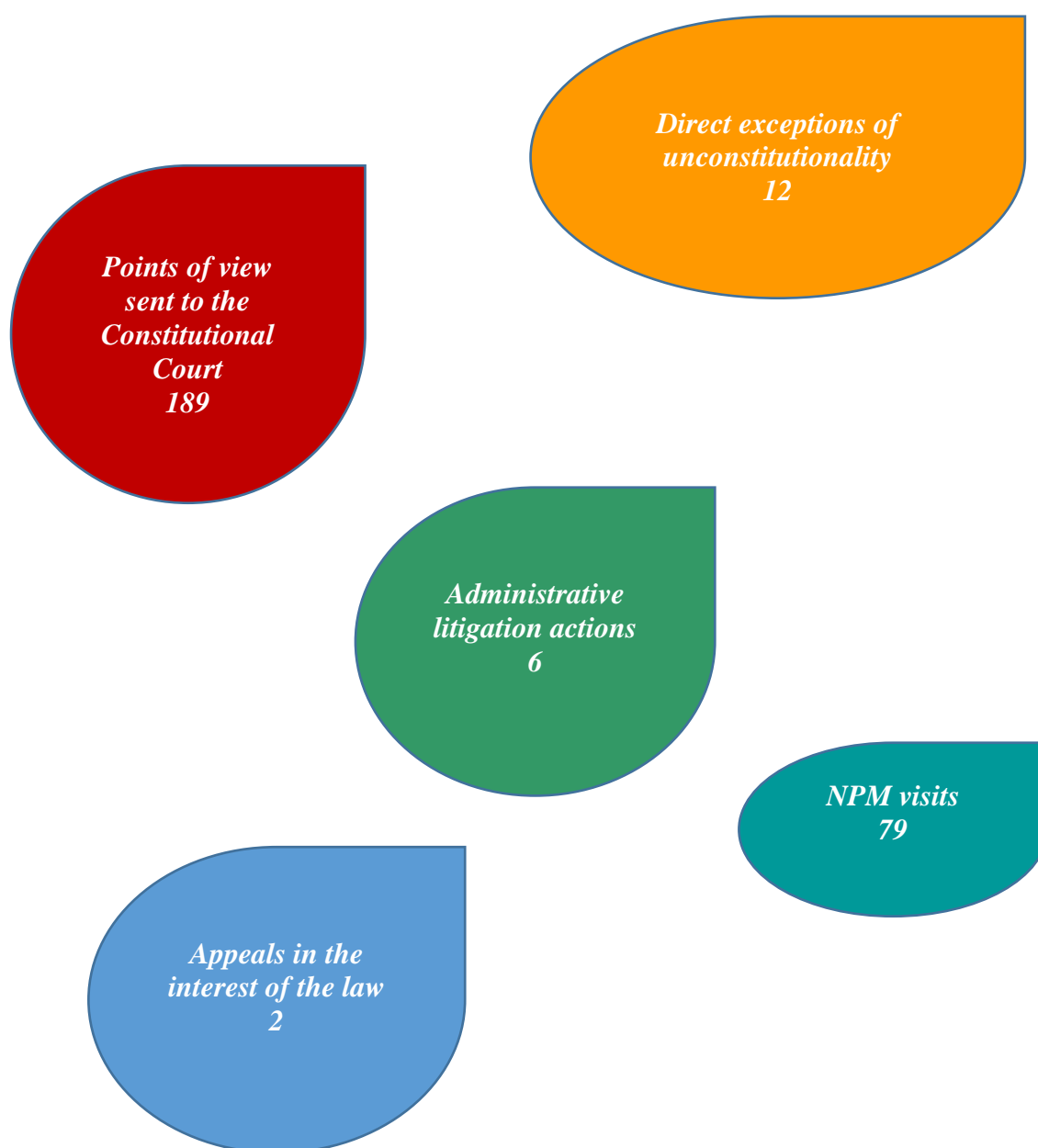
Territorial Offices:
Alba-Iulia, Bacău, Braşov, Cluj-Napoca, Constanţa, Craiova, Galaţi, Iaşi, Oradea, Piteşti, Ploieşti, Suceava, Târgu-Mureş, Timişoara

Financial, payroll and human resources bureau, Administrative bureau.

Internal Public Audit

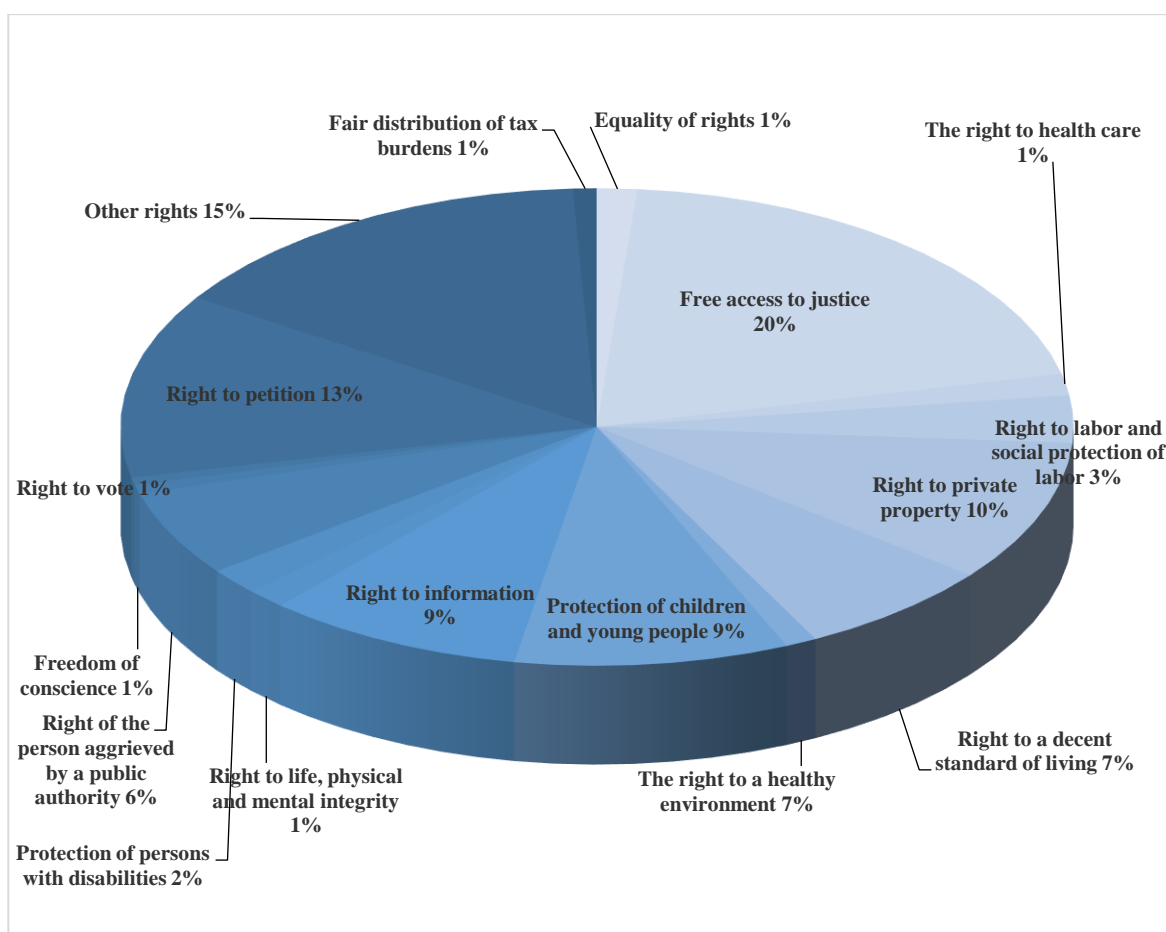
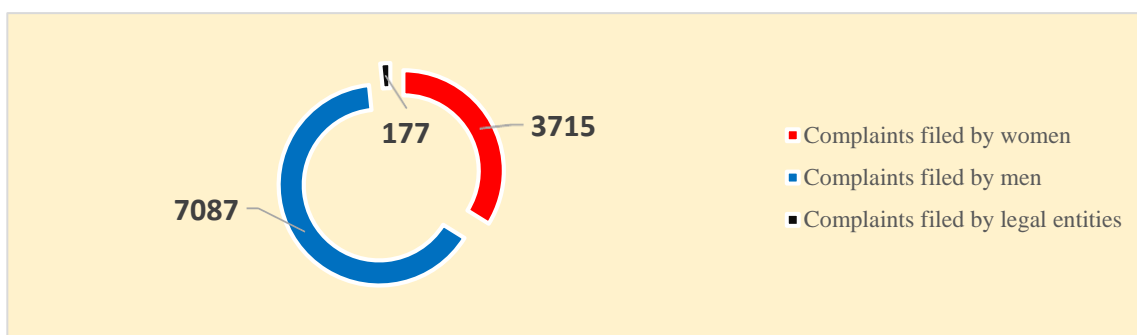
The Service for constitutional litigation, appeal in the interest of the law, administrative and legal litigation, legal affairs, external relations and communication: the Bureau for constitutional litigation and appeal in the interest of the law, the Bureau for administrative and legal litigation, the Bureau for legal affairs, external relations and communication

OVERALL VOLUME OF ACTIVITY



COMPLAINTS REGISTERED IN RELATION TO THE RIGHTS AND FREEDOMS VIOLATED

No.	Constitutional rights	Number of complaints
1.	Equality of rights (Art. 16)	151
2.	Foreigners and stateless persons (Art.18)	4
3.	Right of asylum, extradition, expulsion (Art. 19)	2
4.	Free access to justice (Art. 21)	2202
5.	The right to life and to physical and mental integrity (Art. 22)	149
6.	Individual freedom (Art. 23)	2
7.	Right to defense (Art. 24)	1
8.	The right to free movement (Art. 25)	5
9.	The right to intimate, family and private life (Art. 26)	51
10.	Inviolability of the domicile (Art. 27)	1
11.	Freedom of conscience (Art. 29)	67
12.	Freedom of expression (Art. 30)	4
13.	Right to information (Art. 31)	964
14.	Right to education (Art. 32)	33
15.	Access to culture (Art. 33)	2
16.	The right to health protection (Art. 34)	159
17.	The right to a healthy environment (Art. 35)	117
18.	The right to vote (Art. 36)	57
19.	The right to be elected (Art. 37)	16
20.	The right to be elected in the European Parliament (Art. 38)	5
21.	Freedom of assembly (Art. 39)	3
22.	The right to work and the social protection of work (Art. 41)	351
23.	Right to strike (Art. 43)	1
24.	The right to private property (Art. 44)	1054
25.	Economic freedom (Art. 45)	5
26.	The right to inheritance (art. 46)	8
27.	The right to a decent standard of living (Art. 47)	739
28.	Family and the right to marriage (Art. 48)	1
29.	Protection of children and young people (Art. 49)	1021
30.	Protection of persons with disabilities (Art. 50)	194
31.	The right to petition (Art. 51)	1375
32.	The right of a person aggrieved by a public authority (Art. 52)	637
33.	Restriction on the exercise of certain rights or freedoms (Art. 53)	10
34.	The fair distribution of the tax burden (Art. 56)	87
35.	The right to a fair trial (Article 6 of the ECHR)	16
36.	Other rights	1485
	OVERALL TOTAL:	10,979



CHAPTER I.

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

As it appears from the designation of the department, it covers the issue of human rights in general, which is reflected in the large number of complaints received, encompassing complex cases regarding the rights and freedoms of individuals. Out of the total number of **1535** petitions distributed to the department, were taken steps to the relevant public authorities for a number of **200** complaints, and for the rest of them, the natural persons were directed to the responsible institutions, authorized by law, indicating to them the legal way to be followed, or specifying the conditions under which the People's Advocate Institution can intervene in solving the cases referred to it. Of the complaints in which violations of fundamental rights and freedoms were reported, as in previous years, most concerned the violation of the right to petition (190) the right to information (371) and the right of the person aggrieved by a public authority (136). From the analysis carried out at the level of the department, it resulted that the majority of the files were solved in the favor of the complainant, by obtaining the requested information or the answers to the petitions addressed to the institutions by the complainants

During 2019, were carried out **21 investigations** at several public institutions, and, in some cases, were also included provisions having the nature of recommendations in the minutes of the visit, which, in most cases, the authorities concerned accepted, so it was no longer necessary to issue recommendations under Art. 24 of Law no. 35/1997, republished.

The department proceeded ex officio in 52 situations, using this institutional procedure in the case of systemic issues concerning the field of activity of the department. These were aimed at issues in the field of health and education, healthy environment, equality of rights, etc.

There were issued **15 recommendations**.

There have been situations where, as a result of some steps taken in this regard, central public institutions have reformed normative acts, without being issued recommendations.

We emphasize the good interinstitutional collaboration, in order to solve the cases reported by the complainants or the media, in particular with: the Ministry of Education and Research, the National Council for Combating Discrimination, the Ministry of Foreign Affairs, the Ministry of Environment, Water and Forests, the Ministry of Health, the Ministry of Transport, the Direction for Culture of the Municipality of Bucharest.

Among the authorities that **did not provide the necessary support** to the People's Advocate Institution in exercising its duties, the following are highlighted: Bucharest City Hall, Street Administration, Ilfov County Commissioner of the Environmental Guard.

Examples of cases successfully solved, by authorities that were open to collaboration:

Education

The People's Advocate Institution has proceeded ex officio regarding the situation encountered at the Faculty of Letters within the University of Bucharest, where an internal investigation has been started after a member of a political party reported, on social media, the situation of three blind students discriminated against by the university. Following the intervention of the People's Advocate Institution, the University of Bucharest assumed and

implemented 10 necessary measures in order to safeguard the visually impaired students against discrimination.

According to the provisions of Art. 2 paragraph (10) of the Order of the Minister of National Education no. 4948/2019, in the process of admission to state high school education for the 2020-2021 school year, can participate only those students who have taken the national assessment examination and whose average grade of admission, calculated according to the annex no. 2 of the order indicated above, is at least 5.00 (five). The calculation is carried out as a weighted average between the general average at the national assessment taken by the eighth-grade graduates, which has a weight of 80%, and the general graduation average of the fifth and eighth grades, which has a weight of 20% in calculating the admission average. Thus, **students who take the National Assessment in 2020 and who will have the average grade for high school admission below 5 will not enter the process of distribution to high schools (technological, theoretical or vocational).** Following the steps taken, the Minister of Education finalized the draft order that will change the methodology of admission to high school and eliminated the obligation of the minimum average grade 5 for enrollment in the secondary education. Students will be admitted to high school if they have taken the National Assessment, regardless of the grade obtained. The draft order provides for the modification of Art. 2 paragraph (10), as follows: *“Only the students who have taken the national assessment shall participate in the computerized distribution in the first stage of admission”*, without making any indication related to the average grade.

The rights of national minorities

During the years 2018-2019, the People's Advocate, in fulfilling its constitutional role, noticed that the provisions of Art. 5 paragraph (4) from the Framework methodology regarding the organization of the admission in the cycles of undergraduate, master and doctoral studies, approved by the Order of the Minister of National Education and Scientific Research no. 6102/2016, create the premises for discrimination in terms of the certification of the linguistic skills upon admission to higher education, so that, through its specific methods of intervention, the People's Advocate requested the Ministry of National Education to modify the criticized provisions. The issue was successfully solved by amending Art. 5 paragraph (4) of the Framework methodology regarding the organization of the admission in the cycles of undergraduate, master and doctoral studies, approved by the Order of the Minister of Education and Research no. 5618/2019, published in the Official Gazette of Romania, Part I, no. 5/7 January 2020, thus ensuring the unitary interpretation of the text of law, with a view to applying, by the higher education units, equal treatment between Romanian citizens, regardless of the form of education graduated, with respect to the certification of language skills for admission in higher education, in the sense of recognizing the linguistic skills in the Romanian language of the graduates of the Baccalaureate examination.

The People's Advocate Institution has proceeded ex officio regarding the situation of the Association of the Blind Hungarians in Romania, which proposed to establish a special education institution in Hungarian language for blind children. Currently, in Romania there are 7 special institutions that provide education and training for the blind and all of them are teaching in Romanian. Following the intervention of the People's Advocate Institution, we were informed regarding the principle agreement of the Ministry of Education to support the local initiative to establish a special education institution in Hungarian for the visually impaired, according to the needs identified in the counties of Harghita and Covasna, followed by the adoption by the Ministry of National Education of the Minister's order, in accordance with the legislation in force, so that the appropriate environment for the good learning and development of this category of students is ensured.

The People's Advocate Institution has proceeded ex officio regarding the issues reported in the media, according to which almost 100 people from Alexandria, Teleorman County, living on the edge of poverty, many of them from social aid, are to be relocated to the outskirts of the city, in containers. Ten other families are at risk of remaining homeless. The Alexandria City Hall argued that it wants to relocate them because the buildings have a high degree of seismic risk, and will be demolished. As to the situation presented, following the actions taken by the People's Advocate Institution, the Decision of the Local Council was issued regarding the granting of monthly aids from the local budget in order to pay the water supply and sewerage service for the families and persons who benefit from module type housing, located in the indicated perimeter. Also, the rental contracts were issued in order to establish the residence at the new address, to be able to conclude contracts with the water supply and garbage removal services. Of the total of 65 contract holders, 62 took their rental contracts, the other 3 did not respond to the notifications because they were not in the locality. At the same time, starting with 10.10.2019, as a result of the signing of the bailment agreement between the Municipality of Alexandria and SC CEZ Romania SA, the documentation for the conclusion of the electricity supply contract has been made available. People are relocated to modular homes for a period of 5 years, and during this time, the City Hall will take steps to build new homes, depending on the budget allocations.

The People's Advocate Institution proceeded ex-officio in relation to a news article published in the media about the harsh and insulting language used by an employee of the 112 Emergency Service towards a Roma woman who had called the emergency number to report acts of violence against her. At the same time, the press reported on the non-involvement of the police in the abovementioned case. Regarding the situation presented, following the steps taken, the Zalău County Police Inspectorate announced that investigations are being carried out, under the coordination of the prosecutor of the Prosecutor's Office attached to the Zalău Court, for the crimes of assault and battery and disturbance of public order, as a result of a complaint filed by the person concerned. Also, it was ordered the disciplinary investigation of the personnel who was on duty on April 25, 2019, to establish if a call was redirected from the STS referring to the above mentioned case, as well as the existence / non-existence of any disciplinary or criminal misconduct, to be taken measures accordingly. The Special Telecommunications Service communicated to us the measures prepared to prevent such situations, analyzed and included this case in the training of all operators in the Unique Centers for Emergency Calls 112.

Health and safety

The People's Advocate Institution proceeded ex officio regarding the information presented by the media, regarding the lack of anti-snake venom serum in hospitals throughout the country. As a result of the measures taken, the Ministry of Health informed us that by July 11, 2019 a number of 14 urgent cases have been reported and 47 orders have been delivered. All patients who presented themselves to the specialized compartments of the health units received anti-snake venom treatment. In areas where the incidence of such events is higher, were identified problems in the supply with anti-snake venom, meaning that the hospitals did not have any ampoules of this product in stock. According to the company producing the anti-snake venom serum, the hospitals do not order the product until the moment of a serious and urgent case, the company having to deliver in less than 48 hours 2 or 3 doses, by two or three emergency transports, in remote areas. As there still were hospitals without anti-snake venom serum and a major risk of death cases, for adults and children in the areas affected by the presence of vipers, the summer season being in full swing, was issued **Recommendation no.**

66/2019, to the Ministry of Health, in which it was requested to take several measures to prevent the occurrence of serious cases that can lead to deaths. The recommendation was partially accepted, which is why the People's Advocate Institution continues to monitor the situation and will check to what extent the authorities have complied with the recommendations addressed.

The People's Advocate Institution proceeded ex-officio after the media reported numerous cases of persons who either threw themselves in front of the subway or were pushed on the subway tracks. To remedy the situation, a number of 15,000 people have signed a petition calling for the installation of safety panels in the subway stations to secure the platforms. On the other hand, irregularities were also reported regarding the safety of passengers using the subway. Following the request for information and the investigations carried out, the People's Advocate issued **Recommendation no. 67/2019**, by which it established the necessity that, in the context of the dangers to which passengers are exposed, the Ministry of Transport in collaboration with S.C. METROREX SA, should prepare a project for the installation of the safety panels in the subway stations for the security of the platforms and for carrying out all the technical works necessary to ensure the safety of the passengers, as well as to carry out all the necessary legal steps to start the procedure for requesting and accessing European funds for the purpose of investment specified. The recommendation was partially accepted by the Ministry of Transport, which communicated its point of view, that it is necessary to install these panels in the most crowded stations and lines, specifically for the M2 subway line. Thus, the installation of the panels was analyzed during the preparation phase of the subway station rehabilitation project for the M2 line, and JASPERS considered that it would be beneficial to integrate such a project in the general project for the rehabilitation of the M2 subway line stations.

The People's Advocate Institution proceeded ex officio regarding the content of some news broadcasted in the media at the end of January 2019, according to which the Ministry of Health recommended to the people of Bucharest "*not to use the water from the public network for drinking, preparing food or personal hygiene before the publication of the final results from the samples taken*". Following the actions taken by the People's Advocate Institution, the competent authorities in the field of drinking water quality, communicated that the results of the analyzes carried out following the incident indicated that the values of the residual free chlorine and the total chlorine were not within the limits established by the legislation in force. In view of the results of the laboratory investigations that found nonconformities, the Public Health Control Service within the DSP Bucharest sanctioned S.C. Apa Nova București S.A. with a maximum fine in the amount of 10,000 lei, for the violation of the provisions of Art. 7 lit. g) of the Government Decision no. 857/2011 on establishing and sanctioning contraventions to the norms in the field of public health.

Environment

The People's Advocate Institution became aware of the report of the Environmental Investigation Agency (EIA) "*Behind the Scenes: How wood depots hide the destruction of Europe's secular forests*" of July 17, 2018, and also found out from other media sources that "*the forests in Romania had to suffer over a decade of maladministration, to supply the external demand for cheap wood.*" According to the scientific studies, in 2005, Romania owned two thirds of the virgin forests still existing in Europe, totaling about 300,000 hectares. The researchers estimated for 2018 a total of about 100,000 hectares, with 200.00 hectares less than in 2005. Also, according to an article published on a news portal in Romania, through the evaluation instrument for forest resources (National Forest Inventory), established

following the requests of the European Union, the situation of Romania's forests was monitored for ten years, according to scientific methods certified worldwide. The results of the report revealed that every year, 20 million cubic meters of wood disappear from forests without legal forms. The People's Advocate initiated the specific investigation procedure on this case, and the situation is currently being analyzed in collaboration with the competent public authorities, in order to identify solutions.

The situation created by the overpopulation of the brown bear species in certain areas of Romania has been the subject of certain actions made by the People's Advocate Institution, starting with September 2017. Based on several petitions, the People's Advocate Institution initiated the specific intervention measures, addressing the Ministry of Environment repeatedly to resolve the situation. We welcome the issuance by the Ministry of Environment of Order no. 724/2019 for approving the level of intervention in the case of bear and wolf species, in the interest of the health and safety of the population and in order to prevent significant damage.

Also, after October 24, 2019, the People's Advocate Institution was notified by several petitioners regarding the illegality of the Decision no. 539 of October 24, 2019, adopted by the General Council of the Municipality of Bucharest. This administrative act establishes the so-called *oxygen tax* and provides for concrete measures to improve the air quality in Bucharest, in the sense of delimiting a perimeter in the center of Bucharest (ZACA), within which the access of heavily polluting and polluting vehicles will be conditioned by the payment of a fee, called Oxygen Vignette. In this regard, we addressed the General Council of the Municipality of Bucharest, in order to clarify certain situations related to the way of implementing the measures, with reference to the situation of the people living in the delimited perimeter of the center of Bucharest and whose right of use of their vehicles could be affected by prohibiting the access to the Air Quality Action Area (ZACA), the specific destination of the amounts from the collection of the oxygen vignette or the considerations for which certain vehicles were included in the category of those exempted from the provisions of Art. 2 of the Decision no. 539 of October 24, 2019.

CHAPTER II

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

In 2019, **692** complaints were distributed to the department for the rights of youth, family, pensioners, people with disabilities. Out of this total were opened **102** files, the other **590** complaints being solved without opening the file. According to the specializations of this field of activity, the **692** petitions were structured as follows:

1. The rights of young people and family: **38** complaints
2. The rights of pensioners: **461** complaints
3. The rights of persons with disabilities: **193** complaints

The rights of young people

Similar to previous years, in 2019, a number of **38** complaints were registered at the People's Advocate Institution, in which violations of the rights of young people and family could be identified. Out of the total number of complaints, **11** were assigned to the Department for the rights of youth, family, pensioners, people with disabilities, to be analyzed in relation to the protection of the rights of young people and **27** complaints concerned the defense of family rights. In the 11 complaints regarding the rights of young people, were pointed out, in particular, issues related to the non-granting of social housing and other forms of aid from the state or local authorities, the child support and the survivor's pension, the regime of the property acquired during the marriage or the right to inheritance. In most cases, the complaints concerned the possible violation of the rights regulated by the Dwelling Law no. 114/1996, republished, with the subsequent modifications and completions and by Law no. 416/2001 regarding the minimum guaranteed income, with subsequent amendments and completions. A recurring problem is that of the young people who left the placement centers after reaching the age of 18 and had difficulties in the process of social reintegration. We have also received complaints regarding the right of families to a guaranteed minimum income, as a form of social assistance, according to Law no. 416/2001.

File no. 21778/2019 The complainant was not paid the rights she was entitled to through the state allowance, during the period when she benefited from the social assistance and hosting services within the General Directorate of Social Assistance and Child Protection Sector 2. This was due to a material error made in a court decision by incorrectly transcribing the minor's name. Due to this material error, the account could not be open at the time of entry into the protection system, and the steps for its rectification were started too late (the minor turned 18 years old) for the Agency for Payments and Social Inspection of the Municipality of Bucharest to transfer appropriate social rights. At the time of writing the report, the file is still open, being issued a recommendation to the director general of the General Directorate of Social Assistance and Child Protection Sector 2, in order to take the steps to clarify the circumstances that led to this situation and to take an appropriate measure to solve the case.

File no. 17065/2019 The complainant, a young man with a disability, notified the People's Advocate about the delay in the settlement of his applications by the City Hall of Sector 1 Bucharest, in which he requested the allocation of a dwelling from the state housing fund. The complainant was finally granted the points related to persons with disabilities and he may benefit from assistance for rent payment. The public authority has communicated that the entire housing stock available is assigned in strict compliance with the position that each applicant occupies in the list of priorities.

Family rights

The complaints concerning family rights violations, as in previous years, were most often solved without opening a file, the petitioners seeking legal advice regarding: obtaining child support or the indexation of the child support; the legal provisions regarding adoption; the obligation of the relatives to take care of the person admitted to a private residential home; the right to paid leave and compensation for the care of the sick or disabled child; delays in the resolution of applications for obtaining social housing and measures to prevent and combat social marginalization. Petitions regarding the right of families to a guaranteed minimum income, as a form of social assistance, were also addressed, according to Law no. 416/2001. In order to support the citizens, the People's Advocate Institution has provided guidance both regarding the legal provisions, as well as regarding the procedure for opening a file for obtaining this income from the social assistance services of the city halls in their localities.

File no. 15670/2019 The petitioner complained that his request registered at the General Directorate of Social Assistance and Child Protection Sector 1 was not solved, by which he requested to be remedied the malfunction of the sanitary installation in the social dwelling where he resides with his whole family. Following the steps taken, the authority informed us that the petitioner's complaint was resolved favorably.

File no. 21778/2019 The complainant informed the People's Advocate Institution about her housing situation, complaining that she is a single mother, suffering from various conditions, who has halved her work capacity and has a minor in care as well, known with various medical conditions. The petitioner informed us that she has been on the list of persons representing a social case for the last 10 years, needing social housing, her situation being known for several years by the Caracal City Hall.

She also mentioned that her income often does not allow her to provide even the family's daily food, much less to pay a rent at the price set by the real estate market. Caracal City Hall has tried to support the complainant, by granting her, in recent years, various forms of social assistance, such as emergency aid for special situations, in order to pay the rent (2017 and 2018), meals, care and social assistance within the "Cristina" Day Center, for the minor daughter, which the complainant refused and allowance for the support of the family, which was suspended (starting with April 1st, 2019) because the complainant didn't present herself in order to update file, until August 30, 2019.

Regarding the social housing, in 2019 the complainant accumulated 52 points, placing her at position 12. The People's Advocate Institution directed the complainant to take the necessary steps to obtain the forms for the social assistance available to her until she will be assigned a social dwelling.

Pensioners' rights

In the **461** complaints received regarding the rights of the pensioners, the complainants requested information and explanations about the legal conditions for granting the pensions, their calculation, the legislation in the field of social insurance and how the pension houses understand to put into practice this legislation.

Regarding the issues of legislative nature, we note an increase of the criticism of the insured and the pensioners towards the regulations in force. Among the legislative issues complained of, we mention:

- the minimum contribution period, because the contribution years are not taken into account if they are less than the minimum contribution period of 15 years;
- Law no. 215/2019, because it refers only to the people who worked under special working conditions, not to those who worked in the second working group before 2001;

- Art. 33 of the Government Emergency Ordinance no. 114/2018 regarding the establishment of the correction index in 2019 and the appreciation that by this emergency ordinance, a law is officially “ignored” (Art. 170 of Law no. 263/2010). The petitioners are dissatisfied with the method of calculation of this index;

- Art. 98 paragraph (1) lit. d) of Law no. 188/1999 regarding the Statute of civil servants, because it does not allow the retirement of women at the same age as men;

- the mention in Annex 15 of the Norms for the application of Law no. 263/210 regarding the unitary system of public pensions, approved by the Government Decision no. 257/2011, which prevents the capitalization of all the incomes for which contributions were paid.

File no. 14778/2019 The complainant notified us that he did not receive a response to the request submitted to the Local House of Pensions Sector 3, request that had as object the valorization of all the seniority realized within the Department of Foreign Trade, attested by certificates.

The People's Advocate Institution addressed the Local House of Pensions Sector 3, which informed us that the complainant's request cannot be resolved favorably due to a legislative gap. Under these conditions, the National House of Public Pensions was asked for a point of view, or a solution. The National House of Public Pensions informed us that the applicant's problem can be solved by a review decision, since the provisions of Art. 107 paragraph (1) of Law no. 263/2010 also apply to service pensions regulated by Law no. 216/2015. In order to solve the case, the petitioner's request was sent to the Local House of Pensions Sector 3, in order to revise the service pension, in the sense of taking into account the seniority achieved within the Department of Foreign Trade.

File no. 1336/2019 The complainant notified the People's Advocate Institution regarding the fact that he did not receive the retirement decision following the submission of the retirement file. After the submission of the file, on July 4, 2018, the pension house informed him that the confirmation of the contribution period achieved in Spain has arrived, and that his file will be resolved, and after that nothing happened.

Following the notification of the County House of Pensions Mehedinti, this institution communicated that for the completion of the pension file it is necessary for the applicant to submit more documents. At the same time, the House of Pensions has taken steps to clarify the mentions from the group II certificates issued by Electrica Distribuție Transilvania Nord.

File no. 183/2019 The complainant notified us about the fact that he requested a series of documents from the Hunedoara County House of Pensions, which forwarded the petitioner's request to the Petrosani Local House of Pensions, for competent settlement, on June 7, 2018, without receiving an answer.

Given that the repeated requests of the People's Advocate Institution to the Petrosani Local House of Pensions to resolve the petition remained unanswered, was issued the **Recommendation no. 37/2019**, accepted by the public authority, after which the complainant received a favorable reply.

The rights of persons with disabilities

By virtue of its constitutional role, the People's Advocate was notified with numerous petitions regarding the rights of persons with disabilities. At the same time, when, in the public space, there were presented cases of violation of the fundamental rights and freedoms of this category of persons, the People's Advocate proceeded ex officio and took the necessary institutional steps.

174 complaints were submitted by persons with disabilities or by other persons, in relation with violation of the rights of persons with disabilities. Mainly, they addressed

problems related to: delaying the resolution of some requests of persons with disabilities or their families; failure to adopt measures within the term provided by law; lack of interinstitutional communication; mismanagement of financial resources allocated to the protection system of the persons with disabilities; failure to grant the facilities recognized by law to this category of persons such as the priority in being assigned a parking spot at the place of residence of the person with locomotor disability; difficulties regarding the access of persons with disabilities to residential centers adapted to their needs; inadequate care conditions for adults with disabilities in residential public centers; violation of the right of adults with severe disabilities to personal assistant provided by the local public administration authorities; the priority of persons with disabilities in obtaining adequate social housing; access for people with disabilities to the tourist and leisure objectives, etc.

File no. 2712/2019 The complainant notified us about the situation of his sister, a person with severe disability, who was deprived, for 2 months, both of the money constituting the companion allowance, 1,600 lei (800 lei x 2 months), as well as of a personal assistant.

Following the requests made to the Cornetu Town Hall in Ilfov County and the Ilfov County House of Pensions, it resulted that the representatives of the public authorities involved were diligent about their obligations, in the sense of not cumulating two payments (of the personal assistant / the monthly allowance provided for in article 43 of the Law no. 448/2006 and of the companion allowance provided for in article 77 of the law no. 263/2010) but not regarding the rights of the person with severe disabilities, in the sense of continuing the payment.

Considering that such administrative acts / deeds, inconsistent with the legislation, should not be generalized and transformed into maladministration practice, the People's Advocate **issued Recommendation no. 146/2019.**

File no. 4298/2019 The complainant, a person with a degree of disability, complained that he addressed the Public Domain Administration Sector 2, Bucharest, requesting to be made available to him, for rent, a parking place on the street where he lives.

Following the steps taken, the Bucharest Street Administration - Direction of Traffic Systemization, the Service of administration, planning, tracking works and systems of traffic regulation and road safety informed us that the petitioner's request was admitted.

Thus, the Technical Commission of Circulation of the Municipality of Bucharest approved technically the registration of a parking place for persons with disabilities, on the street of the complainant.

File no. 12890/2019 The complainant, with his domicile in the commune of Zănești, Neamț county, who, at the time of lodging the complaint, lived in the Home for elderly people Roznov, Neamț county addressed the People's Advocate institution, specifying that he can no longer pay for his stay in the home and will be thrown out, as he was informed, in September 2019, by the management of the home.

The People's Advocate Institution ordered an emergency investigation at the Home for the Elderly Roznov. At the same time, we have taken institutional steps to Zănești City Hall, Roznov City Hall and, later, the Neamț County Council.

The president of the County Council has informed the People's Advocate that he has already initiated proceedings to D.G.A.S.P.C. Neamț for measures to relocate the disabled person to another center within the structure of the direction. At the same time, it also ordered the identification of alternative legal modalities to support the person in difficulty.

CHAPTER III

THE DEPARTMENT FOR THE DEFENSE, PROTECTION AND PROMOTION OF THE RIGHTS OF THE CHILD

The Children's Advocate, under the coordination of the People's Advocate, acts in order to promote and protect the rights of children up to the age of 18, supports and encourages the respect and promotion of the rights of the child, according to the Law no. 35/1997, republished, of the UN Convention on the Rights of the Child, to which Romania is a party since 1990, of Law no. 272/2004 on the protection and promotion of the rights of the child, and of Law no. 286/2009, the new Criminal Code, regarding the criminal liability of minors.

In 2019, at the level of the Department for the defense, protection and promotion of the rights of the child, were registered **446 complaints, 42 ex officio proceedings, 16 investigations** were carried out, **6 recommendations** were issued and **24 participations** in debates, conferences, symposia having as topic the promotion and observance of the rights of the child. In addition, we recall that from the activity of the territorial offices, detailed in Chapter VII, 166 petitions, 481 ex officio proceedings, 139 investigations, 74 recommendations aimed at possible violations of the rights of the child. At the same time, 215 media activities were carried out with the object of presenting the duties of the Children's Advocate, as well as other topics of interest.

Also, **4 monitoring visits** were carried out, together with the Department for the prevention of torture in places of detention (NPM), at: the Placement Center within the Community Services Complex "Sfânta Maria" Vălenii de Munte, the Placement Center for Children with Disabilities Găești, Tecuci Placement Center, Galați county, "Sf. Stelian" Ghimbav, Brașov county.

The complaints and ex officio proceedings mainly addressed the following categories of problems: the exercise of verbal and physical forms of violence against minors in educational establishments, residential centers or medical institutions; obtaining due rights in the form of state allowance for children born in member states of the EU and who returned to Romania; failure to observe the rights of children with dual citizenship, located on the territory of other states; observing the obligations of divorced parents towards the minor children resulting from the marriage; one parent's dissatisfaction with the contents of court decisions by which the minor was entrusted to the other parent; the phenomenon of parental alienation; inappropriate behavior of teachers towards students; conditions in residential type institutions; deaths of children in medical institutions; obtaining travel documents for minors; the legal possibilities of granting some forms of child-raising assistance; granting survivor's pension.

At the same time, **2 Special Reports** have been prepared:

- ***The special report on the observance of children's rights in Romania***, developed in partnership with the "Save the Children" Organization, analyzing the following main topics: the survival and health of the child; protection against all forms of violence; equitable access to quality education; juvenile justice; combating poverty in families and communities where children live; increasing the quality of social services guaranteed to children; socio-educational integration of Roma children, children with disabilities, migrant children and children with parents abroad; financing of social services from public funds and the role and functions of the People's Advocate Institution and the Children's Advocate.

- ***The special report on the result of the investigations made by the People's Advocate regarding the prescribing of psychotropic substances for children in residential type centers***

– Following the broadcast on the TV station ProTv, within the program *Romania, I love you!* of the report *Childhood under anesthesia*, presenting the situation of "thousands of children from placement centers who are sedated without having mental problems", and also following the open letter published by the Center for Legal Resources, entitled *Government's Failure to Protect children*, the People's Advocate proceeded ex officio, initiating, through the specific procedural means, investigation actions at the level of all 47 general directions of social assistance and child protection, which have in their structure, residential type services or networks of maternal assistants, where children with special protection measures can be placed, as provided by Law no. 272/2004 on the protection and promotion of the rights of the child, republished.

Following the receipt, processing and centralization of the data provided by the institutions in the territory, the measures regarding their verification in the field were initiated, being carried out 14 investigations. The result of these efforts, the findings and recommendations made were included in the special report mentioned.

File no. 9101/2019 The People's Advocate proceeded ex officio following the presentation in the media of the situation of a minor who was sent to work through the villages in Dâmbovița county, by his own father.

The General Directorate for Social Assistance and Child Protection Dâmbovița was asked for information on the situation of the minor, as well as to take the legal measures that are required. The Authority communicated the following:

- the mobile team within the D.G.A.S.P.C. Dâmbovița, together with representatives of the police and the town hall, went to the field to evaluate the reported case;

- on the meadow of Găești was found a minor, with the domicile in Mogoșani commune, Dâmbovița county; From the discussions with him it turned out that he had been in the city of Găești for a few months and was taking care of a herd of cows daily, from 07:00 to 19:00;

- evaluating the family situation of the child, it was found that the mother left home with one of the children, a little girl, two years ago and her domicile is unknown; the father was aware that his son was working and living with a citizen from Găești and received various amounts of money from him;

- **the minor was taken as an emergency measure and the placement was arranged at the Emergency Reception Center for the abused, neglected and exploited children in Târgoviște; within the center, the minor benefits from specialized services, including psychological counseling in order to overcome the trauma suffered;**

- there are no other children at the father's home, as the seven brothers of the minor were taken as emergency measure, in 2005, before his birth and were in the care of a maternal assistant until reaching the age of 18 years old.

File no. 4644/2019 The People's Advocate proceeded ex-officio after the broadcast in the media of the report " *Little orphan girl without a mother humiliated by a teacher, in the capital: I'll slap you twice, you brat!*"

We have taken steps at the kindergarten no. 198 "Dumbrava Minunilor" from Bucharest and at the School Inspectorate of the Municipality of Bucharest. As a result:

- the teacher in question was replaced on the same day by her group colleague;
- on March 7, 2019, the teacher submitted a request to renounce the activity carried out in the group / on March 8, she submitted her resignation;

- meetings were organized with the parents of the children on March 6 and 14, 2019, to communicate to them the measures taken by the Kindergarten Board of Directors;

- was ensured the psychological evaluation and counseling of the children and parents who expressed their availability and agreement;
- the psychologist appointed by the CMBRAE, following the psychological evaluation of the children, found that the minors were not emotionally affected and no elements or indicators were identified, highlighting problematic aspects or difficulties of development, no elements were identified which constitute risk factors for the development / learning, in the psychoeducational context.

File no. 17542/2019 The complainant requested the payment of the child-raising allowance for the period April 29 - May 29, 2019, including for the 24th month - the "*father's month*", according to the court decision by which he acquired the exclusive custody of his daughter.

In this regard, we addressed the Chiajna City Hall, Ilfov County and the Ilfov County Agency for Payments and Social Inspection.

The mayor of Chiajna commune, Ilfov County, informed us that the complainant submitted the file for granting the child-raising allowance, in July 2017. The file was verified and subsequently, on August 3, 2018, it was sent to the County Agency for Payments and Social Inspection, Ilfov, for settlement.

The Agency for Payments and Social Inspection, Ilfov County, informed us that "*the month of the other parent*", according to Art. 11 of the Government Emergency Ordinance no. 111/2010 was granted by the County Agency for Payments and Social Inspection Galați, following the change of the legal domicile of the minor from Ilfov county, to Galați county.

File no. 9100/2019 The People's Advocate proceeded ex-officio after the broadcast on a television station of the report "*Seven minors, admitted to hospital in the emergency room after drinking a whole pack of energizing drinks*", according to which, seven brothers stole a pack of energizing drinks from the local store, consuming them later, while they were in the care of a relative, their father being to work in another locality, and the mother hospitalized. The minors were transported to the Emergency Clinic Hospital for Children "Sfânta Maria" in Iași.

Information was requested from the Emergency Clinic Hospital for "Sfânta Maria" Children in Iași, the City Hall of Vlădeni Commune, Iași County and the General Directorate of Social Assistance and Child Protection Iași.

The Emergency Clinic Hospital for Children "Sfânta Maria" in Iași informed us that five brothers were admitted to the Toxicology Department, and two of them to the Nephrology Section. The state of the minors at the discharge was good; after the discharge from the hospital they were taken in the care of the Social Assistance Service.

The mayor's office of Vlădeni commune, Iași county and the General Directorate of Social Assistance and Child Protection Iași informed us that the socio-economic situation of the family from which the minors come from is a precarious one and, following the social investigation, it was decided to establish the emergency placement measure for the 7 minors. Thus, 4 of them benefit from the measure of placement to a maternal assistant, and the other 3 to the Complex of Social Services for Children - Târgu Frumos.

File no. 16766/2019 The People's Advocate proceeded ex-officio after the broadcast in the media of the report "*The Mayor of Gura Șuții: The school bus was used by the football team*", information circulated in the public space after, in the commune of Gura Șuții, an 11-year-old girl, who was returning from school, on foot, was abducted, sexually abused and killed by a Dutch citizen.

The People's Advocate notified the mayor's office of Gura Șuții commune about this situation.

The Board of Directors of the Gura Șuții High School approved the routes, trips, hours and number of stations for the transport of students from the primary and secondary school, as well as the fact that the teachers from the primary and secondary school on duty that day will accompany the students during the trip with school bus. The Local Council of Gura Șuții commune approved the transport of students.

File no. 7784/2019 The People's Advocate proceeded ex officio in the case of three newborns during the period March 25 - April 30, 2019, at the Obstetrics and Gynecology Hospital „Prof. Dr. Panait Sârbu” from Bucharest, who were discharged without health problems, but later, the parents came back with them to the emergency ward of the “Grigore Alexandrescu” Hospital for skin and respiratory problems and fever. After performing the specific tests, one of the children was identified with golden staphylococcus present in the blood.

Therefore, we addressed the Obstetrics and Gynecology Hospital "Prof. Dr. Panait Sârbu" from Bucharest and at the Public Health Directorate of Bucharest.

The hospital informed us that all the medical, administrative and organizational measures were taken regarding the cases of neonatal skin infection. The Service for preventing infection associated with the medical care within the hospital informed us of the measures taken, namely the collection of sanitation samples from the surfaces and the skin of all medical personnel who came in contact with the three newborn children, as well as the patients.

The results of the nasal and pharyngeal exudates of the medical and auxiliary staff at the sections, showed 4 positive results for infections with golden staphylococcus, while the results of the nasal and pharyngeal exudates of the adult patients, done by testing each third patient, were negative. The hospital management decided that all newborns should be tested on the MRSA carrier prior to discharge, and those who were positive to be given specialized medical treatment.

The cases were reported to the County Health Department of the Municipality of Bucharest and declared as infections associated with healthcare. There were no other cases recorded in the Neonatology Section of the hospital, and the cleaning and disinfection measures were amplified, both at the level of the section, as well as the equipment and instruments used.

The People's Advocate issued **Recommendation no. 79/2019**, addressed to the management of the Hospital of Obstetrics and Gynecology "Prof. Dr. Panait Sârbu” from Bucharest.

File no. 13255/2019 The People's Advocate proceeded ex officio in the case of a minor girl institutionalized in a center belonging to D.G.A.S.P.C. Galati, who was ignored by two police representatives although she appeared injured and confused, walking with difficulty on the street, appearing that she had been the victim of sexual abuse.

Investigations were made at D.G.A.S.P.C. Galati and at the Galati County Police Inspectorate, resulting that there was a suspicion of rape on the minor girl. She was transported to the Galati Emergency Clinical Hospital and underwent surgery. The minor girl remained hospitalized for about a week and underwent the forensic examination. In the continuation of the proceedings, the County Emergency Clinical Hospital „Sf. Apostol Andrei” - The Forensic Medicine Service and the Prosecutor's Office attached to the Galați Court.

As regards the non-involvement of the police officers, they were investigated and charged with committing acts that may constitute disciplinary offenses.

Through the response letters, we were informed that the disciplinary investigation of the two employees of the Galati IPJ was suspended until the resolution of the criminal complaint registered against them.

The People's Advocate issued **Recommendation no. 89/2019**, addressed to the leadership of the Galați County Police Inspectorate, in order to arrange measures for the elaboration and implementation in the plan of continuous professional training of procedures related to the assistance and protection of the injured or these in need, provided by the legislation in force.

CHAPTER IV

THE DEPARTMENT FOR ARMY, JUSTICE, POLICE, PENITENTIARIES

GENERAL CONSIDERATIONS

In 2019, **2356 complaints** were distributed to the department for army, justice, police, penitentiaries, as follows:

- 1. Army:** 18 complaints
- 2. Justice:** 1568 complaints
- 3. Police:** 173 complaints
- 4. Prison:** 518 complaints
- 5. Other:** 79 complaints

The complaints resolved by the department, within the legal limits, through the legal means and according to the constitutional and legal competences, mainly concerned:

- dissatisfaction of the military personnel (in activity / reserve / withdrawal) regarding the salary rights and pensions, dissatisfaction of the students of the Academy of Land Forces "Nicolae Bălcescu" (training program, accommodation, bedding, food), dissatisfaction of some individuals regarding the way military exercises were carried out;
- dissatisfaction of the police personnel regarding the technical equipment, the armament, the vehicles, the salaries, the pensions;
- the way and the term of solving the cases pending before the courts or before the prosecutor's offices, the implementation of the judicial decisions, the judicial executors carry out their duties, the relations between petitioners and the Superior Council of Magistracy;
- conditions of detention in penitentiaries, food, exercise of rights, violence exercised on persons deprived of liberty by prison staff / violence between prisoners, use of video monitoring equipment in detention facilities.

Following some of these petitions, a number of **415 files** were constituted: (army - 4, justice - 95, police - 33, penitentiaries - 280, other matters - 3). Also, a number of 36 files were opened following the ex officio proceedings.

Of the investigations carried out for resolving these files, we highlight the following:

Recommendation no. 107/2019, following the investigation conducted on October 8, 2019, at the "Nicolae Bălcescu" Land Forces Academy in Sibiu. Students from the Land Forces Academy submitted a petition complaining of the behavior of the cadres, their training methods, the inadequate equipment of the institution, the training program, invoking several violations of the fundamental human rights: the right to professional training, the right to health protection, free access to medical treatment, daily safety, the right to human dignity, the right to free expression.

After the management of the Academy learned of the reported dissatisfactions, also from the press, a meeting took place with the body of instructors to clarify the issues regarding the issue of Ministry of National Defense scholarships.

Under these conditions, it was issued the recommendation that the Ministry of National Defense set up performance scholarships similar to the system in civil universities and take some measures to improve and modernize the equipment items from the composition of military uniforms and to identify solutions for increasing their resistance to sun exposure, and solve the problem of the shrinking fabric after washing, etc.

Recommendation no. 46/2019, regarding the necessary measures to be taken to prevent possible incidents within the Bucharest-Jilava Penitentiary, by purchasing monitoring equipment for the areas in which the detainees have access and which didn't already have this equipment fitted.

File no. 7517/2019 The complainant claimed that he was taken during a search in an area where there is no video monitoring and was shown a series of objects whose possession is forbidden (phones, batteries, balls containing substances that appeared to be hallucinogenic, etc.), which he stated that they do not belong to him.

From the declarations of the complainant and of the staff, as well as from the documents made available to the representatives of the People's Advocate Institution, it turned out that on April 10, 2019, around 8:30 pm, an unannounced check was carried out at the room where the fridges of the section were located. In the bag with food that the complainant kept in the refrigerator were found several prohibited objects, the finding agent drawing up a Discipline Incident Report with the proposal to initiate a disciplinary procedure which was resolved with the Summary Report for investigating the disciplinary incident no. 125/April 18, 2019 and the Minutes of Confiscation of Prohibited Goods no. 48301/April 10, 2019. On April 25, 2019, the Prison Disciplinary Commission sanctioned the complainant with the suspension of the right to receive and buy goods for a period of 30 days.

Against the Decision of the Disciplinary Commission the petitioner filed a complaint, rejected as unfounded by the judge for supervision of the deprivation of liberty at the Bucharest-Jilava Penitentiary.

Recommendation no. 9/2019 regarding the result of the investigation conducted at the Găești Penitentiary for solving the **file no. 325/2019**.

The checks carried out concerned the improper accommodation conditions in the Găești Penitentiary and the non-granting of medical assistance.

Recommendations were issued to the director of the Găești Penitentiary and to the director of the National Administration of Penitentiaries in order to remove the effects produced by the failure to provide medical assistance in the Găești Penitentiary, the failure to ensure proper detention conditions, failure to constantly monitor the efficiency of the measures taken for combating harmful insects (bed bugs) in detention rooms and avoid the occurrence of similar situations in the future.

The Găești Penitentiary informed us that they have accepted the issued recommendation, the medical assistance being insured starting with February 1, 2019, by a specialist doctor of general medicine on the basis of a service contract.

File no. 13448/2019 The petitioner notified the situation he is facing, related to the suspension of the driving license for a period of 90 days, for the contravention of exceeding with more than 50 km/h the maximum speed allowed in the respective road sector for the category of vehicle he drove, specifying that according to the legal provisions in force at the time of committing the deed, stipulated by the GEO no. 195/2002, had the right to reduce the period of suspension of the exercise of the right to drive to 30 days, and had promoted the verification test of the theoretical knowledge on July 18, 2019, but his request was rejected motivated by the entry into force, at the same date, of Law no. 130/2019 for amending and supplementing GEO no. 195/2002 regarding the circulation on public roads.

The People's Advocate Institution addressed the County Police Inspectorate Hunedoara, with regard to problems related to both the retroactivity of the law and the application of the more favorable contravention law. The authority informed us that the petitioner's request was reviewed and, by applying the more favorable law, was approved the

reduction of the suspension period to 30 days, because the deed was committed prior to the entry into force of Law no. 130/2019.

File no. 12840/2019 The petitioner complained that his right to education had been violated, by the fact that, on November 29, 2018, his transfer was ordered from the Poarta Albă Penitentiary to the Braila Penitentiary for the continuation of studies (school years XI-XII), but after the completion of the class XI, he was sent to Tulcea Prison.

Following the steps taken, the National Administration of Penitentiaries approved the transfer of the petitioner from Tulcea Penitentiary back to Braila Penitentiary, in order to continue his studies.

File no. 14220/2019 The petitioner complained that on August 13, 2019, he called the 112 Emergency Service, requesting the help of the Police and Ambulance, because his uncle destroyed the walls of the apartment. The complainant also mentioned that the 2 police officers who came after his call behaved abusively.

Following the steps taken, the General Inspectorate of the Romanian Police informed us that the verifications carried out by the Internal Control Directorate established that at the level of the Police of Sector 2 Bucharest, investigations are being carried out in the criminal file of September 9, 2019, aiming at the possible commission of the crime of abusive behavior by to two agents from Section no. 9 Police.

File no. 11717/2019 The complainant notified us that the judicial bodies don't protect the personal data of the citizens who have or have had the quality of party in civil or criminal cases.

For the resolution of the petition, steps were taken at the National Supervisory Authority for the Processing of Personal Data and the Superior Council of Magistracy. The latter informed us that the indication of the personal numerical code in the writ of summons is an obligation established in Art. 194 para. (1) lit. a) of the Civil Procedure Code and that the provisions of Art. 425 para. (1) lit. c) of the Code of civil procedure require its indication in the court decision.

The fact of communicating to the defendant a copy of the writ of summons, which contains the plaintiff's personal numeric code, is not relevant as long as the file can be consulted at any time by the defendant, and this identification code is also found in the writ of summons contained in the file; the consultation of the court file, where the case is being judged in public hearing, can only be done by the person who proves an interest, with the approval of the person who coordinates the archive compartment, based on a request containing the identification data of the applicant, therefore, access to the personal data of the parties in the files, respectively to the personal numeric code, is not unrestricted.

It was concluded that the processing by the courts of the personal numerical code of the parties in the files is legal, being in accordance with the provisions of Regulation (EU) 2016/679 and those of the national legislation regulating the civil procedure.

As regards the copy of the deed of ownership and the bank statement, these represent means of proof within the meaning of Art. 250 of the Civil Procedure Code, republished. If the purpose of proving a legal act or fact is sought by submitting the deed of ownership or the bank statement, it can be submitted anonymously insofar as it contains personal data of third parties or data of the parties that are not necessary to resolve the case.

In criminal cases, the Code of Criminal Procedure contains regulations that protect the identity of the injured person, of a party in the criminal case or third parties in the trial as witnesses or experts.

With regard to these legal provisions, it was appreciated that, on the one hand, the correct identification of the injured person and the civil party in a criminal trial is absolutely

necessary to respect the right of the accused to be informed about the accusation and, on the other hand, the establishment of the protection measures ensures the observance of the rights of the injured persons regarding the protection of personal data.

Thus, with the limitations provided by law in cases where measures are needed to protect the injured person, the existence in the criminal files of the information regarding the personal numerical code, and in general of the identification data of the injured person, does not contravene the legal provisions.

Also, the access to the criminal files of a court is not unlimited, but is made only with the observance of the provisions of Art. 94 of the Criminal Procedure Code, as subsequently amended and supplemented, which regulates the right to consult the file by the main parties and subjects in the files.

With regard to the deeds of ownership and the bank statements, they constitute means of proof, the consultation of which cannot be forbidden to the defendant without infringing the right of defense provided by Art. 10 of Law no. 135/2010, as subsequently amended and supplemented. Obviously, also these documents, insofar as they contain identity data of persons for whom was established a protection measure under the conditions of Art. 113 of Law no. 135/2010, as subsequently amended and supplemented, shall be anonymized.

In conclusion, the processing by the courts of personal data, respectively of the personal numerical code, processing that also implies the communication to the defendant of the documents containing these data, is provided by law and in accordance with Regulation (EU) 2010/679 of the European Parliament and of the Council of April 27, 2016.

At the same time, the National Supervisory Authority for the Processing of Personal Data communicated that according to Art. 55 paragraph (3) of the General Regulation on data protection, in data processing operations performed by the courts acting in the exercise of their judicial function, *“the supervisory authorities are not competent to supervise the processing operations of the courts acting in the exercise of their judicial function.”*

Also, besides the activity specific to the department, were drafted points of view - at the request of the Constitutional Court - on some exceptions of unconstitutionality invoked in cases pending before the courts.

The representatives of the department – 8 counselors – also carried out activities that exceed the resolution of the petitions, respectively: hearings and call center, the representation of the institution at various internal and international events, activities regarding integrity (ethics counselor, person responsible for implementing the provisions regarding the declarations of wealth and the declarations of interests, according to Law no. 176/2010 on integrity in the exercise of public functions and dignities, for the modification and completion of Law no. 144/2007 regarding the establishment, organization and functioning of the National Integrity Agency, as well as for the modification and completion of other normative acts), activities related to ORNISS, formulating opinions regarding draft normative acts.

CHAPTER V

THE DEPARTMENT FOR PROPERTY, LABOR, SOCIAL PROTECTION, TAXES AND FEES

Within the department are handled complaints regarding violations of citizens' rights and freedoms through administrative acts or deeds, by authorities of the public administration and the autonomous state enterprises, dealing with issues of private property, labor, social protection of work, taxes and fees.

The issues complained of mainly concerned:

- the way of application of the laws providing for repairs in the matter of property;
- violations of the right to work and to social protection of work both by employers – both private employers and public institutions or autonomous governments;
- dissatisfaction with the decisions regarding the calculation of the tax on buildings, land and on the means of transport, the refund of taxes for cars and vehicles, as well as the enforceable titles and summons for forced execution.

During the year 2019, were carried out **67 investigations** at several public institutions, and in some cases, in the minutes of the investigation were included mentions having the nature of recommendations, which the authorities concerned accepted in most cases, so it was no longer necessary to issue recommendations under Art. 24 of Law no. 35/1997, republished.

Property

File no. 2603/2019 The petitioner complained that he could not buy the building in which he lived with rent, because the City Hall of Anina, Caraş-Severin county, appreciated that it cannot be sold, because it was owned by the Romanian State and administered by the Local Council of the City of Anina.

The City Hall of Anina, Caraş-Severin county, informed us that it clarified and finalized the procedure for resolving the requests for purchase, under the law, of the houses by the tenants, being necessary to set up a specialized compartment, and, in the letter sent to us, the institution communicated that *"by the Decision of the City Council Anina no. 139 / 29.10.2019 was approved the Regulation of Organization and Functioning of the specialized apparatus of the Mayor of the City of Anina, with the establishment of the Specialized Assets Compartment for the management of the renting and / or sale activities from the real estate fund in the administrative territory of the city of Anina"*, which allows the purchase of some apartments, according to Art. 9 of No. 112/1995 on the settlement of the legal condition of some buildings designed for dwelling purposes, passed into State property, with the subsequent modifications and completions.

File no. 23047/2018 The petitioner complained that the Mayor's Office of Starchiojd commune, Prahova county did not restore the property right of his wife over a land area of 2.31 ha., in compliance with a certificate from 1991.

Following the numerous steps taken to the Mayor's Office of Starchiojd commune, Prahova county, to the Prefect Institution of Prahova County and after the two investigations carried out at the headquarters of the Prefect Institution, with the participation of its representatives, those of the mayor's office and of the Office for Cadaster and Real Estate Advertising of Prahova county, the Mayor's Office of Starchiojd Commune – the Local Land Fund Commission has submitted the necessary documentation to the County Commission for the establishment of the right to private property on land, to obtain the agreement on the issuance of the partial title deed for the deceased person.

Work and social protection of work

File no. 2077/2019 The complainant expressed dissatisfaction with the refusal of the Mayor's Office of Uliești commune, Dâmbovița county to approve her be the personal assistant of her minor daughter, classified as seriously disabled with the right to personal assistant.

As to those mentioned by the complainant, we notified the Mayor's Office of Uliești commune, Dâmbovița county, but we did not receive any answer, which is why we decided to carry out an investigation at the headquarters of this institution.

During the investigation, we were informed that the complainant was informed that she could choose between being hired as her daughter's personal assistant or receiving by the minor of a monthly allowance. The complainant opted for her employment as a personal assistant and the transition from allowance to personal assistant.

We were also informed that, starting with the same date, a number of 12 individual employment contracts for personal assistants of persons with severe disabilities would be concluded.

Following the discussions with the representatives of the Mayor's Office of Uliești commune it was established that after the conclusion of the individual employment contract of the complainant, a copy of the contract will also be sent to the People's Advocate Institution. Subsequently, we received from the management of the Mayor's Office of Uliești commune the copy of the individual employment contract requested.

Taxes and taxes

File no. 4387/2019 The petitioner complained about the lack of response from the Sector 5 Administration of Public Finance to petition no. 9679/2019, the term provided by Art. 8 of the Government Ordinance no. 27/2002 regarding the regulation of the activity of solving the petitions, modified and completed, being exceeded.

The Sector 5 Administration of Public Finance was notified and, given the fact that the institution did not communicate an answer regarding the issues raised, it was approved to conduct an investigation at the headquarters of the Sector 5 Administration of Public Finance.

Following the investigation, the Sector 5 Administration of Public Finance has provided the proof of payment of the interest related to the value of the environmental tax.

File no. 13569/2019 Another similar situation was found at the level of the Sector 3 Administration of Public Finance. Thus, the complainant brought to our attention the problems that he encountered with this institution as a result of the non-communication of the decision and the non-refund of the interest related to the amount representing the payment of the environmental stamp for vehicles.

Following the request made by the People's Advocate Institution, the complainant informed us that the outstanding amount was paid by the Sector 3 Administration of Public Finance, thanking us for the speed with which the problem was solved.

Recommendation no. 38/2019 Starting from a singular case (before that the People's Advocate institution was notified by several natural persons – F.N.I. creditors), a recommendation was issued, addressed to the President of the Authority for the Administration of State Assets - A.A.A.S. (**partially accepted**).

We have asked to be taken the necessary measures to pay the amounts for compensation due to the former F.N.I. depositors, by making legal requests as a debtor, in order to avoid ECHR decisions obliging the Romanian State to pay damages according to the provisions of Art. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, and to inform the People's Advocate Institution if the recommendation was accepted, as well as on the legal measures taken in relation to the issues mentioned.

The management of A.A.A.S. informed us that the following steps were taken in order to obtain financial resources for the payment of the amounts due to the FNI creditors, with the mention that the public institution in question has the capacity of debtor also towards other legal entities, which hold executory titles at various stages of forced execution:

- since 2009, several draft normative acts (one draft law and three draft emergency ordinances) have been promoted, aimed at proposing measures to supplement the financial resources required for the payment by A.A.A.S. of these compensations, as well as proposals for rescheduling installments, without obtaining the necessary approvals at that time;

- two memoranda were elaborated that couldn't be submitted to the Government for approval because they were not endorsed by the public institutions involved;

- in December 2018, with a follow-up in March 2019, it was requested to be organized urgent joint consultations at the A.A.A.S. headquarters, with the participation of decision-makers from the apparatus of the Prime Minister's Office, the Secretary General of the Government, the Minister of Economy, the Minister of Public Finance, the Minister of Foreign Affairs, as well as representatives of the main associations of F.N.I. investors, to the respective invitation, only responding the representatives of the Ministry of Foreign Affairs and of the Ministry of Public Finance.

Subsequently, we have also addressed the Minister of Economy, which answered that the amounts needed to solve the F.N.I. issue cannot be ensured from the revenues of the A.A.A.S. institution, and the allocation of budgetary funds for carrying out definitive court decisions and executors depends strictly on the decision of the decision makers within the government.

Given that the recommendation was **only partially accepted** by the authority in question, we addressed the Prime Minister, the file being still open.

Recommendation no. 121/2019 Starting from two situations complained of to the People's Advocate Institution at the beginning of 2019 (these issues being complained of by several natural persons who requested the refund of the tax under the provisions of the Government Emergency Ordinance No. 52/2017 regarding the refund of the amounts representing the special tax for cars and vehicles, the pollution tax for vehicles, the tax for polluting emissions from vehicles and the environmental stamp for vehicles), we have taken steps to the Public Finance Administration of Sector 1, followed by a joint investigation at the headquarters of the Regional General Directorate of Public Finance Bucharest, we asked for a point of view regarding the non-communication of the decisions issued by the Public Finance Administration of Sector 1, which resulted in the impossibility of challenging them in court.

Given the fact that the notified public institutions have generally specified that the settlement decisions issued at level of Sector 1 will be communicated under Art. 47 of Law no. 207/2015 on the Fiscal Procedure Code, and, by the subsequent response, that the communication procedure is still pending, **a recommendation was issued**, addressed to the management of the Regional Directorate General of Public Finance Bucharest - D.G.R.F.P.B.

By this recommendation, we asked this public institution to take all the necessary measures, in order to complete the procedure for communicating the decisions regarding the refund of the amounts representing the special tax for cars and vehicles, the tax for polluting emissions from vehicles and the environmental stamp for vehicles, related to the activity of the Public Finance Administration of Sector 1 and, if applicable, to the one existing at the level of all public sector finance administrations.

Moreover, we have asked the management of D.G.R.F.P.B. to inform the People's Advocate institution regarding the acceptance of the recommendation, as well as on the legal

measures taken towards the reported issues, **but until the date of drafting this Activity Report, no answer was received.**

System problems:

- in Law no. 50/2019 of the state budget for the year 2019, **no** details are found regarding the level of the bonus and terms for the anticipated payment of the tax on the estimated annual income for the year 2019, which is why the provisions of Art. 121 of the Fiscal Code are not applicable in 2019;

- the situation of the wage of a postman, equivalent to the gross monthly minimum wage in payment, after 35 years of work at the National Romanian Post Company, which generated his entry into the hunger strike, followed by a warning strike;

- failure to communicate the decisions issued by the Public Finance Administration of Sector 1, regarding the requests for restitution of the amounts provided by the Government Emergency Ordinance no. 52/2017 on the refund of the amounts representing the special tax for cars and vehicles, the pollution tax for vehicles, the tax for polluting emissions from vehicles and the environmental stamp for vehicles, an aspect which had as effect the impossibility of challenging the respective decisions in the court by the persons concerned.

Among the authorities that **did not provide the necessary support** in the actions taken by the People's Advocate institution, according to Art. 59 paragraph (2) of the Constitution, we highlight the following: Bucharest City Hall, National Authority for Restitution of Properties and Institution of the Prefect of Ilfov County.

Proposals for legislative changes:

- regulate, by special law, the labor relations of the cooperating members with the cooperative company, as provided by Art. 33 of Law no. 1/2005 regarding the organization and functioning of the cooperation, republished, with the subsequent modifications and completions:

"(1) The following types of relationships may exist between the cooperative company and the cooperating member:

a) patrimonial, materialized by the obligation of the cooperating member to deposit the equity interests and / or contributions in kind;

b) of work, in the case of the cooperating members associated in work and capital, under the individual employment contract or the individual employment agreement, as the case may be, concluded with the cooperative company of which they are members;

(...)

(3) For cooperative companies, the labor relations of the cooperating members may be regulated by special law".

In the absence of this regulation, the employment relationships of the cooperating members with the cooperative company carried out under individual labor agreements **are not recognized as seniority in employment, nor as a contribution period.**

- regulate the methodology of alienating the lands related to the buildings that fall under the Law no. 112/1995 for the regulation of the legal situation of some buildings with the destination of dwellings, passed on state property, with the subsequent modifications and completions, in accordance with Decision no. 3/January 30, 2017, through which the High Court of Cassation and Justice decided that: *"In interpreting and applying the provisions of Art. 3, Art. 9, Art. 26 paragraph (3) of Law no. 112/1995 for the regulation of the legal situation of some buildings with the destination of dwellings, passed on state property, with the subsequent modifications, corroborated with Art. 37 of the Methodological Norms*

regarding the application of Law no. 112/1995 for the regulation of the legal situation of some buildings with the destination of dwellings, passed on state property, established by the Government Decision no. 20/1996, republished, establishes that the owner of the construction has the right to acquire the property of the land related to it too and to request, in case of refusal, on the path of legal action, the obligation to conclude the sale-purchase contract”.

- as a result of the actions taken by the People's Advocate Institution in a case concerning the re-establishment of the ownership right over some forest lands that fall under Law no. 395/2017, was found that all the surface of forest land requested to be returned must be passed from the public domain to the state's private domain, through a government decision, which led to the blocking of the process of restoring the ownership of forest land at national level.

Following the investigations, it was concluded that the current legal framework does not provide for the notion of forest land in the state's private domain, **this regime being unregulated**. In this sense, in order to unlock the process of restitution of the property right for the forest lands, in applying the Constitutional Court Decision no. 395/2017, it is necessary to complete and modify the existing legislative framework, as follows:

1. Law no. 165/2013, as subsequently amended and supplemented:

- paragraph (5) of Art. 6 shall be completed and shall have the following content:

"(5) At the proposal of the county commission of land fund or, as the case may be, of the Land Fund Commission of the Municipality of Bucharest, the Ministry of Agriculture and Rural Development and the National Authority for the Restitution of Properties shall initiate the necessary legal procedures in order to change the legal regime of the agricultural lands which are the object of the centralizing situation, which are in the public property of the state, and to pass them, according to the law, in the private property of the state in order to be affected by the restitution in kind. Under the same conditions, the Ministry of Environment, Waters and Forests and the National Authority for the Restitution of Properties shall initiate the legal procedures for passing the forest lands from the public domain of the state into its private domain. "

2. Law no. 46/2008 regarding the Forestry Code, with the subsequent amendments and completions:

a) In Art. 7, para. (1), after letter d) the letter is inserted. e), which will have the following content:

"e) forest fund in the private state property, which was passed, under the conditions of the law, from the public property of the state to its private property, in order to restore the property right."

b) paragraph (1) of Art. 11 shall be completed and shall have the following content:

"(1) The forestry fund from the public property and private property of the state is administered by the National Forest Administration - Romsilva, autonomous state enterprise of national interest, under the authority of the state, through the central public authority responsible for forestry, the Institute of Forestry Research and Management, which is reorganized in the National Institute for Research and Development in Forestry "Marin Drăcea" and by the Autonomous State Enterprise "Administration of the State Protocol Patrimony", through its own forest service established according to the law. "

CHAPTER VI.

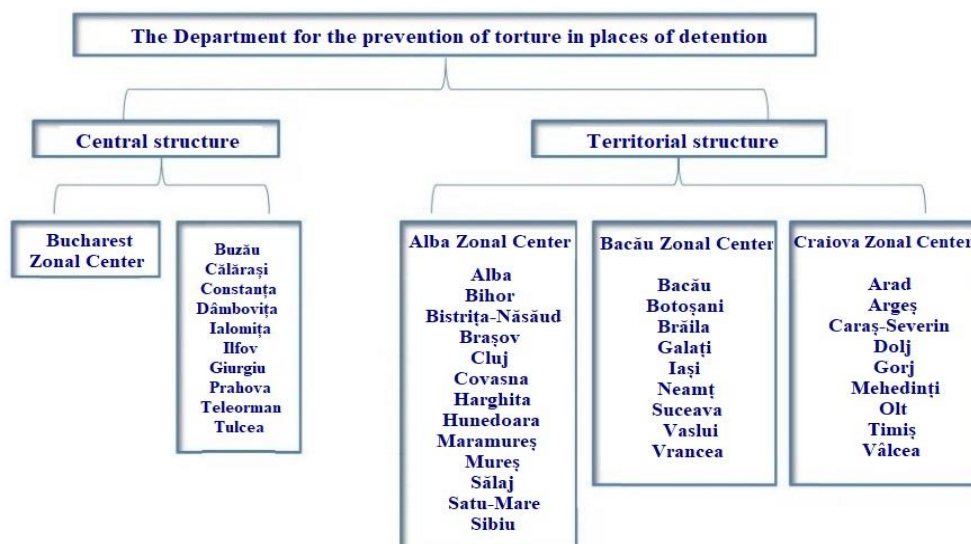
THE DEPARTMENT FOR THE PREVENTION OF TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT IN PLACES OF DETENTION



„ No excuse justifies torture. ”
Norman Finkelstein¹

The absolute prohibition of torture and other ill-treatment is regulated by Art. 5 of the Universal Declaration of Human Rights, by Art. 7 of the International Covenant on civil and political rights, as well as Art. 3 of the European Convention on Human Rights, which states that “*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment*”.

► NPM comprises: The central structure, which also includes the Bucharest Zonal Center and the Territorial Structure, made up of 3 zonal centers: ● Alba zonal center; ● Bacău zonal center; ● Craiova zonal center, the counties in the area of competence of each zonal center being presented in the graph below.



Within the 4 zonal centers are working specialized personnel - 7 lawyers, 2 physicians, 3 psychologists, 2 social workers - and 4 persons with administrative duties (drivers); At

¹Norman Finkelstein – American political scientist, professor, activist and author.

present, is ongoing a competition for filling the vacancies for the positions of physicians at the Bucharest and Bacau zonal centers.

In order to carry out the activities of the NPM, external collaborators are also co-opted, based on service contracts. External collaborators are selected by the People's Advocate, based on the proposals received from the Romanian College of Physicians, the College of Psychologists in Romania, the Society of Sociologists in Romania, the National College of Social Workers or from other professional associations to which they belong. Thus, in 2019, the People's Advocate institution had 38 external collaborators (10 physicians; 8 social workers; 20 psychologists).

According to Art. 36 paragraph (4) of Law no. 35/1997, republished **at the activity of torture prevention, participate representatives of non-governmental organizations active in the field of human rights protection**, selected on the basis of their activity, by the Ombudsperson. Currently, Collaboration Protocols are concluded with 28 non-governmental organizations.

In 2019, the visiting teams within the NPM made **79 visits to places of detention** (some of the visits carried out had as main objective the verification of the implementation of the recommendations made in the reports prepared following previous visits in the respective places of detention), as follows:

- **Prisons - 10 visits:** Târgu-Jiu Penitentiary; Găești Penitentiary; Craiova Pelendava Penitentiary; Tichilești Detention Center; Târgu-Mureș Penitentiary; Aiud Penitentiary; Tulcea Penitentiary; Giurgiu Penitentiary; Ploiești Penitentiary; Ploiești Women's Penitentiary - Târgșorul Nou (was verified the implementation of recommendations);

- **Preventive Arrest and Detention Centers - 9 visits:** Preventive Arrest and Detention Centers: Argeș, Călărași (was verified the implementation of recommendations), Gorj, Botoșani, Maramureș, Covasna (was verified the implementation of recommendations), Teleorman (was verified the implementation of recommendations), Tulcea and Buzău ;

- **Centers for Migrants - 6 visits:** the Accommodation Center of the Foreigners taken into Public Custody Arad; Timișoara Regional Center for Accommodation and Procedures for Asylum-seekers; Albița Detention and Triage Center, Vaslui County; The Regional Center for Accommodation and Procedures for Asylum-seekers Rădăuți, Suceava County; Center for Asylum-seekers Șomcuta Mare, Maramureș county (was verified the implementation of recommendations); The Regional Center for Accommodation and Procedures for Asylum-seekers Bucharest;

- **Residential centers for children - 18 visits:** the Placement Center for Children with Disabilities Drobeta Turnu-Severin, Mehedinți county; Emergency Reception Center Timișoara, Timiș County; Emergency placement center for abused, neglected, exploited children, Braila; Tecuci Placement Center, Galați County; Beclean Placement Center, Bistrița-Năsăud County; The emergency reception center and the Maternal Center within the Sighetul Marmăției service complex, Maramureș county; The placement center for children with severe disabilities Cristuru Secuiesc, Harghita County; Maternal Center "Speranța" Alba-Iulia; "Sfântul Stelian" Ghimbav Placement Center, Brașov County; Center for Children with Disabilities "Domnița Bălașa", Bucharest; Residential Center for the Child with Severe Handicap within the Oltenița Community Services Complex, Călărași county; The Placement Center for Children with Disabilities in Găești; "Antonio" Placement Center Constanta; Center for emergency reception and evaluation of children - Community Services Complex no. 3 Buzau; The emergency reception center - D.G.A.S.P.C. Sector 4, Placement Center „Sf. Marcellin Champagnat” Sector 6 Bucharest; Placement Center within the Foundation "Life

and Light" Bucharest; Placement Center within the "Sfânta Maria" Community Services Complex, Valenii de Munte, Prahova County;

- **Centers for adults with disabilities - 14 visits:** Cezieni Recovery and Rehabilitation Center, Olt county; Neuropsychiatric Recovery and Rehabilitation Center Gouvoj, Timiș County; Războieni Neuropsychiatric Recovery and Rehabilitation Center, Neamț county (was verified the implementation of recommendations); The medical-social unit "Dr. Elena Popovici" Flămânzi, Botoșani county; The Center for Neuropsychiatric Recovery and Rehabilitation Cotești, Vrancea county; Râșești Recovery and Rehabilitation Center, Vaslui County; Răchitoasa Care and Assistance Center, Bacău County; Care and Assistance Center Ciocănești, Călărași county; Pucioasa Care and Assistance Center, Dâmbovița County; Center for Recovery and Rehabilitation of Persons with Handicap Tâncăbești, Ilfov County; The Center for Integration through Occupational Therapy Râmnicu Sărat, Buzau County; Recovery and rehabilitation center for adults with disabilities, Țuicani, Moreni, Dâmbovița county; Tulgheș Neuropsychiatric Recovery and Rehabilitation Center, Harghita County; Neuropsychiatric recovery and rehabilitation center Râu Vadului, Sibiu county;

- **Psychiatric hospitals - 9 visits:** Psychiatric Hospital Voila Câmpina, Prahova county; Chronic Psychiatric Hospital Schitu Greci, Olt County; The Exterior Section of Chronic Psychiatry Melinești, within the Clinical Hospital of Neuropsychiatry Craiova, Dolj County; The Psychiatry Hospital for Safety Measures Grajduri, Iași County (was verified the implementation of recommendations); Psychiatric Hospital Câmpulung Moldovenesc, Suceava county; Zam Psychiatry Hospital, Hunedoara County; Psychiatry Hospital "Eftimie Diamandescu" Bălăceanca, Ilfov county; Addiction Center "Sf. Stelian", Bucharest; Poroschia Psychiatric Hospital, Teleorman County;

- **Homes for Elderly People - 13 visits:** Zădăreni Home for the Elderly, Arad county; Sacu Home for Elderly People, Caraș-Severin County (was verified the implementation of recommendations); Mărășești Home for Elderly People, Vrancea county; Păulești Home for the elderly, Satu Mare County; Târgu Mureș Home for Elderly People, Mureș county; Constanța Home for Elderly People, Constanța county; Stavropolia Home for Elderly People, Dâmbovița county; Domnești Home for Elderly People, Ilfov County; Residential Center for the Elderly Mereni, Conțești commune, Dâmbovița county (was verified the implementation of recommendations); "Vintilă Voda" Home for Elderly People, Buzau county; Țândărei Social Services Complex - Home for the Elderly, Ialomița County; Home for Elderly People - Association "House of Seniors" Zamfira, Prahova county; Home for Seniors House "San Giuseppe", Ilfov County.

In the context of Law no. 9/2018 amending and supplementing Law no. 35/1997 regarding the organization and functioning of the People's Advocate Institution, the NPM made 4 visits to the residential centers for children in **collaboration with representatives of the Ombudsman for Children**, respectively: The Placement Center within the Community Services Complex "Sfânta Maria" Valenii de Munte, the Placement Center for Children with Disabilities Găești, Tecuci Placement Center, Galați County, "Sf. Stelian" Ghimbav, Brașov county.

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

The NPM emphasizes the good cooperation of the management and staff with the visiting team members, in most places visited.

- In the case of the *Voila Psychiatry Hospital*, the NPM teams noted the reluctance of some members of the medical staff to allow the access of the NPM representatives to the safety rooms without being accompanied by a representative of the hospital (doctor or nurse).

In this context, the visiting team reminded the hospital management that in accordance with the Convention for the Prevention of Torture, the NPM has the possibility to have meetings with persons deprived of liberty, without witnesses, and recommended that these aspects be made known to all staff, in order to avoid possible obstruction of the visit in the future.

- During the visit to the *Home for the Elderly in Constanța city*, the leadership of the General Directorate of Social Assistance (DGAS) within the Constanța City Hall allowed the visit to be carried out but argued that the home for the elderly is not included in the category of places subject to NPM monitoring.

In the visit report, the NPM recommended informing the staff of the center and DGAS about the provisions of the Optional Protocol and of Law no. 35/1997, republished, as well as their cooperation with the visiting teams of the NPM.

- During the visit to *the Placement Center for Children with Disabilities Drobeta Turnu Severin, Mehedinți county*, a series of documents that were requested (the center's registers, the daily program of the beneficiaries, the monthly program of activities, etc.) were not made available to the NPM team.) neither during the visit (the documents were closed in the office of the chief of center, who was on vacation) nor afterwards.

► **examples of good practices found during monitoring visits:**

At the level of the *Câmpulung Moldovenesc Psychiatric Hospital, Suceava county*, in order to reduce the cases of hospitalization and to maintain a monitoring of the patients after they are discharged from the hospital, a mobile team consisting of a priest, a social worker and psychologist, employees of the hospital, who visited the patients at their homes, worked within the framework of a project in community psychiatry. Patients were included in such programs, especially according to social needs, those that were rarely visited by the family or those that were geographically isolated. The nurse who was traveling within the mobile team could distribute drugs, and the psychologist could carry out a new psychological evaluation, following which he prepared a report. As a result of these home visits, the social worker could contact the social services within the local authorities. The project of the mobile team has been running efficiently for several years since its implementation, the purpose being to evaluate and monitor the health of the outpatients, as well as to reduce the number of hospitalizations.

Also, throughout the visit, the participation of patients in the occupational activities was observed. They had recommendations for involvement in the activities of the 3 ergotherapy workshops: artistic, tailoring, painting and handicraft. For each workshop there was an occupational therapist instructor responsible. At the same time, in the basement of the building there was a gastronomic workshop, and another room was intended for sports or relaxation on a musical background, being equipped with a mattress and specific equipment.

- At *the Brăila - Tichilești Detention Center, Brăila county* was set up a self-administration pavilion, designed for a maximum of ten people, following a model taken from the Nordic countries (being made with funds received from the Norwegian government), where four young people were accommodated, who had three more months until release. The pavilion consisted of three bedrooms, a kitchen and an activity room. The purpose of establishing this self-management pavilion was to reduce the rate of recidivism and better reintegration into society. The young people in this pavilion had the opportunity to manage their time by themselves, to prepare their own food, practically to be free to make their own decisions regarding daily activities.

- In the *“Sf. Marcellin Champagnat”, Placement Center, Sector 6 Bucharest*, before the beneficiary received the protection measure, two matching visits were made in the center. During the visits, the child was informed of the Beneficiary's Guide, the Regulations of

Organization and Operation and the related procedures. They were also presented the house and the room where they will live and all the people they will live with. If the child agreed, the management of the center made the request for acceptance to D.G.A.S.P.C. Sector 6, and the Commission for Child Protection or the court established the placement if the services offered by the center were considered adequate for the child's growth and development.

According to the information communicated by the representatives of the center, in most cases the children were included in the unit's program, with special attention being given to reuniting the brothers (there were several groups of brothers in the center). The visiting team noted the openness of the management and of the entire staff to accept all the children, decisive being the integration of the children in the center, a positive relationship with the staff and the other beneficiaries and the willingness of the children to live in the center.

- At the *Târgu-Jiu Penitentiary*, for the resolution of the incidents, an operative team consisting of 20 staff members was formed, 5 on each shift. They carried out their activity in different positions during the shift and in the event of an operational incident, under the coordination of the officer on duty or the shift chief, they went to the place of the incident to solve it.

► **examples of deficiencies found:**

A deficiency systematically encountered was the **staff shortage in relation to the actual needs** of the respective units, the causes being diverse (sub-dimensioning of the personnel scheme - in the psychiatric hospitals, for example, the organizational chart was made according to the number of beds and not according to the number of patients; lack of candidates to fill the vacant positions, etc.). In some units visited, such as the Tichilești Detention Center, the positions of physician and dentist were vacant, the medical assistance being provided only by nurses.

Also, as it was noted in the NPM report drawn up after the visit to the Psychiatric Hospital for the Safety Measures in Pădureni Grajduri, *the lack of personnel represented a major risk in managing all situations, from improper supervision of the persons deprived of liberty to aggression towards the staff*. However, this cannot be a justification for neglecting the persons deprived of liberty, as the NPM representatives found during the visit made to the "Vintilă Vodă" Home for the Elderly, Buzău County: improperly hydrated beneficiaries (in one of the rooms visited, a beneficiary indicated by means of signs to the NPM team that he is thirsty) and uncared for: with uncut nails, with unwashed hair, with diapers filled with urine and fecal matter.

This last aspect highlights another deficiency found almost constantly by the NPM teams in the monitoring visits, namely, the **lack of adequate training of the employees** by organizing periodic training (for example, in order to make them responsible for the rights / needs of the beneficiaries, the application of the measures restricting the freedom of movement of patients) or their participation in continuous training courses (on crisis management, for example, on the provisions of the Convention on the Rights of Persons with Disabilities, in order to raise awareness of human rights, dignity, autonomy and the needs of persons with disabilities, etc.).

The NPM teams frequently found the **lack of the registers provided by the law** (the special register for traumatic marks or for physical signs of ill-treatment / abuse or torture of the persons kept in detention and preventive arrest centers, according to the provisions of Art. 162 paragraph (1) related to Art. 158 paragraph (8) of the Implementing Regulation of Law no. 254/2013 regarding the execution of the punishments and of the deprivation of liberty measures ordered by the judicial bodies during the criminal trial, with the subsequent amendments and completions) or **the improper completion thereof** (most of them the

registers drawn up within the Home for Elderly People Mărășești, Vrancea county; the registers regarding the application of the measures of restriction of the freedom of movement - the Psychiatric Hospital for Safety Measures Grajduri, Iași County; the register of special events in the Medical-Social Assistance Unit "Dr. Elena Popovici" Flămânzi, Botoșani county. **The identification, recording and reporting of traumatic marks is an important guarantee against ill-treatment in places of detention.**

We mention some of the deficiencies encountered by the NPM, depending on the place of detention visited:

- **psychiatric hospitals:** ● the existence of the surveillance / safety rooms in which were accommodated also patients voluntarily admitted, spaces that were closed and in which the right to privacy of patients was not respected (the rooms presented in principle the characteristics of the isolation rooms, but did not fulfill the specific conditions for the arrangement of the protected enclosure) in the Voila Psychiatric Hospital; ● non-observance of the legal provisions in the case of the involuntary admission procedure (also at the Voila Psychiatric Hospital, at our recommendation, the hospital management acted promptly); ● applying the measure of containment and isolation without observing the law in the matter (repeated containment in the case of the same patient; containment applied in wards, in the presence of other patients; isolation applied for the purpose of punishment); ● the patients were not informed about their rights, nor about the complaints procedure; ● there was no informed consent for the hospitalization signed by the patient, although the hospitalization was considered voluntary; ● overcrowding (in Voila Psychiatric Hospital, in the intermediate rooms there were even 7 beds, some of the beds were so close to each other that they were touching the bed next to them; in the Psychiatric Hospital for Safety Measures Grajduri, the hospital capacity was 240 beds and 384 patients were admitted, not being insured an area of 7m² and 20m³ of air, according to the legal provisions); ● most of the rooms were not personalized, even if according to the Norms of the European Committee for the Prevention of Torture, special attention must be paid to decorating both the rooms and the recreation spaces in order to visually stimulate the patients;

Considering the adoption, by the Plenary of the Parliamentary Assembly of the Council of Europe, on June 26, 2019 of the Resolution and Recommendation on the elimination of coercive measures in mental health, it was recommended to the Ministry of Health to develop a strategy, at the level of the Ministry of Health, for phasing out the application of measures of constraint in the field of mental health and addressing this problem in the sense of respecting human rights, as well as training the personnel involved in the use of therapeutic interventions which don't restrict the freedom of movement, including techniques of de-escalation.

- **residential centers for children:** ● the children were not informed about their rights in the center (for example, in the "St. Marcellin Champagnat" Placement Center, Sector 6 Bucharest the Charter of the Beneficiary was drawn up, but, in the file of each beneficiary, there was no document to prove that the beneficiaries have been informed about their rights; the representatives of the center claimed that the information was made verbally, but the visiting team found that the beneficiaries confused the rights with the obligations, which proves that, if it was done, it was a poor information, not adapted to the level of understanding of the children); ● lack of procedures for making, recording and solving complaints; ● lack of box for notifications / complaints, situation found at the "Sf. Marcellin Champagnat"; in the Center for emergency reception and evaluation of children - Community Services Complex no. 3 Buzau there was a box, but it was located at a height of 1.70 m., Being inaccessible to children of small stature; ● the poor supervision of the beneficiaries (in the family placement center for children Beclean, Bistrița-Năsăud county, the educators ensured 24h shifts only

during the week, but not during the weekend, being approved for payment, by the General Social Assistance Directorate and Child Protection, only 48 weekend hours; thus, there was no possibility of ensuring permanent supervision in all the apartments; both the educators and the head of the center claimed that most incidents between children appeared during the weekends; in the Placement Center within the Community Services Complex "Sfânta Maria" Vălenii de Munte, Prahova county, each educator took care of more than 25 children, with different ages and needs, which, in time, can cause negative events in providing the services offered to the beneficiaries; • lack of adequate prevention and intervention measures in conflict cases; • no Specific Intervention Programs were developed; • there were no activities adapted to the needs of the beneficiaries; no recreational, individual or group activities were organized; • there were no meetings of the multidisciplinary team regarding the monitoring of the beneficiaries' situation; • the steps regarding the family and social reintegration of the beneficiaries were insufficient; • insufficient communication of the staff of the center with the school; • the permanence of the medical assistance was not ensured (in the Beclean Family Placement Center a single nurse was employed, given the capacity of the center was 100 places; the "St. Marcellin Champagnat" Placement Center did not have staff medical employed, when among the beneficiaries were 9 children diagnosed with mental illnesses, who received permanent treatment recommended by the specialist doctor; in the Placement Center for children with severe disabilities Cristuru Secuiesc, medical care was provided by 3 nurses working in two shifts (07:00-15:00 and 13:00-22:00); one nurse position was vacant; two of the children, due to severe swallowing disorders, were fed through a nasogastric tube, mounted by the nurse; If during the night there were difficulties in positioning the tube, the nurses were called from home, during the night the supervision of the children being provided by an educator and a supervisor);

- *homes for the elderly*: • regarding the social care: in the Home for the Elderly Mărășești, Vrancea County, there were found incomplete or partially completed registers, the social surveys were not updated and the programs for social integration / reintegration were not individualized, no rooms for visits, etc.; • there was no possibility to provide functional recovery / rehabilitation therapies for the beneficiaries; • the number of organized cultural-educational and recreational activities was low; • the procedures, registers and working instruments provided by law were missing; • the accommodation conditions were inadequate: the furniture items were insufficient and / or degraded; the rooms were not equipped with panic buttons; the accommodation spaces were not personalized; there were no handrails on the hallways needed by the beneficiaries with locomotor deficiencies; In the "Vintilă Vodă" Elderly Home, Buzau County, a room was provided with windows that communicated with the hallway (there were no windows with access to the outside of the building), which is why the beneficiaries had no natural light and fresh air, the possibility for them to go out in the fresh air being very small, considering that the beneficiaries were moving in the wheelchair and the number of personnel was small; • the situations of abuse (for example, altercations between beneficiaries) were not recorded in the Register of special events; • regarding the safety of the beneficiaries: in the "Vintilă Vodă" Elderly Home, Buzau County, in a bedroom, the NPM members found the presence of a chain of approximately 40 cm. length; the personnel on duty were claiming that the object belonged to a beneficiary who wanted to secure their personal goods in this way, by using the chain and a lock that could not be found; considering that some of the persons in the hospital were diagnosed with chronic mental illness, the visiting team asked the staff members to remove the object and to prohibit the introduction of such objects in the home, and measure that was taken immediately;

► *centers for migrants*: • inadequate accommodation conditions (at the Albița Detention and Triage Center, Vaslui county, the 3 accommodation rooms had a poor hygiene, were poorly furnished with a table and two benches fixed to the floor, without a system of video surveillance and door with bars; one of the triage rooms had a large window, facing the outside of the Border Police building, covered with bars, but which could not be opened for ventilation, and no ventilation or air conditioning systems were installed in the room; the toilet was located opposite the restraint and triage room, and could be used only upon request, under the supervision of the staff); • medical assistance was not insured 24/7. (at the Albița Detention and Triage Center, Vaslui county, there were no medical staff employed and they were no medical office, no treatment room, no isolation room for patients with infectious diseases); • lack of interpreters (for example, the Rădăuți Regional Center had a contract with an interpreter, but it did not cover all the necessary languages; a solution adopted by the representatives of the center was to contract an interpreter for the necessary languages through online technology; a cause of the interpreters' refusal to provide interpretation services was the insufficient remuneration - 23 lei / hour); • some of the forms signed by the aliens, used by the administration of the center and by the nongovernmental organizations that provided services to the aliens in the center were written in Romanian (the NPM considers that it is necessary to translate all the documents to be signed by foreigners, in a language of international circulation, to be known to them, to let them know what they sign); • the aliens did not know enough about their rights as asylum seekers during their stay in the center (the Center for Asylum Seekers Șomcuta Mare, Maramureș County).

► *penitentiaries*: • overcrowding of detention rooms (for example, in Pelendava Penitentiary, some rooms provided only 2.36 m² / detainee; in the penitentiary the occupancy rate was 119.20%); • improper accommodation conditions (in the Găești Penitentiary, the rooms located on the ground floor of the detention units were very cold, in some rooms where there were bunk beds on two levels, the space between the two beds was very small, the furniture was insufficient and degraded, harmful insects were found; the privacy of the detainees in some toilets was not ensured; the walking yards had no cover, the personal hygiene products were of poor quality); • deficiencies in the selection of prisoners for work (of the 343 persons deprived of liberty at the time of the visit to the Pelendava Penitentiary, 246 persons were selected for conducting lucrative activities; given that some detainees refused to participate in such activities, The NPM considers that it is necessary to carry out permanent campaigns to motivate them; also, there were no qualifications and re-qualifications in the existing fields of activity, depending on their options and skills); • regarding the application of disciplinary sanctions, it was found in some cases the classification of a high number of disciplinary investigation files (in the Pelendava Penitentiary, the Disciplinary Commission closed 32 files out of the 125 that were open); • applying the disciplinary sanction of isolation for persons with mental disorders; • the lack of a proper space for conducting the psychotherapy, properly equipped, which will ensure the confidentiality of the professionalism of the act.

Regarding the transfers of detainees, the NPM found that at the level of the Găești Penitentiary there were many transfers of persons from the region of Moldova, which, considering the number of persons and the custody time (the custody periods exceeded 12-18 months) had become a rule, which significantly affected maintaining the connection with the family and the social and family reintegration. According to the response communicated by the leaders of the Ministry of Justice and the National Administration of Penitentiaries to the recommendations of the People's Advocate, since the number of detainees, grouped by their origin areas does not cover the whole territory of the country, meaning that the counties

register different levels of criminality (North East area registered a high rate of criminality), some persons were transferred to other places of detention, at relatively large distances from the support environment. Also, transfers were made to fulfill the obligation to ensure the minimum accommodation conditions. In order to mediate the relationship with the support environment, at the level of the penitentiary system the aim is to maximize the use of the right to online calls.

The Ministry of Justice has stated that it is considering the creation of new accommodation places for the persons who execute the punishment in open regime, in the North-East region of the country, acting on two levels: 1. the reduction of the number of inmates accommodated by the penitentiary units of the North-East Region; 2. increasing the accommodation capacity (within the Norwegian Financial Mechanism 2014-2021, a series of infrastructure investment measures will be financed, between 2018-2023, including: Botosani Penitentiary - 400 places and Vaslui Penitentiary - 210 places; based on the Memorandum of Understanding, a Concept Note was developed, in which it was proposed to create new accommodation places, including in Iași Penitentiary - 600 places).

However, given the repeated transfers of detainees, the NPM stresses that they can be assimilated to ill-treatment, according to the CPT Rules.

► **Detention and preventive arrest centers:** • the location of the centers in the basement of the buildings, which generates deficiencies such as lack of natural light, insufficient ventilation, moisture and mold in the detention rooms; regarding this aspect, in the Report prepared following the visit to the Buzău Detention and Preventive Arrest Center, the NPM representatives emphasized and reiterated the proposal made by the People's Advocate since 2015, through the *Special Report on the conditions of detention in prisons and detention and remand centers, determining factors in respecting the human dignity and the rights of persons deprived of liberty* (p. 192), respectively: „identifying places that could be taken over by the administration of detention and preventive arrest centers, and, last but not least, the construction of new centers to replace the current "cellars", so that they correspond to the European standards in terms of surface, volume, ventilation, meeting the physiological needs under privacy conditions, by allocating adequate budgetary resources and accessing significant European funds”; • the lack of at least one detention room adapted for persons with disabilities, as well as access routes for persons with disabilities in accordance with the provisions of Art. 12 paragraph (15) of the Order of the Minister of Internal Affairs no. 14/2018, which stipulates that in each center will be provided access routes for people with disabilities; • not providing hot water at least twice a week, which would allow persons deprived of their freedom to shower with hot water; • lack of female agents to ensure the guarding, supervision and, if necessary, the transfer of female persons deprived of liberty; • lack of a space set up to ensure the right to online communications;

► **centers for people with disabilities:** • the beneficiaries were not located in a center adapted to their needs (at the Center for Integration through Occupational Therapy Râmnicu Sărat, Buzău county, most of the beneficiaries were not able to perform lucrative activities in the community, not being autonomous); • beneficiaries placed under interdiction did not have guardianship measures, so they were not represented at the time when decisions were made concerning them (at the Războieni Neuropsychiatric Recovery and Rehabilitation Center, in this case there were 32 beneficiaries); • there were no appropriate conditions to provide psychological assistance (at the Războieni Neuropsychiatric Recovery and Rehabilitation Center there was only one space for the psychological activity, so the 4 employed psychologists were obliged to perform their activity by rotation, and the conditions regarding the confidentiality of the professional act and the emotional security of the beneficiaries were

difficult to observe); ● regarding the social assistance: the beneficiaries were not evaluated and reassessed (at the Tâncăbești Recovery and Rehabilitation Center, Ilfov county there weren't prepared personalized plans for each beneficiary, documents that had to be completed by the members of the multidisciplinary team and coordinated, monitored and evaluated by the case manager, at a maximum of 6 months; the individualized care and assistance plans had a summary content and did not detail the types of services and activities to be provided to the beneficiary for the period up to the next review; also, they were not signed by beneficiaries or legal representatives; the social assistance tasks were delegated to the psychologist employed by the Center, who did not have a social worker employed); ● there was no intimate room for the beneficiaries; ● the beneficiaries with locomotor disability were housed upstairs, and the center was not equipped with an elevator (at Ciocănești Care and Assistance Center, most of the beneficiaries housed upstairs declared to the visiting team that they had not been out for a long time); ● the spaces of the center were not adapted for people with disabilities; ● there were no measures to prevent physical conflicts between beneficiaries or alcohol abuse (at the Ciocănești Care and Assistance Center, two cases were found in which the beneficiaries were involved in verbal and physical conflicts which resulted in injuries and bleeding at face level);

► Following the visits, **749 recommendations** were issued to the management of the places visited and the hierarchically superior authorities, through the visit reports.

► **Examples of recommendations implemented successfully**

• In the matter of monitoring the rights of children in residential centers, we note the visit to the **Placement Center Association "Casa Speranței" Câmpina**, during which it was found that 16 children under protection measure (out of 28 beneficiaries) were studying in Italy (15 children) and France (a child).

Due to the unclear information regarding the period of stay for study in Italy and France, the vacation period, the health status, the school progress and the coverage of the personal, social, cultural needs, following the visit, the People's Advocate made recommendations to both the representatives of the visited unit, as well as D.G.A.S.P.C. Prahova regarding the verification of the situation of the minors who went to study abroad. Also, the National Authority for Child Protection and Adoption (A.N.P.D.C.A.) was notified, which took a control action, both at the headquarters of the Association and at D.G.A.S.P.C. Prahova. At the same time, A.N.P.D.C.A. considered it appropriate to request also the National Agency for Social Payments and Inspection (A.N.P.I.S.), to carry out checks on how the amounts allocated by the Romanian state, in the form of placement allowances, are used for the raising and care of the institutionalized children in the Association "Casa Speranței". The People's Advocate Institution also notified the Ministry of Labor and Social Justice (M.M.J.S.) about the situation identified during the visit, and the M.M.J.S. submitted this request for settlement to A.N.P.I.S., which carried out an unannounced check on the two entities, and ordered measures to remedy the negative aspects found.

Concerning the recommendation of the People's Advocate regarding the *permanent monitoring of the situation of the minors by maintaining contact with the social assistance services within the local authorities from where the children live abroad, as well as with the families of the volunteers where the minors stay, in order to respect and guarantee the rights of the child*, with the occasion of the monitoring activity after the visit, the NPM found that this recommendation was implemented, in the sense that the president of the "Casa Speranței" Campina Association, personally monitors the situation of these minors, who are studying abroad, through regular visits to these countries, unannounced visits to the volunteer families in whose care these children are, but also to the schools attended by minors, upon returning to the country, preparing a report on the social and educational situation of these children, a

report that is also found in the files opened by each case manager within the D.G.A.S.P.C. Prahova.

At the same time, the monitoring of the situation of the minors who are studying abroad is also carried out through social surveys, psychological characterizations, medical and school documents issued for each child, by the authorities of the respective state, documents transmitted to the "Casa Speranței" Association Campina and submitted to each case manager within DGASPC Prahova. The representatives of the Association maintain also by telephone, constantly, the connection with the minors who are studying abroad.

Regarding the recommendation concerning the *annual issuance of decisions for the continuation of the studies abroad for each school year and taking into account their content in the elaboration of the Individualized Protection Plans*, it was found that such decisions were issued for every minor studying abroad, and in the elaboration of the Individualized Protection Plans, the school periods attested by the school units frequented by these children were taken into consideration, specifying that these plans will be elaborated only during the periods of the school holidays in order for these children to be present in the country and to be evaluated properly.

- After the visit to the **Craiova-Pelendava penitentiary**, it was recommended to the management of the penitentiary to train the personnel regarding the preparation of the incident reports, the situations that cannot be the subject of an incident report and which do not constitute a disciplinary misconduct, considering the large number of disciplinary files dismissed by the Disciplinary Commission. The management of the penitentiary replied that the training of the personnel carrying out direct activities with persons deprived of their liberty was carried out on June 30, 2019.

- During the visit to the Center "**Sf. Marcellin Champagnat**", **Sector 6, Bucharest**, the management of the center mentioned the insufficient involvement of the representatives of the D.G.A.S.P.C. Sector 6 in the activity of the center, in recent years, as opposed to the beginning period when they benefited from a real support from them. Through the visit report, the NPM recommended to the management of the Directorate to permanently monitor the situation of the beneficiaries through permanent collaboration with the representatives of the center, as well as to identify, together with the management of the center, a solution so that all the beneficiaries receive, without discrimination, all the attention and necessary care, considering that in the last years children with behavioral disorders and psychiatric diagnosis were admitted to the center (which was subsequently a problem, the unit not having specialized staff employed); to support the center in order to complete its organization chart with the positions of nurses or to conclude contracts for the provision of services with nurses.

According to the response communicated by the management of the D.G.A.S.P.C. Sector 6, on August 7, 2019, a meeting took place between the executive director of the Directorate and the director of the Center in which the content of the report of the People's Advocate prepared following the visit to the Association's headquarters on May 29, 2019 was discussed, and the following measures were taken in order to involve the Directorate in the activity of the center: • monthly monitoring of the activity of the center by the specialized personnel designated within the D.G.A.S.P.C. Sector 6, both in terms of the situation of the children in the center, as well as the activity of the employees within the center; in this regard, D.G.A.S.P.C. Sector 6 will nominate an experienced social worker with supervisory role; • supporting the D.G.A.S.P.C. Sector 6 for the introduction in the future grant project, addressed to the Local Sector 6 Council, of a contract for the provision of services, for a position of nurse, to provide the necessary medical assistance to the beneficiaries; • organizing internal evaluation sessions through regular meetings between the specialized personnel from different

centers within Sector 6 as well as training sessions for the staff within the Volunteering and Vocational Training Service within the D.G.A.S.P.C. Sector 6 for the correct training for managing the problematic behaviors of the beneficiaries; • identification and financing from D.G.A.S.P.C. Sector 6 of training courses on the topic of taking care of children with behavioral problems, especially in order to manage crisis situations, unforeseen situations (unauthorized leaving of the center, alcohol consumption, inappropriate behaviors); • the case manager of the Association will submit for debate, in the Commission for the Protection of the Child Sector 6, the difficult cases, in order to identify the best solution for protection.

- After the visit to the *Târgu-Jiu penitentiary*, we recommended to the penitentiary management to establish a register in which to record all the special family situations of the persons deprived of liberty (serious illness or death in the family, etc.), and specify the moment when they were informed by the prison administration about these events. The penitentiary management replied that the register was established on May 27, 2019, managed by the psychosocial assistance bureau, and the data regarding potential risk situations were transmitted to the operative and medical sectors through informative notes.

- Considering the NPM team's finding of 32 beneficiaries placed under interdiction, who did not have guardianship measures (thus it was not ensured the observance of their fundamental rights, nor the necessary safeguards to avoid abuses), during the visit made to the *Center for Integration through Occupational Therapy Râmnicu Sărat, Buzau County*, it was recommended to the management to request the Legal Service within the D.G.A.S.P.C. Buzău, in order to appoint the legal representatives. According to the response communicated, steps have been taken to identify the persons, both from the families of the beneficiaries and from the institutions, in order to appoint the legal representatives; the procedure was started to ensure the legal protection of the beneficiaries without legal protection, the appointment of the legal representatives being done by the court by a designating guardian and concluding contracts for the provision of services for them.

Most of the units visited took the necessary steps to implement the recommendations. However, there were situations when they did not comply, therefore the hierarchically superior authorities were notified, in accordance with the provisions of Art. 44 paragraph (3) of Law no. 35/1997, republished. We mention the case of the *Voila Psychiatric Hospital* (in the monitoring activity, situations were identified that presented a high risk for patients with mental disorders to be subjected to ill treatment, for example, the existence of safety / surveillance rooms, closed rooms, where there were accommodated both non-voluntary and voluntary patients, whose freedom of movement was restricted); the management's *response* was considered *incomplete* (they did not respond in the case of recommendations regarding involuntary hospitalization, free and informed patient consent, psychosocial assistance) or *unsatisfactory* (regarding the implementation of recommendations on the application of measures to restrict freedom of movement, respect for patients' privacy, safety / surveillance rooms – accommodation and supervision conditions, involuntary admission, free and informed consent of the patient). The Ministry of Health – the General Directorate for Medical Assistance and Public Health and the Local Council of the Municipality of Campina were notified.

► In the course of 2019, **based on the collaboration between the departments of the People's Advocate Institution and the territorial offices**, the NPM staff carried out **18 investigations** together with colleagues from the Department for family rights, youth, pensioners, persons with disabilities, the Department for human rights, equality of chances between men and women, religious cults and national minorities and the Territorial Offices (Ploiești, Craiova, Brașov, Oradea, Alba-Iulia, Bacău), as follows: Clinical Psychiatric

Hospital „Prof. Dr. Alexandru Obregia”, Bucharest City; Youth Addiction Treatment Center „Sf. Stelian” Bucharest Municipality; The Psychiatric Hospital „Sf. Nicolae” Roman, Neamț County; The Clinical Hospital of Psychiatry and Neurology Brașov, Vulcan section; Social Center Night Shelter Târgu-Mureș; Mureș County Agency for Payments and Social Inspection; D.G.A.S.P.C. Mures Gymnasium School no. 7 Targu-Mures; Târgu-Mureș City Hall; Mureș County Council; Oradea Prison; The Psychiatric Hospital Sighetul Marmatiei / D.G.A.S.P.C. Maramures; The Psychiatric Hospital Sibiu; D.G.A.S.P.C. Mehedinți, Baia de Arama City Hall, Mehedinți County, D.G.A.S.P.C. Dolj “Casa Speranței” Association Campina, Prahova County; D.G.A.S.P.C. Prahova. Some of the investigations were carried out in order to prepare the *Special Report on the situation of human rights in the psychiatric hospitals in Romania*, published in November 2019.

Proposals for legislative changes:

► Clarify, in the mental health legislation, the issues related to the accommodation and supervision of patients voluntarily admitted and those involuntarily admitted to psychiatric institutions.

During the visit to the Voila Psychiatric Hospital, the members of the NPM found the **existence of safety / surveillance rooms, rooms in which both non-voluntary and voluntary patients were admitted, whose freedom of movement was restricted, and the rooms were locked.** The patients voluntarily admitted were thus permanently supervised and could not move freely through the hospital, under the conditions where, according to Art. 6 paragraph (4) of the Norm of application of Law no. 487/2002 of the mental health and protection of persons with mental disorders, republished, *the supervision of the persons admitted voluntarily is performed at variable intervals, respecting the privacy of the person.*

Thus, considering the **unclear status of the safety rooms within the Voila Psychiatric Hospital**, the NPM team considers that the provisions of Art. 3 paragraph (1) and Art. 6 paragraph (4) of the Norm of application of Law no. 487/2002, republished, according to which: *the minimum obligatory facilities of a psychiatric structure are: a) beds distributed in rooms, including rooms for the continuous supervision of men and women, in compliance with the norms stipulated by the legislation in force and during the voluntary hospitalization, the patients will be supervised according to the current medical indication and in accordance with the internal regulation of the health unit, as they are formulated, leaves to the psychiatric institutions the interpretation of the legal provisions regarding the supervision of the admitted persons (voluntary or involuntary) in psychiatric hospitals,* interpretation that may to be influenced by economic aspects, by the professional training of the personnel in the matter of the rights of persons with disabilities (dignity, non-discrimination, autonomy, privacy, freedom, security).

Thus, there is a **high risk that patients with mental disorders will be subjected to ill-treatment.**

► complete the legislation in the field of mental health in the sense of ensuring the legal counseling of the patients admitted to the psychiatric institutions, during the entire period of hospitalization, by lawyers within the Bars' Legal Aid Services, considering that:

- informing on the rights, the complaints procedure and the involuntary admission procedure is an essential guarantee against torture and ill-treatment;

- The Committee of Ministers of the Council of Europe has formulated REC (2004) 10 (art. 6) according to which *persons treated or placed in relation with mental disorder should be individually informed of their rights as patients and have access to a competent person or body, independent of the mental health service, that can, if necessary, assist them to understand and exercise these rights;*

- the national legislation in the field of mental health does not offer the possibility for patients to receive, during the hospitalization, free legal assistance provided by a person independent of the hospital (the law only stipulates the obligation to ensure the patient's defense, which that will be exercised ex officio, if the patient hasn't appointed a defender – in the case of court actions regarding the involuntary admission procedure); informing about rights is the responsibility of the staff of the psychiatric institution;

- In the files of the involuntary admitted patients, as well as in the files of the voluntarily admitted patients, accommodated in the surveillance rooms monitored by the NPM team during the visit to the Voila Psychiatric Hospital, there were no documents proving that the patients have been informed strictly regarding the rights or the procedure of involuntary admission.

► complete Law no. 487/2002, republished, by introducing the obligation for the court which decides in the case of involuntary admission to listen to the opinion of a psychiatrist independent of the hospital (through the forensic expertise report or a psychiatrist proposed by the parties).

In formulating the proposal, the NPM considered the following:

- some courts, when pronouncing the decisions to confirm the involuntary medical admission, mainly take into account the psychiatric background of the patients and the conclusions of the on-call doctor and of the Commission of involuntary admission; in one case, in which the lawyer asked to be carried out a forensic psychiatric examination, the court rejected the evidence invoking the aforementioned aspects;

- The European Committee for the Prevention of Torture has repeatedly stressed that, when pronouncing the decision of involuntary admission, the court must take into account the opinion of a psychiatrist independent of the hospital (this aspect which should be provided in the national law), this additional safeguard is necessary because there are persons admitted against their will who are not always in a position to assess the appropriateness of a second medical decision.

► the modification of Art. 34 paragraph (2) of Law no. 46/2003, with subsequent additions and modifications, to no longer be provided that the patient can offer to the employees additional payments or donations.

NPM members found that in the list of the Rights of patients with mental disorders, displayed in each section of the Voila Psychiatric Hospital, it was mentioned: "the patient can offer employees [...] additional payments or donations, in compliance with the law".

When formulating the proposal for legislative amendment, were considered the **decision no. 19/2015**, pronounced by the High Court of Cassation and Justice, according to which, *the deed of the doctor from the public health system, who has the status of civil servant, in accordance with the provisions of Art. 175 paragraph (1) lit. b) thesis II of the Criminal Code, of receiving additional payments or donations from patients, within the meaning of Art. 34 paragraph (2) of Law no. 46/2003 regarding the rights of the patient, does not constitute an exercise of a right recognized by law that will draw the incidence of the provisions of Art. 21 paragraph (1) thesis I of the Criminal Code* (justifies the deed provided by the criminal law consisting in the exercise of a right recognized by law).

Regarding the aforementioned legislative amendment proposals, the Public Health Commission of the Romanian Senate was notified.

► harmonization of the provisions of Art. 82 letter. t) and Art. 100 paragraph (2) of Law no. 254/2013 regarding the execution of the punishments and measures of deprivation of liberty ordered by the judicial bodies during the criminal trial, regarding the prohibition of

self-aggression acts, considered serious disciplinary misconduct and sanctioned, with the CPT's recommendation not to sanction the self-aggression acts anymore.

The CPT emphasized (including on the occasion of the periodic visit to Romania in 2014) *that such acts often reflect the suffering that the detainees in question are experiencing or the problems and conditions of a psychological or psychiatric nature. Accordingly, such acts should be approached from a therapeutic point of view rather than punitive* and recommended the modification of the legal provisions accordingly (Country Report, paragraph 115).

Following the recommendation of the People's Advocate (**Recommendation no. 34/2019**), the management of the National Administration of Penitentiaries informed us that they sent to the Ministry of Justice a draft law for amending and completing Law no. 254/2013 regarding the execution of the punishments and measures of deprivation of liberty ordered by the judicial bodies during the criminal trial, according to which, at Art. 101, after para. (3), a new paragraph is inserted, para. (3¹), with the following content:

"(3¹) The convicted persons diagnosed with serious mental illnesses cannot be sanctioned for non-observance of the prohibition provided in Art. 82 letter. t)."

Other proposals:

► Establishment of detention centers and preventive arrest of own medical offices (as in penitentiaries).

Currently, most centers cannot provide, according to the law², medical assistance (primary, emergency and specialized) to persons deprived of their liberty, at their request or whenever it is necessary, because there are no medical offices inside them.

► the introduction of the standardized forms for the requests made by the persons guarded by the detention and preventive detention centers, forms that are self-copying, so that the guarded persons will receive a copy according to the requests made to the staff of the center, at the moment of their formulation, and can prove that have submitted / registered the application.

Thus, the possible abuses by the administration of the centers can be avoided (for example: the applications are not registered and filed in the application file of the guarded persons).

► complete Law no. 35/1997, republished, in the sense of providing for the publication of the recommendations of the People's Advocate formulated in emergency regime, in case of finding serious violations of human rights, in the Official Journal, similar to the situation existing in France, where the General Controller of the places where people are deprived of their liberty (Contrôleur général des lieux de privation de liberté - CGLPL) publishes Emergency Recommendations in the Official Journal of the French Republic (according to the law for the establishment of the CGLPL of October 30, 2007, Art. 9).

Actions to promote the duties of the Department for the prevention of torture in places of detention (NPM), participation in conferences, domestic and international symposiums, staff training

In order to increase the awareness of the authorities that have subordinated units subject to NPM monitoring, regarding the prevention of torture and ill-treatment, the members of the NPM carried out an extensive activity of publicizing in 2019. During the events were presented: the NPM Activity Report for the year 2018; concepts such as human dignity, torture, inhuman treatment, degrading treatment and the prevention of torture; legislation

²Art. 71 paragraph (1) and para. (2) of Law no. 254/2013 – *the right to medical assistance, treatment and care of the convicted persons is guaranteed.*

regarding the prohibition and prevention of torture; compliance with minimum quality standards; aspects found by the NPM during the visits; recommendations made to the visited units and their implementation.

The organized events thus had the role of training the staff members who carry out their activity in places where people are deprived of their liberty.

► **Awareness raising activities organized during 2019**

Were carried out at: • The General Directorates for Social Assistance and Child Protection (Iași, Vrancea, Caraș-Severin, Arad, Făgăraș); • penitentiaries (Iași Penitentiary, Târgu-Ocna Educational Center, Craiova Detention Center, Timișoara Penitentiary, Deva Penitentiary, Aiud Penitentiary, Drobeta-Turnu-Severin Penitentiary, Mioveni Penitentiary); • homes for the elderly ("Inocențiu M. Klein" Timișoara Home for the Elderly); • psychiatric hospitals (Drăgoești Psychiatry Hospital); • centers for adults with disabilities (the Assistance and Care Center "Sfânta Față a Domnului Nostru Isus Christos", the Măicănești Neuropsychiatric Recovery and Rehabilitation Center, the Center for Specialized Counseling and Assistance for People with Autism Spectrum Disorders Craiova Center and Neuropsychiatric Recovery and Rehabilitation Center Synergis); • detention and preventive arrest centers – CRAP (Sibiu, Alba, Institute for Public Order Studies); • Ilfov County Council; • The National College of Social Workers in Romania; • University of Bucharest – Faculty of Sociology and Social Assistance; • Archdiocese of Bucharest, Social-Philanthropic and Missionary Sector; • Prahova branch of CNASR.

► There were **meetings with non-governmental organizations** (Romanian Association of Forensic Psychiatry Iași, GRADO, ANAIS, FACIAS, Organization for Human Rights - Craiova Regional Branch) and **participation in conferences organized by these NGOs**: • Conference on the theme *Progress in the social reintegration of persons deprived of liberty*, organized by GRADO in partnership with the Faculty of Social Assistance of the University of Bucharest; • *Accommodation of minors in public custody*, organized by the Jesuit Refugee Service in Romania; • *The conditions of detention in the penitentiaries and the arrest centers in Romania, two years after the conviction at the ECHR in the pilot case Rezmiveș and others vs. Romania (April 25, 2017)*, organized by APADOR-CH; • *Alternatives to the placement of migrant children in the public custody in the context of asylum and return*, organized by the Terre des Hommes Romania Foundation.

► There were **meetings with external collaborators** (doctors, psychologists) regarding the activity of monitoring the places of detention.

► **Workshops for the training of the personnel of the units subject to NPM monitoring** were organized (Workshop on *Investigation, Analysis, Reporting of Traumatic Marks, CPT practice, SPT, Istanbul Protocol*, at the headquarters of the Olt County Police Inspectorate and Workshop on *Compliance with the Standards on ensuring the quality of life of institutionalized persons – duties and powers of the NPM, Dissemination of the Annual NPM Report*, at the Community Services Complex for the Child in Difficulty "Sfinții Constantin și Elena" Pitesti).

Relevant information about NPM activity in 2019

► In 2019, the project initiated by the Association for the Prevention of Torture (APT) based in Geneva was implemented, with the theme *Strengthening the capacities of the NPM (in Romania) to monitor psychiatric institutions*, funded by the OPCAT Special Fund. The project included 4 activities:

1. workshop on the monitoring of psychiatric institutions, organized in Bucharest, between May 13 and May 16, 2019;

2. advocacy and awareness raising meeting with relevant authorities in Romania in the field of protection of the rights of persons with disabilities, organized on May 16, 2019, at the headquarters of the People's Advocate Institution, at which representatives of the following authorities were invited: Ministry of Health, National Authority for People with Disabilities, the National Authority for the Protection of the Rights of the Child and Adoption, the Council for monitoring the implementation of the Convention on the rights of persons with disabilities;

3. exchange of experience with the French counterpart of the Romanian NPM - Contrôleur general des lieux de privation de liberté, held on November 3-9, 2019;

4. making a leaflet on the prevention of torture and ill-treatment in psychiatric institutions, which contains fields such as: mandate and organization of the NPM, the role of the NPM in monitoring the psychiatric hospitals, the composition of the visiting team, the manner of conducting the visits and the verified aspects.

► On October 16, 2019, *the representatives of the People's Advocate institution met with the representatives of the General Inspectorate for Immigration (IGI)*, at the headquarters of the Inspectorate – The Integration and Relocation Service, in which a psychologist from the non-governmental organization ICAR participated.

During the meeting, aspects related to the visit of the NPM made on September 21, 2018, to the Regional Center for Procedures and Accommodation for Asylum seekers in Bucharest (psychological assistance, social assistance) were addressed as well as the difficulties encountered from 2017 regarding the access of the NPM members to the documents drawn up by the NGOs who have a partnership with IGI, in the field of psychological and social assistance.

Regarding the last aspect, the IGI representatives stressed that within each subordinate center there will be a psychologist who will liaise the visiting team with the psychologists of the partner non-governmental organizations (will attend the meetings). The same procedure will apply in the case of the social assistance activity (in centers where no assistant is employed, the integration officers with responsibilities in the field of social assistance will be the liaison element).

► On December 10, 2019, the NPM organized at the headquarters of the People's Advocate Institution, a round table on the occasion of the International Day of Human Rights, to which representatives of the non-governmental partner organizations of the People's Advocate Institution were invited: FACIAS, ANAIS; GRADO; AEPADO; Transparency International Romania.

► In 2019, the NPM made a series of requests to the Ministry of Health and the Ministry of Internal Affairs – the General Directorate for Relations with the Prefect's Institutions, in order to harmonize the Regulations for the organization and functioning of the psychiatric hospitals, subordinated to the Ministry of Health and the Local Councils Bucharest / County Councils, with the CPT Rules, according to which: *the practice of always dressing patients in nightgowns / pajamas is not conducive to reinforcing the feeling of personal identity and self-esteem; The individualization of the clothing is part of the therapeutic process*, considering the fact that there are still psychiatry hospitals where patients are obliged to wear pajamas permanently (St. Maria Vedeia Psychiatry Hospital, monitored by the NPM in 2018).

The General Directorate of Medical Assistance and Public Health within the Ministry of Health has replied that in the case of patients admitted to the hospital, so also in the psychiatric hospitals, it is necessary to ensure appropriate hygiene rules by reprocessing the clothing, but considering the specificity of the psychiatric unit, the management of these units

may have a more permissive attitude in the sense of allowing patients to wear clothing other than pajamas or nightgowns during the day and not be prevented by staff from doing so.

The General Directorate for Relations with the Prefect's Institutions within the Ministry of Internal Affairs informed us that a circular was sent to all the prefect's institutions, in order to disseminate the information to the local public administration authorities (the Local Councils of the Municipality of Bucharest, the county councils). Following these steps, several psychiatric hospitals subordinated to the Administration of Hospitals and Medical Services of Bucharest and of the county councils have modified and supplemented the Regulation of organization and functioning and the Regulation of admission to hospital, thus allowing patients to wear other clothes during the day instead of their pajamas.

CHAPTER VII.

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

At the level of 2019, the activity of the territorial offices was materialized in: solving a number of **3354 complaints**, **809 ex officio notifications**, carrying out **288 investigations**, granting **7081 hearings**, answering **4652 telephone calls** through the dispatch service, formulating **120 recommendations and 1032 awareness raising / collaboration activities with other authorities**, as follows:

- **Alba-Iulia Territorial Office:** resolved 182 complaints, granted 371 hearings, registered 191 telephone calls through the dispatched service, carried out 16 awareness raising / collaboration activities with other authorities, was notified ex officio in 12 cases, carried out 7 investigations and made 2 recommendations.

In the first half of 2019, the collaboration with the County House of Pensions Alba was good, meaning that it responded in legal time to the steps taken by the Alba-Iulia Territorial Office. Subsequently, for a number of 14 files, evasive and inconclusive responses were received. In view of the legal deadline for solving the applications, it was appreciated that their solution was unreasonably delayed, which is why, was notified the hierarchically superior authority, the National House of Public Pensions. Following the steps taken, all 14 files were promptly resolved by the County House of Pensions Alba, in a favorable way. Except the abovementioned case, in the activity of solving the complaints there were no difficulties or reluctance from the authorities, who were open to collaboration.

The People's Advocate was notified ex officio regarding the possible violation of some fundamental rights in the psychiatric hospitals in Romania, and the representatives of the Alba-Iulia Territorial Office and of the Alba Zonal Center conducted an investigation at the Psychiatric Hospital, "Dr. Gheorghe Preda" from Sibiu.

Following the investigation, the People's Advocate issued **Recommendation no. 122/2019**, addressed to the director of the Psychiatric Hospital „ Dr. Gheorghe Preda” Sibiu, for: arranging the necessary measures to fill the 92 vacant positions; implementation of measures to increase the supervision of patients identified as unpredictable and to secure all possible ways to leave the hospital premises; vocational training of medical personnel through special training courses; equipping the rooms with a technical alert system for medical personnel and assessing the risk of falling of the beneficiaries; removing a bed from the isolation room; repair and sanitize the rooms, halls, toilets and the replacement of the furniture in the rooms of Section IV and the decoration and beautification of the rooms of the Children Psychiatry Section; appropriate supervision and involvement in recovery and rehabilitation activities of chronic patients in Section VI; implementation of measures to prevent risky behaviors so as to reduce the high number of cases of application of the containment measure and the frequency of containment applied to the same patient.

Following the recommendation, the Psychiatric Hospital „ Dr. Gheorghe Preda” Sibiu communicated the following: out of the 92 vacancies remained 89 vacancies or temporary vacancies; the possible ways of unauthorized leaving of the hospital were identified and security measures were taken to prevent that; training courses for nurses are in progress; In 2020, the Psychiatry Section IV will undergo capital repairs, financed from European funds; a partnership with the "Ilie Micu" Popular School of Arts and Crafts from Sibiu will be initiated; in order to increase the recovery and rehabilitation activities of the patients in the

Chronic Psychiatric Section VI, the positions of psychologist and psychotherapy instructor will be opened to be filled by contest in 2020; video surveillance system will be implemented at the section level.

The People's Advocate **proceeded ex officio** regarding the issues presented in the media, concerning **the situation of several minors of German nationality**, placed in a rehabilitation center, who allegedly have been deprived of liberty, their documents taken away from them and they have been banned from contacting their families or the authorities. In this context, there were carried out investigations at: the General Directorate of Social Assistance and Child Protection Maramures; Vișeu de Sus City Hall, Maramureș County; Rehabilitation center in Vișeu de Sus, Maramureș county.

As a result of the problems identified, the People's Advocate issued **Recommendation no. 80/2019**, addressed to the mayor of the City of Vișeu de Sus, the County Agency for Payments and Social Inspection Maramures, the General Directorate of Social Assistance and Child Protection Maramures and the Ministry of Labor and Social Justice.

The recommendation addressed to the Minister of Labor and Social Justice aimed at amending the legislation in force, meaning that, even if regarding the monitoring of the social services providers intended for the minors and the services provided by them, throughout the territory of Romania, the current legal framework is appropriate, regarding the underage beneficiaries of these services, foreign citizens, there is a gap in the existing legal framework. Taking into account these aspects, it turns out that the minor foreign citizens, for whom a judicial authority in their country of residence, ordered a placement measure in a social service in Romania, based on Art. 56 paragraph (2) of Regulation (EC) no. 2201/2003 (Brussels II Regulation a), although they are placed in a social service that operates on the territory of Romania, based on the national law, not being an emergency situation, they do not benefit from the provisions of the national legislation regarding the rights of the child, so that the monitoring and the coordination of all social assistance and special protection activities, which should be carried out by professionals from different public or private services or institutions, in the best interests of these minors, is impossible to achieve.

Following these recommendations, the Ministry of Labor and Social Justice redirected this issue, for analysis and solution, to the National Authority for Child Protection and Adoption. The ANPDCA leadership informed the People's Advocate Institution that in order to resolve this recommendation, they have addressed a request regarding the establishment of a joint working group with representatives of the Ministry of Justice in its capacity as a Romanian central authority designated with the fulfillment of the provisions of Regulation (EC) no. 2201/2003 (Brussels II).

File no. 126/2019 The complainant notified the Alba-Iulia Territorial Office, requesting to be vested in possession of an area of 1.34 ha. agricultural land, located in the area of Păuca commune.

In connection with the aspects reported by the complainant, an investigation was carried out at the City Hall of Păuca, Sibiu County.

Following the investigation, the authority informed us that the petitioner was invited to the headquarters of the town hall, in order to be put in possession of the difference of 1.30 ha. of agricultural land in the area of UAT Păuca, according to Annex no. 3, position 40 of the Presaca locality, based on the documentation prepared according to Law no. 18/1991.

Following the discussions with the complainant regarding the offer of the Local Land Fund Commission of Păuca, were prepared the minutes for the provisional vesting in possession of the area of 1.30 ha. of agricultural land assigned to the petitioner and the other heirs.

File no. 239/2019 The complainant notified the Alba-Iulia Territorial Office, complaining of the delay in resolving her request for rectification, submitted to the Office of Cadaster and Real Estate Advertising in April 2018.

Information was requested from the Office of Cadaster and Publicity Real Estate Alba in relation to those reported by the complainant.

As a result of the action taken, the notified authority informed us that the request for rectification was favorably resolved and sent to the provider with a view to integrating the solution and updating the cadastral technical documents.

File no. 219/2019 The complainant has notified the Alba-Iulia Territorial Office, claiming that the right to visit without separation device, was denied to him by the management of Aiud Penitentiary, without taking into account that the hearing problems he has do not allow a proper relationship through the others means of communication from the penitentiary.

Information was requested from Aiud Penitentiary, which informed us that the complainant will be granted 1 visit without separation device every month, from the number of visits which he is entitled to according to the legal provisions.

System problems:

As a result of activities carried out during 2019 (visits, investigations), among the most common findings were those related to the lack of qualified personnel in the field of social work, at the level of the mayor's offices of small or cities or communes, with the consequence of providing inadequate and inefficient social services to citizens, materialized in: the lack of prevention measures for children in a social risk situation; superficiality of the evaluation of the psychological situation of the minors, by the social services of the mayor's offices, with the elaboration of documents with gaps, without a complete and competent evaluation of the situation of the minor.

• **Bacău Territorial Office:** solved a number of 173 complaints, granted 540 hearings, answered 260 telephone calls through the dispatch service, carried out 9 awareness raising / collaboration activities with other authorities, was notified ex officio in 23 cases, conducted 20 investigations and made 4 recommendations.

Recommendations implemented successfully:

File no. 180/2019 The TV station CNS TV Roman, reported the incident in which, on July 4, 2019, a man from the village of David, the commune of Văleni, Neamț county set himself on fire in front of his three minor children.

The Bacău Territorial Office has been notified ex officio and has taken actions both in the Neamț County Police Inspectorate and in the D.G.A.S.P.C. Neamț county.

The Neamț County Police Inspectorate reported that as a result of the checks carried out, there were no elements to confirm the improper fulfillment of the duties of the police personnel who answered the call received through the Unique National Emergency Call System 112 in the evening of July 4, 2019, from the commune of Văleni, Neamț county. In the opinion of this authority, the situation found on the ground was not covered by the provisions of Art. 89 paragraph (3) and Art. 96 paragraph (1) of Law no. 272/2004 on the protection and promotion of the rights of the child.

The People's Advocate issued **Recommendation no. 86/2019**, requesting the chief of Neamț County Police Inspectorate to take appropriate measures for the police personnel to know and apply the provisions of Art. 89 paragraph (3) and Art. 96 paragraph (1) of the aforementioned normative act. At the same time, the Executive Director of the D.G.A.S.P.C. Neamț, was requested to arrange measures for the monitoring of the consensual union family, together with the social assistance service within the local authority and to examine the

opportunity of organizing joint working sessions with the Neamț County Police Inspectorate, in order to disseminate the specific legislation for protection and promotion children's rights.

The recommendation was accepted, as follows:

- Neamț County Police Inspectorate announced that Recommendation no. 86/2019 was processed in the meeting of the Management Board of Neamț County Police Inspectorate, during which senior officials from the level of services, offices, compartments, subunits and rural police stations participated, on which occasion, the inspectorate's leadership decided that each person with management position shall monitor the situations that require the application of the provisions of Law no. 272/2004. At the same time, it was decided that all the workers in the Neamț County Police Inspectorate, shall be trained regarding the provisions of Art. 89 paragraph (3) and Art. 96 paragraph (1) of Law no. 272/2004 on the protection and promotion of the rights of the child.

- D.G.A.S.P.C. Neamț announced that on October 28, 2019, a first meeting was organized with representatives of Neamț County Police Inspectorate, during which the content of the recommendation of the People's Advocate was analyzed and it was agreed that Neamț County Police Inspectorate will inform and process together with its public order services, the specificity and importance of the legislation in the field of protection and promotion of the rights of the child, and when appropriate, notify immediately the D.G.A.S.P.C., Neamț county.

File no. 290/2019 In the news article “*Nightmare images in the Onești bus station. Decommissioned minibuses full of garbage, a home for street people*”, it was presented that in the public area of Onești Municipality, in the bus station area, several decommissioned minibuses were abandoned, without wheels, doors and other components, which become shelter for the street people.

From the press article it turned out that the public administration authority had not been informed about the situation created, so that the vehicles became true outbreaks of infection, emanating a bad odor, hard to be borne by the people crossing the bus station, thus creating a desolate appearance in the area.

Information was requested from the City Hall of Onești Municipality, which communicated the following:

- the situation reported by the press was verified in the field by the representatives of the Public Service of Local Police Onești and of the Social Assistance Direction Onești;
- to remedy the situation, the mayor of Onești Municipality initiated a draft decision on the working procedure for carrying out the activity of lifting, transporting, storing and releasing the vehicles parked irregularly, as well as those abandoned or without owner;
- the draft decision is in the public consultation stage, to be submitted for adoption to the Local Council of Onești Municipality, Bacău County.

File no. 186/2019 The complainant, a person with severe disability, had his bank account seized in which he receives the amounts of money representing disability allowance, for the recovery of debts resulting from fines.

He requested the support of the Bacău Territorial Office asking that the Mayor's Office of Căiuți commune, Bacău county unlocks the amounts of money, which for him represent the only source of income.

Given that the disability allowance is an allowance for special purposes, we considered that these amounts have been illegally seized from the petitioner and we requested the notified authority to take the legal measures required.

The mayor's office of Căiuți commune, Bacău county, announced that on August 1, 2019, they were requested to unlock the account for the amounts collected from the local authority, representing the disability allowance.

At the same time, from the examination of the documents attached by the authority, it resulted that the complainant has outstanding debts arising from traffic fines, respectively, for driving without vignette, and, having in mind that the *persons with disabilities, as well as their attendants or, as the case may be, their personal assistants, who own cars, are exempted from the payment of the tariff for the use of the national road networks*, he was directed to submit an application to the competent authority, accompanied by the supporting documents to benefit from these rights.

File no. 41/2019 The complainant asked the mayor's office of Sascut commune, Bacău county, to stop the payment of the disability allowance for his three children, classified as severely disabled, motivated by the fact that they were going to establish their domicile in Colonești commune, Bacău county, starting with dated January 1, 2019.

In order for the three persons with disabilities to continue to receive the appropriate allowance, the complainant filed, on the same date, a request to the mayor's office of Colonești commune, requesting the payment of the allowance starting with January 1, 2019.

The mayor's office of Sascut commune, Bacău county, stopped the payment of the three allowances from January 1, 2019, but the rights due for December 2018, were paid by the local authority only for two of the three persons with severe disabilities.

Also, from the documents presented by the complainant it turned out that the mayor's office of Colonești commune, Bacău county, ordered the payment of disability allowances starting with February 1, 2019, instead of January 1, 2019, so that the three persons with disabilities were deprived of the right to compensation for January 2019.

The Bacău Territorial Office conducted an investigation at the D.G.A.S.P.C. Bacău, to which were invited representatives of the mayor's office in Sascut and of the mayor's office in Colonești.

Following the verification of the documents made available, regarding the agreements issued by D.G.A.S.P.C. Bacău regarding the payment of the due allowances to the three persons with severe disabilities, it was found that they were released late. Thus, although the applications for the release of the agreements were submitted to the D.G.A.S.P.C. Bacău on December 28, 2018, two of the agreements were issued on January 15, 2019, and the third only on February 12, 2019.

Starting from the legal provisions in this matter, the representatives of the notified authorities were asked to review the documents that were the basis for issuing the provisions and to agree on the time of termination / granting of the appropriate allowances, so that there would be continuity in granting the rights. Following the investigation, the two notified authorities issued the necessary provisions to ensure the continuity of the right to the disability allowance and, at the same time, the remaining rights were paid.

• **Brașov Territorial Office:** solved 263 complaints, granted 487 hearings, answered 322 telephone calls through the dispatch service, carried out 146 awareness raising / collaboration activities with other authorities, was notified ex officio in 90 cases, conducted 44 investigations and made 16 recommendations.

Recommendations implemented successfully:

File no. 161/2019 The Territorial Office Brașov proceeded ex officio after the publication of an article regarding the case of a young woman from Codlea Municipality, Brașov County, who accused the Inspectorate of Gendarmes Bistrița-Năsăud of using a photo of her in a leaflet for "*Preventing antisocial acts during public meetings*".

Following the steps taken, the Inspectorate of County Gendarmes Bistrița-Năsăud communicated the following information:

- the photo concerned was found online, on news sites that promoted the protests throughout the country, being used by several publications in different articles related to such events in the public space, not being processed and transformed in any way.

- moreover, the photo was posted on a social network as of September 8, 2013.

The Bistrita-Năsăud County Gendarmes Inspectorate considers that as long as the young woman was in the public space, at a public manifestation, holding a megaphone, one cannot discuss the failure to respect the person's intimate or private life, as it follows that the intention was to make herself heard and seen by as large an audience as possible.

Also, we are informed that when the young woman expressed her dissatisfaction on the social network, at the level of the County Gendarmes Inspectorate Bistrița-Năsăud, steps were taken in order to amicably resolve this misunderstanding, by stopping the distribution of these leaflets, respectively avoiding such situations in the future.

The People's Advocate found that the photograph in question, instead of presenting general images with those in a public protest, focused the image on a certain person, whose face was recognizable.

Even if the person wanted to be seen and heard by a large group of people attending a public event at that time, this means that the young person wanted to be heard by those present there, and it cannot be assumed that she consented to the use of her image in a public information campaign regarding the role and general duties of the Romanian Gendarmerie and which are the obligations of the participants during the public meetings. According to the legal regulations in force, photographs are subject to the definition of biometric data.

As a result of the problems identified, the People's Advocate issued **Recommendation no. 18/2019**. The Inspectorate of County Gendarmes Bistrița-Năsăud accepted the recommendation, communicating the following:

- the responsible staff within the institution trained all the staff on the provisions of Regulation (EU) 2016/679.

- the person responsible for the protection of personal data will carry out periodic trainings on compliance with the legislation in the field of personal data protection and will permanently monitor the compliance with Regulation (EU) 2016/679, as well as other provisions of EU law or national law regarding data protection.

File no. 173/2018 The Public Community Service for Driving Licenses and Registration of Vehicles within the Prefect Institution of Brasov County (S.P.C.R.P.C.Î.V. Brașov) notified the Territorial Office of Brasov, requesting a point of view regarding the legal possibilities that allow the presence of a neutral witness during the theoretical test for driving license taken by a person suffering from the medical conditions of dyslexia and dysgraphia and the initiation, consequently, of a working procedure that regulates exceptional situations.

In this regard, S.P.C.R.P.C.Î.V. Brasov addressed the Direction for Driving Licenses and Registration of Vehicles, but from the answer of this institution it has been concluded that such a procedure is not regulated by the legal provisions in force and, as a result, it cannot be applied. S.P.C.R.P.C.Î.V. Brașov faced this situation concretely, when a person requested them to identify a solution that would allow him to take the theoretical test obtaining the driving license in the context in which he suffers from dyslexia and dysgraphia.

The Brasov Territorial Office has made numerous written requests to the Direction for Driving Licenses and Registration of Vehicles and the Ministry of Internal Affairs. Subsequently, the People's Advocate issued **Recommendation no. 65/2019**.

The Direction for Driving Licenses and Registration of Vehicles informed us that, at the level of the Ministry of Internal Affairs, was initiated the procedure for amending Order

no. 268/2010 regarding the examination procedure for obtaining the driving license, so that in the future, similar cases of possible discrimination can be avoided.

Among the authorities that **did not provide the necessary support** to the People's Advocate Institution, in the exercise of its duties, we highlight the following: Belin Town Hall, Covasna County, Feldioara Town Hall, Braşov County, Budila Town Hall, Brasov County.

Among the authorities that **were open to collaboration**, we mention: the City Hall of Brasov, the City Hall of Zărneşti, Braşov County, the Institution of the Prefect of Brasov County, the Institution of the Prefect of Covasna County, the Police Inspectorate of Brasov County.

Proposals for legislative amendments:

Following an investigation carried out at Râşnov City Hall, Braşov County, from the discussions with the representatives of the local public authority and with the representatives of family doctors, it was found that *the centers of permanence do not have the legal possibility to choose between the purchase of a semi-automatic or automatic external defibrillator, depending on the medical equipment that the respective center already has, as the provisions of the methodological norms require the purchase of a semi-automatic defibrillator.*

- it is necessary to complete the 2011 Methodological Norms regarding the continuity of the primary health care through the centers of permanence, approved by the Common Order of the Minister of Health and the Minister of Administration and Interior no. 697/2011, Annex no. 3, the section "Apparatus / Equipment for resuscitation - breathing", by mentioning at letter. e) "semi-automatic or automatic defibrillator".

● **Cluj-Napoca Territorial Office:** solved a number of 281 complaints, granted 471 hearings, answered 430 telephone calls through the dispatch service, carried out 89 awareness raising / collaboration with other authorities, was notified ex officio in 168 cases, carried out 23 investigations and made 16 recommendations.

Recommendations implemented successfully:

File no. 225/2019 The Cluj-Napoca Territorial Office was notified of the refusal of the General Directorate for Social Assistance and Child Protection Cluj to establish the special protection measure for a minor and discharge him from the Cluj-Napoca Children's Emergency Hospital.

Following the petition, an investigation was carried out at the Day and Night Shelter for Homeless Children "Arlechino", as well as at the headquarters of the D.G.A.S.P.C. Cluj. In view of the data obtained from the investigation, the People's Advocate issued **Recommendation no. 97/2019**, to the director of the General Directorate for Social Assistance and Child Protection Cluj, containing the following:

- the establishment of the special protection measure - the emergency placement for the minor in a residential center, in compliance with the provisions of Order no. 25/2019, as well as the recommendations of the specialized doctor (pediatric psychiatry);
- the discharge of the minor admitted to the Pediatric Psychiatry Section of the Emergency Clinical Hospital for Children Cluj-Napoca;
- carrying out the necessary steps to ensure the psychological assessment and counseling services for the minors in the "Arlechino" Shelter;
- conducting psychological assessments for the minors in "Arlechino" Shelter and establishing special protection measures, as appropriate.
- ensuring specialized personnel needed, respectively a social worker, considering that, the social worker is on extended childcare leave.

Following the Recommendation no. 97/2019, the minor was discharged from the Emergency Clinical Hospital for Children Cluj-Napoca and a special protection measure was instituted, being placed at the "Gavroche" Emergency Reception Center, Cluj-Napoca.

Recommendation no. 24/2019 to the Bistrița-Năsăud County School Inspectorate. The institution accepted the Recommendation and asked each school in the county that implements the Government Program "Milk and Corn" to elaborate / revise the internal operational procedure regarding the distribution of products, focusing on risk situations and how to report them.

Thus, all 106 state pre-university education units that implement the Government Program "Milk and Corn" in Bistrița-Năsăud county reported the elaboration / revision of the internal operational procedure for applying the program: a number of 35 educational units reported the elaboration of the procedure; a number of 71 schools reported the revision of the existing internal operational procedure, focusing on the risk situations and the way of reporting them.

Recommendation no. 83/2019 addressed to the General Directorate for Social Assistance and Child Protection Maramures, respectively the Sighetu Marmatiei Municipal Hospital. The two institutions have accepted the recommendation, as follows:

- D.G.A.S.P.C. Maramureș ordered the heads of centers to respect the working procedures according to the standards and the legislation in force, took the necessary measures to provide personnel and train them, as well as the measures necessary to provide the services of recovery, rehabilitation and evaluation of the beneficiaries;

- The Sighetu Marmatiei Municipal Hospital has ordered the necessary measures to ensure the accommodation requirements for the patients, has formulated a request for financing to the Sighetu Marmatiei City Hall and to the Ministry of Health, has ordered the necessary sanitation work and the revision of the procedures.

File no. 2/2019 The petitioner complained that given the fact that the building he owns as a social dwelling is subject to a process of renovation and consolidation, the Local Council of the City of Cluj-Napoca assigned him a dwelling of necessity only for a period of 2 months, without communicating what will happen at the end of this period.

We contacted the City Hall of Cluj-Napoca, requesting clarification of the aspects related to the term of rent for the dwelling of necessity assigned to the petitioner and the legal and factual situation of the building owned by the petitioner as a social dwelling.

The authority informed us that the petitioner holds the dwelling of necessity under a rent contract for an indefinite period, until the completion of the works of consolidation and renovation of the building owned as a social dwelling, as well as the fact that it will not be assigned to another person, and the petitioner will be relocated in his initial location after the completion of the necessary works to ensure the living conditions.

File no. 255/2019 The petitioner complained that he did not have any type of identity document, which is an impediment to his being able to benefit from treatment in a medical institution abroad. This situation dates from the middle of December 2018, and the reason is due to the fact that the petitioner no longer holds the original document of the divorce sentence, pronounced in 2001 by the Court of Nanterre, France. In the absence of a valid document attesting to his identity, the petitioner is unable to take the necessary steps to obtain a duplicate of the original document.

Following the action taken, the City Hall of Cluj-Napoca informed us that, based on the opinion of the Direction for Population Register and the Administration of Databases, the divorce of the petitioner was registered, and that he should be contacted to be issued his birth certificate.

Proposals for legislative changes:

- the lack of the centers of orientation, supervision and support for the social reintegration of the child who committed criminal acts and isn't criminally liable in the counties of Cluj, Bistrița-Năsăud, Sălaj and Maramureș. Solution: support the establishment of such centers at county or regional level, considering the increase of crime among juveniles who are not criminally liable;

- the lack of social services intended for the minor consumers of prohibited substances, to support and monitor their social reintegration, through occupational therapies, after hospitalization within the child psychiatry sections - drug addicts. We appreciate that such centers are also needed for children with chronic mental illnesses and behavioral disorders;

- given the high percentage of children in the protection system diagnosed with psychiatric illnesses, who have medical recommendations for recovery psychotherapy and the fact that most psychologists do not have the necessary training to perform psychotherapy, it is necessary to train the psychologists / social workers employed by the DGASPC in this regard;

- regulating the occupation of school facilitator by including it in the COR (Codification of Occupations in Romania). Currently, the job of "school facilitator" is not identified in the COR, and those accompanying children in the educational environment cannot be legally trained and employed, unless the facilitator is one and the same person with the personal assistant of the child. Solution: creation of a working group with the Ministry of Education and Research, the Ministry of Labor and Social Protection and the Ministry of Public Finance;

- differentiated assessment for students with special educational requirements (8th grade and baccalaureate). Currently, teaching is differentiated, but the assessment is the same for all students. Solution: addressing the problem at the level of the Ministry of Education and Research;

- the slow start of the adoption procedure. By the Order of the Minister of Labor and Social Justice no. 25/2019 regarding the approval of minimum quality standards for residential social services for children in the special protection system, a period of 6 months has been set for the revision of the individualized protection plan, but the current legislation does not provide for a maximum time limit for the objective of reintegration into the family. Moreover, there is no legal provision that obliges the case manager within the general directorate of social assistance and child protection to modify the finality of the individualized protection plan by starting the internal adoption procedure, after the expiry of a term for reintegration into the family. Solution: amending and supplementing Law no. 272/2004 on the protection and promotion of the rights of the child by establishing maximum terms for the family reintegration procedure;

- the classification of the behavioral disorders as a medical incompatibility with the didactic function. Law no. 272/2004 on the protection and promotion of the rights of the child regulates, in the content of Art. 102, only the situation in which the abuse, neglect, exploitation and any form of violence against the child was committed by persons who, based on a legal employment or other relationship, provide the protection, raising, care or education of the child. In these cases, the employers have the obligation to arrange the removal of the respective person from the children in their care.

On the other hand, Art. 234 of Law no. 1/2011 of the national education provides that the assignment and maintenance of a teaching position an auxiliary teaching position are conditioned by the presentation of a medical certificate, and according to G.D. no. 355/2007 on the supervision of the health of the workers, with subsequent modifications and

completions, "the mental disorders of any kind and behavioral disorders" are contraindications for the activity of the teaching staff in educational institutions.

However, the same government decision provides that the respective contraindications are relative; they require the evaluation of the relationship between the severity of the medical condition and the constituent factors of the working condition and the evaluation performed by the occupational medicine doctor. In practice, even in the situation of a teacher who has practiced numerous acts of violence against children, the medical evaluation was favorable. Solution: amending and supplementing Law no. 1/2011 of the national education by establishing medical incompatibilities and including behavioral disorders in the category of medical incompatibilities.

● **Constanța Territorial Office:** solved 369 petitions, granted 634 hearings, answered 435 telephone calls through the dispatch service, carried out 136 awareness raising activities / collaboration with other authorities, was notified ex officio in 68 cases, conducted 24 investigations and made 9 recommendations.

Recommendations implemented successfully:

File no. 510/2019 The People's Advocate approved the conduct of an investigation at the "Artemia" Techirghiol Neuropsychiatric Recovery and Rehabilitation Center, following an ex officio proceeding, in relation to the news that a *commission established at the level of the General Directorate for Social Assistance and Child Protection of Constanța County verifies the circumstances in which an employee of the Artemia Techirghiol Neuropsychiatric Recovery and Rehabilitation Center suffered a work-related injury and was admitted to Constanța County Hospital.*

After the event, D.G.A.S.P.C. Constanta took the measure of establishing an administrative investigation commission, in order to establish the factual situation and to identify the persons who are responsible for possible violations of the operational procedures applicable at the level of the center, but at the time of the investigation, the final administrative investigation report was still in work.

The event was registered at the Territorial Labor Inspectorate Constanta as a work accident, being constituted a commission of investigation of the work accident.

Whereas, up to the date of the investigation, the administrative investigation commission of the D.G.A.S.P.C. Constanta did not draw up the *final administrative investigation report, which aimed to establish the factual situation, to identify the persons who are responsible for possible violations of the operational procedures applicable at the level of the center, as well as the measures taken*, the People's Advocate issued **Recommendation no. 112/2019.**

The director of the General Directorate of Social Assistance and Child Protection Constanța, informed us that the **recommendation was accepted**, stating that: the filling of vacancies and temporary vacancies with care staff is being implemented by making available the vacant positions to be occupied through contest, on December 10, 2019 at C.R.R.N. "Artemia" Techirghiol; the process of acquiring training courses for crisis management was started; the Operational Procedure on Crisis Management was elaborated, by C.R.R.N. "Artemia" Techirghiol.

File no. 50/2019 The petitioner notified that following a civil decision of 2017, pronounced by the Constanta Court of Appeal, the Constanța County House of Pensions did not order the recalculation of the seniority pension in his favor, as provided by the final decision device.

The People's Advocate carried out an investigation at the Constanta County House of Pensions. As a result of the identified problems, was issued **Recommendation no. 60/2019**. Constanta County House of Pensions communicated the following:

- at the level of the County House of Pensions, a computer application has been implemented that manages the civil judgments issued by the court, as well as the formulation of reports by the specialized compartment, and the enforcement of the civil sentences;
- all efforts are made to improve the waiting times, the average duration of the requests was considerably reduced, strictly respecting the legal term of settlement;
- following the analysis of the human resource available to the institution, compared to the workload, the additional allocation of a civil servant was ordered, who will have the task of analyzing the applications and solving them by formulating the answers.

File no. 175/2019 Constanta Territorial Office proceeded ex officio following the article "A house was engulfed in flames because of some children who played with fire". In order to clarify the news published in the media, steps have been taken to the General Directorate of Social Assistance and Child Protection Tulcea, the Public Social Assistance Service within the Tulcea City Hall and the "Delta" Emergency Situations Inspectorate of Tulcea County, requesting information regarding:

- the identity and age of the minors, their health status, how much are they being cared of;
- the identity of the legal representatives of the minors, their involvement in the daily activities of the minors; even if they are registered at the social services;
- the causes and circumstances that led to the occurrence of the event;

Analyzing the responses received, as well as the actions taken by the authorities notified, it was found that D.G.A.S.P.C. Tulcea did not take any measures or steps in the case reported in the press. As such, the People's Advocate issued **Recommendation no. 49/2019**.

The General Directorate of Social Assistance and Child Protection Tulcea informed us of all the measures taken, as follows:

- In the structure of the institution, operates the Service for prevention and intervention in special situations, evaluation of minors and criminal deeds, which, according to the law, processes all notifications and own initiative proceedings. At the institution level, the annual average of these notifications is 400 cases of abuse, neglect, abandonment and other specific situations;

- through protocols and working procedures established with the police structures and hospitals in Tulcea county, D.G.A.S.P.C. Tulcea, responds promptly when the intervention of the specialized services is requested. *More attention has been paid at the level of the service to the notifications in which they must carry out actions regarding the identification of the minors and the verifications needed;*

- at the level of the D.G.A.S.P.C. Tulcea operates the Local Intersectoral Team - EIL, a structure made up of representatives of: D.G.A.S.P.C. Tulcea, Tulcea Police Inspectorate, Tulcea Gendarmerie, Tulcea School Inspectorate, Territorial Labor Inspectorate and interested non-governmental organizations. The EIL provides direct communication between the institutions it represents and carries out actions of common interest to the community, schools, child protection services. The director proposes EIL to co-opt in their structure a representative of the Emergency Situations Inspectorate of Tulcea County. With their support, both D.G.A.S.P.C. Tulcea, as well as the EIL, will promote information campaigns on the risks children are exposed to when playing with fire sources and the consequences of fires.

● **Craiova Territorial Office:** solved a number of 406 petitions, granted 288 hearings, answered 292 telephone calls through the dispatch service, carried out 35 awareness raising activities / collaboration with other authorities, proceeded ex officio in 143 cases, conducted 27 investigations and made 6 recommendations.

Recommendations implemented successfully:

File no. 2055/2019 Craiova Territorial Office proceeded ex-officio following the article *Infection outbreak for prisoners and guardians in Pelendava*, who reported that there is an outbreak of infection near Pelendava Penitentiary, half of the inmates have different respiratory and skin diseases due to the fact that the garbage pit of the prison is very close to them.

Thus, an investigation was conducted at the Pelendava Penitentiary, in order to obtain additional information regarding the issues reported.

The findings of the investigation confirmed serious problems.

Following the investigation, the People's Advocate issued **Recommendation no. 105/2019**, by which it requested to be taken efficient and effective measures, of economic-administrative nature, to prevent the repetition of such a situation, as well as to monitor the implementation of the issued recommendation, for a period of at least six months, with an investigation for verification.

File no. 143/2019 Craiova Territorial Office proceeded ex officio after the publication of information in the press, according to which a child from a preparatory class from the National College "Carol I" was diagnosed with scarlet fever.

Following the requests made at the Dolj County School Inspectorate, the Dolj Public Health Directorate and the management of the "Carol I" National College in Craiova, we were informed of the following:

- the case referred to in the press article, was of a child who came to school on the first day after winter holidays and who, after two or three hours, presented a general state of altered health, being taken by his parents to Hospital for Infectious Diseases where he was hospitalized;

- the child was diagnosed with scarlet fever, which, following the laboratory result, negative for the hemolytic group A streptococcus B, was infirmed, being considered a clinical case;

- the contact with the rest of the classmates was for a very short time, the possibility of getting other children sick being small;

- the disinfection of the respective classroom was made;

- the student's mother did not announce the school about the case, so the school doctor found out after a few days about the child's diagnosis;

- the school doctor immediately took the necessary measures in this case, according to the disease surveillance methodology.

- no other case was registered at the level of the community;

- in view of the lack of communication between parents and the school unit, respectively the school doctor, the Department of Public Health Dolj county, through the Department of Communicable Diseases, contacted the school doctor establishing the need for an efficient information system between parents-teacher-school doctor, when there are cases of people getting sick in the community.

The People's Advocate issued **Recommendation no. 73/2019**, addressed to the Dolj County School Inspectorate and to the management of the "Carol I" National College in Craiova.

Dolj County School Inspectorate informed us that the pre-university education units in Dolj County were asked for information on the existence or not of an operational communication procedure between parent-teacher-school doctor, in case of people getting sick in the community.

The National College "Carol I" from Craiova communicated the following:

- the recommendation was discussed in the Board meeting of the College, establishing that there is a collaboration and information relationship between the school medical office and the compartments of the College, including teachers, parents and students;
- the students' health is permanently monitored by school doctors from the medical office of the educational institution;
- at the level of the College there is a procedure regarding the establishment and implementation of an effective information system between parent-teacher-school doctor-school management, in case of emergence of sickness in the community;
- the parents and teachers shall inform the medical office about any case of illness of the students in the community and the management of the educational unit shall permanently monitor the observance of the informational procedures and systems at the level of the College.

File no. 1757/2019 The complainant, a Romanian citizen domiciled in Spain, informed us that he has submitted to the National Institute of Social Security Cuenca, the seniority retirement file, transmitted on October 27, 2017 to the National House of Public Pensions Bucharest, in Romania. At the same time, the complainant claimed that the file was transmitted in February 2019 to the Baia Mare County House of Pensions and subsequently to the Olt County House of Pensions, being registered on March 6, 2019. On August 2, 2019, the complainant returned by telephone to the Olt County House of Pensions, but couldn't find out the status of the file.

As a result of the action taken at the Olt County House of Pensions, we were informed that the complainant was issued the decision on granting community pension rights. At the same time, the Olt County House of Pensions mentioned that the pension decision was transmitted to the complainant on September 16, 2019, by post, at the domicile in Spain. The Olt County House of Pensions also stated that it issued and transmitted to the National Institute of Social Security Cuenca, the forms E205, E210 and the pension decision.

All the authorities notified were open to collaboration, in this sense we mention, for example, Pelendava Craiova Penitentiary, "Ionita Asan" High School from Caracal, "Carol I" High School from Craiova, School Inspectorate Dolj County, Ministry of Education and Research, Department of Social Assistance and Child Protection Olt.

Regarding the **negative side** of the activity of collaboration with the authorities, it is worth mentioning that within the town halls there are no specialized personnel employed in the social assistance departments, the activity of these departments, which should, among other tasks, be the interface between the local communities and the county departments of social assistance and child protection is often dysfunctional, inefficient and purely symbolic. We mention, as example, the social assistance department within the City Hall of Segarcea, Dolj County.

● **Galați Territorial Office:** resolved a number of 113 petitions, granted 331 hearings, answered 331 telephone calls through the dispatch service, carried out 57 awareness raising activities / collaboration with other authorities, proceeded ex officio in 20 cases, carried out 9 investigations and made 2 recommendations.

Authorities open to collaboration:

City Hall of Galați: File no. 77/2019 The complainant has shown that she lives in a building owned by the Municipality of Galați, based on a rental contract. The sheet annexed to the rental contract shows that the holder of the contract (father of the complainant), his son and daughter have the right to live in the respective dwelling.

At the beginning of 2017, the complainant's father gave up the benefit of the contract in the favor of his daughter and demanded the removal of his son from the contract, subsequently dying.

From the documents annexed to the complaint and the claims of the petitioner, her brother is a *"person with whom one cannot live"*, was imprisoned for a period of time, and when he was released, the scandals and threats returned, he is investigated in over 30 criminal cases, does not contribute with anything to the expenses of the house (rent, light, water) and because of this aggressive behavior, the petitioner obtained, in court, several orders of protection against him.

For all these reasons, the petitioner requested in the fall of 2017 that the rental contract be awarded exclusively to her, but she didn't receive an answer.

In order to clarify the aforementioned issues, we addressed the City Hall of Galați Municipality, who informed us: *"Our institution, after being notified of the behavior of (...) formulated an action to terminate the contract and to evacuate him from the living space (...)."*

On 02.12.2019, the Galați County Court admitted the request, terminated the rent contract and ordered the defendant to be evacuated from the building located in Galați.

Galați County Council: File no. 233/2019 As part of the ex officio notification regarding the heliport in Galați, used for interventions by the medical equipped helicopter, which is not approved to fly at night, the Galați Territorial Office requested the Galați County Council to communicate all the data regarding the steps taken at the level the institution, based on the legal competences, including copies of the documents drawn up, for the homologation of the Galați heliport for night flights (September 17, 2019).

The Galați County Council made a presentation of the way in which the county public administration was involved in ensuring the necessary conditions for the proper performance of the activity of the aeromedical service in Galați.

In order to provide the infrastructure facilities needed to operate the helicopter and to carry out humanitarian flights through the Aeromedical and Rescue Operation Point, the Galați County Council has built a hangar and a fuel station for the SMURD helicopter, in the yard of the Border Police, on a land taken by at the Ministry of Internal Affairs.

Also, it is specified that, taking into account the distance between the current heliport and the hospital, the need of the community to benefit from a heliport approved for night flights, as well as the major investment that the Galați County Council makes in the courtyard of the County Emergency Hospital „Sf. Apostol Andrei” (multilevel parking), at the institution level, a Report of necessity and opportunity was prepared for carrying out a technical expertise. This expertise should determine whether it is possible to increase the number of parking spaces by expanding the building vertically with one floor, and to improve the medical activity and improve the chances of saving the life of patients in critical condition by reducing boarding and transport time of patients to the UPU Emergency Unit, if a heliport can be arranged over the last level, approved also for night flights.

City Hall of Galați: File no. 289/2019 The ex officio notification concerned the information presented in the article *The ramps of pedestrian access from Galați, a challenge*.

The representatives of the Galați Territorial Office carried out an investigation at the Galați City Hall.

During the discussions, it was specified that there is concern for the observance of the rights of persons with disabilities and that, for the pedestrian access ramp in front of the town hall, the situation will be remedied as soon as possible, and the Galați Territorial Office will be notified.

On 30.10.2019, we were sent a copy of the minutes of the reception regarding the repair work of the ramps for persons with disabilities (in front of the pedestrian crossing).

File no. 220/2019 The petitioner informed us that he owns a property in a village in the county of Galați. In May 2019, he found that workers from the town hall cut branches from trees on his property, branches that fell on the roof of an annex of the house, damaging its interior too.

The petitioner asked the Town Hall, both verbally and in writing, to repair the respective annex, a complaint to which he received no response until the notification of our institution.

In order to clarify the aforementioned aspects, we addressed the Town Hall of Vânători commune, Galați county.

The authority communicated that from the checks carried out, it was found no fault on the part of the team of workers on the ground and that they consider that there is no causal link between cutting the branches of the trees and the damage of the annex owned by the petitioner.

After analyzing the letter received (which didn't have attached any response to the petitioner), the answer and the proof that it was communicated to the petitioner were requested by telephone numerous times. After the failure of the authority's to respond to these requests, an investigation was ordered.

During the investigation, it was found that, at the level of the town hall, there were **deficiencies** regarding the **knowledge of the specific procedure for solving the petitions and the compliance with it** by the personnel with specific duties within the institution.

The public authority prepared and sent a reply to the petitioner, but, regarding the ignorance and non-observance of the procedure of the document flow by the officials of the specialized apparatus of the town hall, was issued **Recommendation no. 162/2019**.

• **Iasi Territorial Office:** solved a number of 294 petitions, granted 450 hearings, answered 302 telephone calls through the dispatch service, carried out 52 awareness raising activities / collaboration with other authorities, proceeded ex officio in 83 cases, conducted 28 investigations and made 7 recommendations.

Recommendations implemented successfully:

Recommendation no. 7/2019 was issued by the People's Advocate following the findings from the letters received from the medical authorities involved in resolving the issues notified by the media regarding *the case of an obese pregnant woman who waited seven hours for a medical unit to see her*.

The recommendation was aimed at:

- examining the findings specified in the recommendation, in order to respect the medical protocols of inter-clinical transfer, as it results from the application of the provisions of the Order of the Minister of Health no. 1091/2006 regarding the approval of the protocols for inter-clinical transfer of the critical patient;
- undertaking the necessary steps to purchase an operating table which can support patients with morbid obesity.

In this context, the Municipal Emergency Hospital "Elena Beldiman" Bârlad, Vaslui County informed us that it has concluded a collaboration agreement with the Clinical Hospital

of Obstetrics and Gynecology "Cuza - Voda" Iasi, which has a gynecological operating table that can support a maximum weight of 250 kg, for the inter-clinical transfer of the critical patient, however, the procedures for purchasing a more efficient operating gynecological table were initiated, which would also ensure the medical care of obese patients.

Recommendation no. 68/2019 was issued by the People's Advocate following the findings from the letters received from the educational unit and the Ministry of National Education, involved in resolving the issues notified by the media regarding the application of a sanction for a 12th grade student who filmed during the physics class *the laser effect* and shared it on social media, *as well as using a controversial method, lighting a cigarette by a student and producing smoke, to prove the laser effect at the class of physics.*

The recommendation was aimed at:

- compliance with the provisions of Art. 197 of OMECS no. 5079/2016 regarding the Framework Regulation for the organization and functioning of the pre-university education units and its effective application by prohibiting the use of experimental methods outside the legal framework established by the Ministry of National Education;

- compliance with the provisions of Art. 86 of Law no. 1/2011 of the national education, in the sense that the violation of any part of the educational contract is sanctioned, meaning that the vice of a student cannot be exploited for didactic purposes;

- implementation of methods of teaching physical phenomena in accordance with the school programs, which include methodological suggestions agreed by the Ministry of National Education and which could not endanger the health and integrity of any of the parties involved in the educational act.

The management of the "Mihail Kogălniceanu" High School Vaslui informed us that:

- Recommendation no. 68/2019 was presented and processed in the meeting of the Teachers' Council on September 23, 2019. At the same time, the homeroom teachers were asked to inform the students once again of the provisions of OMENCS no. 5079/2016, with emphasis on the provisions of Art. 197;

- educational contracts have been concluded for the newcomers to the unit (5th and 9th grade), whose provisions have been processed with both primary and secondary beneficiaries of pre-university education, as defined by law;

- were re-posted at the headquarters of the educational unit texts extracted from Law no. 1/2011, with the subsequent amendments and completions and OMENCS no. 5079/2016.

Recommendation no. 84/2019 was issued by the People's Advocate following the conclusions of the answers received from the authorities involved in solving the ex officio notification regarding the case of *a minor in the village of Fâstâci, Cozmești commune, Vaslui county, without parental protection, since both parents are deceased, raised by his grandmother. The woman asked the local authorities in the commune if she could receive support allowance after the death of her nephew's father, but did not receive any help, moreover, the authorities threatened her that if she asked to take the boy into the placement in her home, she would be left without him, because she has no conditions to raise a child.*

The recommendation was aimed at:

- respecting the principle of the best interests of the child;
- initiate and promptly undertake specific actions to respect the right to alternative protection of minors who are not protected by their parents or cannot be left in their care, and a closer and more efficient collaboration with the D.G.A.S.P.C. Vaslui;

- compliance with the provisions of Art. 111 paragraph (1) lit. d) of the Civil Code;

- streamline the monitoring of all minors in the community and prevent similar situations in the future, by actively participating in the advisory community council in identifying risk situations.

The mayor of Cozmești commune, Vaslui county informed us that the following measures have been taken:

- reorganization and planning of working meetings with the members of the Community Advisory Council;
- updating the Regulation on the organization and functioning of the Consultative Community Council;
- monitoring single-parent families and families from disadvantaged communities;
- organizing the data and information to ensure a good flow of the information and documents within the social assistance system;
- emergency placement of the minor to the maternal grandmother and take steps to clarify the legal situation, so that she can obtain the guardianship of the minor;
- monitor the school attendance and provide assistance and support to the child's grandmother in order to ease the task of raising, caring for and educating the child.

Recommendation no. 138/2019 was issued by the People's Advocate in the resolution of petition no. 971/2019, formulated by a petitioner regarding the exemption from the payment of urban transport by means of public transport and as a result of the response of the County House of Pensions Iasi, stating that *the petitioner cannot benefit from a monthly transport subscription based on Art. 5 lit. b) of Law no. 189/2000, which refers only to the granting of free urban transport, because he lives in the village Uricani, Miroslava commune, but could benefit from facilities granted by Law no.92 / 2007 on public transport services for persons in territorial administrative units.*

The recommendation was aimed at:

- respecting the principle of non-discrimination, equal treatment of all beneficiaries of Law no.189 / 2000;
- compliance with the provisions of Art. 5 lit. b) of Law no. 189/2000, in accordance with the will of the legislator, without conditioning the domicile on the radius of the municipality, taking into account also the persons, who reside in other localities of the county and are entitled to this facility, as well as of the Order of MMSS no. 97/2003 regarding the approval of the Instructions for the settlement of the special tickets for free travel by road and river means of transport to the beneficiaries of special laws.

The County House of Pensions Iași informed us that **it will comply with the recommendation made by the People's Advocate** if the urban public transport operator will present for reimbursement the travel subscription of the beneficiary of the allowance, valid for the urban public transport from Iași. At the same time, the petitioner returned to the Iași Territorial Office and informed us that he submitted all the necessary documents and received from the Iași Public Transport Company the monthly subscription for urban transport, and this company will send the nominal table with the beneficiaries who received public transport subscriptions based on special laws, the centralization for the reimbursement of the respective month and the copies of the proof of payment for reimbursement to the Iasi County House of Pensions.

- **Oradea Territorial Office:** solved a number of 126 petitions, granted 416 hearings, recorded 340 telephone calls through the dispatched service, carried out 30 media activities /

collaboration with other authorities, was notified ex officio in 33 cases, carried out 23 investigations and made 11 recommendations.

Recommendations implemented successfully:

The Oradea Territorial Office conducted an investigation at the D.G.A.S.P.C. Satu Mare and the "Cristiana" Neuropsychiatric Recovery and Rehabilitation Center in Carei, as a result of the information published in the press regarding a young woman from this center, who arrived at the Satu Mare Emergency County Hospital, where she was hospitalized, following a beating received from another beneficiary of the center. The young woman, suffering from a mental disability, has been repeatedly raped in recent months by at least two men admitted to the same center.

The People's Advocate issued **Recommendation no. 100/2019**, addressed to the General Director of the General Directorate of Social Assistance and Child Protection Satu Mare. The Authority has ordered measures that have been properly implemented at the Center for Neuropsychiatric Recovery and Rehabilitation "Cristiana" in the Municipality of Carei, as follows:

- the young woman who was involved in the event that took place on June 9, 2019 was transferred to the Care and Assistance Center for Persons with Mental Handicap „A new life” in Satu Mare;
- the operational procedures for identifying / reporting and resolving cases of abuse, violence and special incidents were processed with the staff of the center;
- the special incidents should be recorded in the Register of special incidents set up at the center level;
- advocate for the development and improvement of the activities focused on the recovery and rehabilitation of the neuropsychiatric beneficiaries by conducting occupational therapies, educational and recreational activities, in accordance with the Individual Intervention Plan elaborated by the multidisciplinary team and considering the purpose for which this social service was established;
- there has been a supplementation of posts for a better supervision of the assisted persons with severe deficiencies.

File no. 533/2018 The Oradea Territorial Office carried out an investigation at the Special Technological High School no. 1 Oradea, following the information published in the press regarding the incident that took place in the courtyard of this school, where a 17-year-old decided to have fun in a disgusting way.

The People's Advocate issued **Recommendation no. 10/2019**, addressed to the director of the Special Technological High School no. 1 Oradea, which by virtue of its prerogatives, should take measures for: introducing clear mentions on how to submit and resolve notifications at the level of the educational unit in the Regulation for the organization and operation of the Special Technological High School no. 1 Oradea, respectively in the Internal Regulation of the unit; updating the procedures for ensuring the safety of children in school; supplementing the surveillance objectives in vulnerable places where deviations from the norms of behavior frequently occur; ensuring the psychological counseling of the students involved in the act of sexual assault; updating the job description for all personnel categories and having the persons concerned sign it; establishing a way of ensuring the responsibility for the safety of the students both inside the school unit and in the activities carried out outside it.

The following measures were taken to implement the recommendation:

- supplementing by additional acts the Regulation for the organization and operation of the Special Technological High School no. 1 Oradea, as well as the Regulations for the operation of the Boarding School;

- Preparation of the Measure Plan for ensuring the safety and security of the students in the premises and the perimeter of the school unit;
- supplementing the number of surveillance objectives in vulnerable places;
- psychological counseling of the students involved in the act of sexual assault, as well as of other students with behavioral vulnerabilities, through a protocol between the school and the Bihor County Center for Resources and Educational Assistance;
- working meetings with the doorkeepers and the representatives of I.P.J. Bihar;
- modify the object of activity with the guard and protection company;
- reorganization of students in boarding schools, by classes and age groups;
- improving the conditions for spending free time in the boarding school, installing computers connected to the Internet;
- performing repeated checks in the boarding school;
- conclude partnerships with different institutions for the prevention and socio-professional integration for the students with special educational requirements in the school.

Recommendations ignored by authorities:

File no. 282/2018 Oradea Territorial Office proceeded ex officio, following the information published in the press regarding a patient admitted to the Municipal Clinical Hospital "Dr. Gavril Curteanu" from Oradea, in the infectious diseases ward, with 39-degree fever, monitored by nurses and kept under control by perfusions for several days. The patient was left without any medical treatment, because the staff was working after-hours since Sunday. Feeling worse, the patient asked for help and because no one was not answered, he tried to contact the attending physician, by writing to him on Facebook. In the absence of an answer, he called the 112 Service, where he was informed that because he was already admitted to a hospital, the emergency services could not help him.

The People's Advocate issued **Recommendation no. 13/2019**, addressed to the manager of the Municipal Clinical Hospital "Dr. Gavril Curteanu" Oradea, who should: take measures to equip the Infectious Diseases Section II with a technical system to alert the medical staff and to establish a procedure for increased attention in the surveillance and treatment of the unpredictable patients, who manifest agitation and unrest.

The management of the Municipal Clinical Hospital „Dr. Gavril Curteanu” Oradea refused to accept the recommendation, submitting a preliminary complaint in the first phase, then challenging it in court.

Considering the refusal to accept the recommendation, the higher hierarchical authority was notified, the Oradea Local Council, which refused to accept the recommendation as well, and subsequently the competent central public authority, the Ministry of Health, was notified.

File no. 183/2019 A petitioner asked for our support in connection with an application addressed to the Satu Mare County Pension House on May 5, 2019, by which he renounced his own pension, but chose to be granted the survivor's pension after the husband deceased on the date of November 29, 2001. The petitioner did not receive a written response, however, at the beginning of October 2019 she was contacted by telephone by a representative of the Satu Mare County Pension House, who requested her deceased husband's employment history book. The petitioner stated that she did not have the employment history book, as it was deposited by the deceased husband at the Satu Mare County House of Pensions, on the occasion of her retirement, in 2000.

Following this request, the notified institution informed us that the application of the petitioner was admitted, therefore, the decision on granting the survivor's pension was issued.

● **Pitești Territorial Office:** solved a number of 296 petitions, granted 780 hearings, answered 296 telephone calls through the dispatch service, carried out 51 awareness raising activities / collaboration with other authorities, proceeded ex officio in 13 cases, conducted 6 investigations and made 8 recommendations.

Recommendation implemented successfully:

The People's Advocate issued **Recommendation no. 69/2019**, addressed to the head of the State Inspectorate for Construction, which was accepted and implemented, in the sense that he notified the Arges County Prefect Institution to proceed with the cancellation of the building authorization no. 657 / 23.08.2018 by way of administrative litigation court (the case is pending before Argeș Tribunal).

Also, as the chief architect of the Pitești City Hall did not implement the measures ordered by the report of finding and sanctioning the contraventions, the Regional Inspectorate for Constructions Sud Muntenia - I.R.C. initiated the procedure for implementing measures against the offender. I.R.C. Muntenia Sud was notified by the City Hall of Pitești that the measures stipulated in the control report were implemented by completing the technical documentation annexed to the authorization of construction with written and drawn pieces. The way of accomplishment was verified at the headquarters of the Pitești City Hall by the inspectors I.R.C. Muntenia Sud and confirmed. **Order no. 1722 / 25.10.2019** for the completion of the Order of the Inspector General no. 1458 / 12.08.2019 regarding the establishment of organizational measures at the level of the regional / county inspectorates in constructions through which **was established the obligation of the regional / county inspectorates to collaborate with the public authorities / institutions** organized at the local level, as well as with other institutions, within the limits of the duties and competences of the State Inspectorate for Constructions - ISC, established by the normative acts in force as well as of the mandate received from the inspector general of the ISC, the above-mentioned provisions being agreed with the provisions of Art. 34 lit. d) and Art. 36 and letter f) of Order no. 2644 / 27.09.2016 for the approval of the regulation of organization and functioning of the State Inspectorate for Construction - I.S.C., with the subsequent modifications and completions.

File no. 31/2019 The petitioner notified the Pitești Territorial Office about the delay in the resolution of some requests by which he asked the Vâlcea County House of Pensions, during 2018, the payment of the rights for the survivor's pension after his father - Romanian citizen, deceased in Austria, with the last domicile in this country.

Steps were taken at the Arges County House of Pensions, which informed us that in 2016, in favor of the petitioner, was issued the decision regarding granting the survivor's pension after the deceased supporter for the seniority achieved in Romania.

The Vâlcea County House of Pensions submitted to the Austrian authorities the European forms for applying for the survivor's pension from Austria, with a follow up on March 10, 2017. On March 30, 2018, the form E001 was sent to Austria regarding the information regarding the seniority in Romania, as additional documents regarding the deceased's activity in Romania were received.

Until the date of the intervention of the People's Advocate institution the Austrian institution has not issued the pension decision. As the entitlement to the survivor's pension is included in the category of social security rights provided by the Austrian legislation in the chapter of the orphan's pension – Waisenpension – which is granted to young people up to 27 years old if they attend a vocational school or university studies, and the settlement of the application has been delayed, steps were taken to the Austrian Ombudsman Board.

The Austrian Ombudsman informed the People's Advocate that they had already contacted the director-general of the Austrian Pension Agency and requested a statement on the subject. Subsequently, the Austrian Ombudsman could establish that the Romanian insurance provider sent, on November 8, 2016, a request to establish the right to the survivor's pension for the petitioner, after her father's death and that this request was received by the Pension Agency of Austria on November 22, 2016. Unfortunately, the Austrian Pension Agency did not process the request, and all the additional follow-up letters sent by the Romanian insurance provider also went unnoticed. The Austrian Ombudsman informed the People's Advocate that the necessary measures have been taken for the immediate processing of the claim for the survivor's pension. The administrative decision granting entitlement to benefits was issued to the petitioner during October and may be subject to the remedies provided for by Austrian domestic law.

Starting from this case, the Pitești Territorial Office requested, both the Vâlcea County House of Pensions and the Argeș County House of Pensions, updated data on the applicants for community social benefits existing in the records of these two authorities for which requests were made to the similar institutions from the European community area to which, until 2019, no response has been formulated. Following this step, the two authorities transmitted the requested data. Currently, they are being analyzed in terms of the legality conditions and the opportunity to request legal correction through the intervention of the People's Advocate at Ombudsman institutions in Europe.

File no. 804/2019 The complainant notified the Pitești Territorial Office, mentioning that she is the grandmother of a 10-year-old minor, a pupil in primary education at the school in the locality, who is in social risk situation, since the mother of the child left the family leaving him without care and education and his father is in the penitentiary where he carries out a sentence of deprivation of liberty. The minor's mother refuses to hand over to the grandmother who takes care of the child, his birth certificate in original.

The General Direction for Social Assistance and Child Protection Argeș was notified to initiate the procedures regarding the special protection of a child temporarily or permanently deprived of the protection of his parents.

This authority informed us that it proceeded to evaluate the situation of the minor and of his family, in order to identify the relevant legal issues in this case, the possible violations of the rights of the child, the way of exercising the parental rights and obligations, in order to intervene properly with respect for the best interests of the child.

In this regard, following the verifications made by D.G.A.S.P.C. Argeș regarding the situation of the minor, it was found that he was deprived of parental protection, the father being arrested, and the mother not assuming the responsibility of raising and caring for the minor. The measure of emergency placement of the child to the paternal grandmother was established, by the order of the general director D.G.A.S.P.C. Argeș, the file being submitted to the court to rule on the situation of the minor in question.

Cases where we have been met with reluctance by the authorities:

File no. 651/2019 The Pitești Territorial Office was notified by several petitioners from Râmnicu Vâlcea Municipality who showed that they had been relocated to the neighborhoods Căzănești and Copăcelu, as a result of the salt spills in Fields I and II of Ocnele Mari wells.

As a result of the controlled collapse of these fields of wells, in March 2009 they *were forced to abandon their households* and move to new homes built for them. In 2010 and 2011, respectively, between the petitioners and the Ministry of Economy, Commerce and Business

Environment, through S.C. for the Conservation and Closure of Conversmin Mines S.A., were concluded bailment agreements for a fixed period of one year.

In 2011, some of these agreements expired but, as a result of the pressures exerted on the beneficiaries by the utility providers, new bailment agreements were concluded for an indefinite period between the displaced persons, the Ministry of Economy, Trade and Business Environment, through S.C. for the Conservation and Closure of Mines S.A. Bucharest with firm assurances that, in the shortest time, the ownership rights for the new homes will be transferred.

In the meantime, they are required to pay the tax for the buildings from which they were relocated and which, either no longer physically exist because they were demolished by the City Hall of Ocnele Mari, collapsed or were devastated and are in an advanced state of degradation or they are inhabited by homeless people (who, in their turn, are exposed to the risk of harm in the event of a collapse). The authorities have aggrieved the rights of the respective persons because they cannot conclude the compulsory home insurance or the succession documents (some of the holders have passed away during this time), they cannot obtain identity documents for children who have turned 14 years old. (according to the legislation in force the bailment agreement is not a valid document for issuing the identity card).

The Pitești Territorial Office requested clarifications from the Vâlcea County Prefect Institution, which announced that:

- 37 families were displaced from the locality of Ocnele Mari;
- for these 37 dwellings no exchange contracts were concluded, as there was a dispute in court between S.C. Conversmin S.A., the Court of Accounts and the Ministry of Economy, because one of the measures ordered by the Court of Accounts is the reassessment of the new homes compared to those owned by the people displaced and the payment of the amount representing the difference by the owners (the measure was canceled by the High Court of Cassation and Justice).

The Pitesti Territorial Office asked the Legal and Institutional Relations Department of the Ministry of Economy to undertake the necessary and legal diligence for issuing the normative act regulating the legal situation of the buildings in which the petitioners live, having fulfilled all the conditions of opportunity and legality.

The authority informed us that it issued the advisory opinion both on the draft normative act requested by the People's Advocate institution and on the one subsequently issued by the Mineral Resources Department, without specifying, however, whether it is favorable and when it was issued. In view of the aspects presented, it was proposed to conduct an investigation at the headquarters of the Ministry of Economy, during January 2020.

- ***The Ploiești Territorial Office:*** solved a number of 310 complaints, granted 1101 hearings, answered 753 telephone calls through the dispatch service, carried out 261 awareness raising / collaboration activities with other authorities, proceeded ex officio in 19 cases, carried out 31 investigations and made 22 recommendations.

Recommendations implemented successfully:

File no. 235/2019 According to the information published in the press, at the "Nicolae Bălcescu" High School in Ploiești there was a conflict between two colleagues of the same age, in the school yard, immediately after finishing the class hours, during which a student of the school hit his head on the curb and was taken to the hospital.

In this case, the People's Advocate proceeded ex officio and conducted an investigation, following which deficiencies were found in providing security and access

control services for the outdoor spaces, and the operational procedures regarding the access of students and people from outside in the school premises (both in the school building and in the school yard) had to be revised, as they did not provide adequate protection for the students.

To remedy the deficiencies found, was issued the **Recommendation no. 42/2019** to the management of the school who expressed their interest in properly solving the deficiencies and ensuring an increased protection for the students of this school, respectively, were revised the specific procedures for ensuring the guard and the access of the people in the educational unit.

File no. 527/2019 In the local press, was published a news report on the situation of the students attending the classes of "Spiru Haret" College in Ploiești and to whom access to the school unit was prohibited, if they arrived late at the first class. In addition to the unmotivated absences received by these students because they were late, they were also denied access into the premises of the school unit.

The Ploiești Territorial Office proposed the ex officio notification and an investigation at the "Spiru Haret" Ploiești College.

Following the investigation, it was found that the measure of forbidding the access of the students to the school unit, after the beginning of the class, was found in the Operational Procedure regarding the access of the people into the school unit, approved by the Board of Directors on October 23, 2019. Even the commuting students did not derogate from this access procedure. According to this procedure, during the class hours, the access of the students to the school premises and leaving the school premises are prohibited. At the time of the investigation, it was found that several students were kept at the gate of the College "Spiru Haret" Ploiești, regardless of the weather conditions.

At the same time, in the respective procedure there were found provisions contrary to the legislation adopted at national level (Order no. 5079/2016 regarding the approval of the Framework Regulation for the organization and functioning of the pre-university education units and Order no. 4742/2016 for the approval of the Student Statute) regarding student's access to education, which cannot be limited by measures such as the prohibition of participation in classes, the only national sanction regulated for not attending class hours being that of the absences noted in the catalog for each student who commits the respective misconduct, therefore it was necessary to promptly correct this measure so that students can have unlimited access to education, but also to watch for the safety / health of the students during the school program, otherwise there is the possibility that they can find themselves in certain contexts / situations of risk (going to bars or various promiscuous places where they can develop antisocial behavior, etc.).

In view of these aspects, the People's Advocate issued **Recommendation no. 132/2019**, addressed to the director of the "Spiru Haret" College in Ploiești Municipality, who was asked to regulate the access into the school unit for students who, for various reasons, are late to school classes, so that their access to education is not limited, but also to avoid the occurrence of possible risk situations for the physical / mental integrity of these students.

The recommendation was accepted, being eliminated from the access procedure the provision that prohibited the access of the students in the school unit after the beginning of the classes, thus ceasing to exist the restriction of access to education.

File no. 377/2019 The petitioner requested the support of the Ploiești Territorial Office, pointing out that he repeatedly asked the officials of the Directorate for Persons Record within the Buzău City Hall to proceed with the registration of the birth of his child (born at the Buzău Maternity Hospital), and he was refused the issuance of the birth certificate,

although he submitted all the necessary documents, the legal deadline for issuance being exceeded.

The petitioner specified that the officials of the Buzău City Hall justified their refusal to issue the birth certificate by the fact that his wife, a Belgian citizen, did not change her identity card following the marriage and she does not appear in the database with the name for which she opted at the moment of the marriage in Romania.

Both the petitioner and his wife stated that they requested the support of the local authority for the correct understanding of the situation they are facing, namely the impossibility of changing the identity document of the wife in correlation with the name obtained after the marriage, this situation being caused by the state specific legislation of the Belgian State who establishes the obligation of the woman – a Belgian citizen – to keep her last name, acquired at birth, throughout her life, regardless of the number of marriages concluded.

In view of the situation created, we considered it appropriate to turn to the Directorate for Persons Record and the Administration of Databases Bucharest, which informed the officials of the Buzău City Hall that the birth certificate of the son of the petitioner can be issued. The petitioner informed us subsequently that he came into possession of his son's birth certificate.

File no. 446/2019 The petitioner notified the Ploiești Territorial Office regarding the delay in correcting a property title, by administrative means, as provided for in the provisions of the Order no. 700/2014 to A.N.C.P.I. regarding the approval of the Regulation of approval, reception and registration in the cadaster and land records.

At the same time, the petitioner specified that although it had been three years since he had submitted numerous written requests to rectify this error, he was not given the properly corrected property title, being unable to discuss the succession after the death of his father.

The County Commission for Land Fund Dâmbovița has approved the revocation of the wrong title of property and the issuance of a new title on the correct name of the petitioner. The institution of the Prefect of Dâmbovița County has indicated to us that all the documentation was submitted to the Office of Cadaster and Real Estate Advertising in Dâmbovița, in order to issue the new title of property.

Recommendations ignored by authorities:

File no. 279/2019 In June 2019, an investigation was carried out at the Medical Social Unit Boldești Scăeni, Prahova county, following the petitions received both at the headquarters of the People's Advocate Institution and at the Ploiești Territorial Office, regarding the desperate situation of a 82 years old person, who, after his discharge from the Ploiesti Psychiatric Hospital, was no longer admitted to this unit.

During the investigation were found irregularities, and to remedy them was issued **Recommendation no. 41/2019** regarding the revision of the Regulation of the internal order, and of the operational procedures in order to improve the way of carrying out the activities, to respect the right to health of the beneficiaries and to avoid similar situations, in the future.

Both during the checks and after the issuance of Recommendation no. 41/2019 to the management of the U.A.M.S. Boldești Scăeni, difficulties were encountered, as the requested documents were made available to us with delay, some of them were in draft form (without being signed, stamped, registered) or were not prepared in accordance with the provisions of Order no. 600/2018 of the General Secretariat of the Government. Moreover, some procedures were not developed and implemented even after the recommendation was issued.

As the recommendation was not fully accepted by the management of the U.A.M.S. Boldești Scăeni, the City Hall of Boldești Scăeni was notified.

Subsequent to the notification of the hierarchically superior institution, the U.A.M.S. Boldești Scăeni sent an information note regarding the acceptance of Recommendation no. 41/2019, together with copies of the operational procedures elaborated in accordance with the current legal provisions, as well as the proof of training the personnel of this unit to apply them properly.

● **Suceava Territorial Office:** solved a number of 208 petitions, granted 200 hearings, answered 133 telephone calls through the dispatch service, carried out 36 awareness raising activities / collaboration with other authorities, proceeded ex officio in 98 cases, conducted 9 investigations and made 5 recommendations.

Recommendations implemented successfully:

Recommendation no. 30/2019, issued by the People's Advocate following an ex officio notification that had as object a case of neglect of a child, who arrived at the hospital malnourished and dehydrated.

During the verifications carried out, it was found that the monitoring of the child by the representatives of the City Hall of Manoleasa, Botoșani County, was deficient, being identified problems including in the preparation of the issued documents, which led to the suspicion that the visits following which the reports of November 14, 2018 and December 8, 2018 were prepared, were not actually carried out, therefore the **Recommendation no. 30/2019** was issued.

The mayor's office of Manoleasa commune, Botosani county informed us that the necessary measures were taken to verify the way in which the civil servants with duties in the field of social assistance within the local authority fulfill their obligations provided by the Framework Regulation for the organization and functioning of the social assistance compartment organized in the communes, as well as those established by Art. 118 of Law no. 272/2004 on the protection and promotion of the rights of the child, republished, with subsequent amendments and completions.

Recommendation no. 128/2019, issued by the People's Advocate since the Suceava Preventive Arrest and Detention Center did not do all the due diligence to take the necessary measures in order to respect and protect the rights of persons deprived of liberty, established by the Implementing Regulation of Law no. 254/2013 regarding the execution of the punishments and measures of deprivation of liberty ordered by the judicial bodies during the criminal trial.

Following the recommendation, the Preventive Arrest and Detention Center (CRAP) communicated the following:

- the personnel that carry out their activity within the Suceava County Police Inspectorate have been trained on the proper knowledge and application of the Regulation for the application of Law no. 254/2013;
- the investigations of the persons deprived of liberty in the premises of CRAP Suceava, are conducted in the investigation room no. 3 of the center, equipped with audio-video recording equipment, with the obligation to present in advance a written document that allows to establish the authenticity of the name and first name of the person who will listen, and the identification data of the person / persons to be listened to;
- the persons who request to enter the CRAP have to hand over their mobile phones, as well as the weapons and ammunition they might have the right to carry due to their job.
- properly fill in the standardized documents existing at the CRAP level.

Authorities that have been open to collaboration:

Gorbănești town hall, Botoșani county - for the openness that it proved to solve the problem related to the commissioning of the toilets built at the Gymnasium School no. 1 Gorbănești.

File no. 105/2019 The People's Advocate approved the ex officio notification regarding the aspects mentioned in the article *A mayor from Botosani made a two-story toilet in the commune school, but he is forced to keep it closed / In Romania, 2,355 schools have toilets in the yard*, reporting that the students of the Gymnasium School in the commune of Gorbănești, Botoșani county, although they have a new toilet built next to their school, cannot use it, because the opinion of the Inspectorate for Emergency Situations (ISU) is missing.

Following the steps taken, the mayor's office of Gorbănești commune quickly answered the requests of the Suceava Territorial Office, the case being solved by making available to the students the toilets built at the Gymnasium School no. 1 Gorbănești, based on a provisional reception report, and the local authority will subsequently take the necessary steps to obtain the opinion of the I.S.U. Botosani. This decision implies the obligation to install hydrants, which in turn cannot be installed in the absence of an adequate water source necessary for this purpose, an inconvenience which will be solved, given that the financing contract was signed through PNDL2 for the objective INSTALLATION OF WATER NETWORK in the localities Vânători and Gorbănești, the public procurement procedure for this objective being already started.

"Vasile Cocea" Technological High School Moldovița, Suceava County - for the way it handled the consequences of a case of bullying in the school unit - Argel Gymnasium School and the promptness it showed in communicating with the Territorial Office Suceava.

File no. 408/2019 The People's Advocate proceeded ex officio regarding the issues reported in the news article *Student filmed while he was mercilessly beaten by a colleague at a school in Suceava*, in which there was a possible case of manifestation of the bullying phenomenon in the Gymnasium School Argel, Moldovița commune, Suceava county (school unit coordinated by the "Vasile Cocea" Technological High School Moldovița, Suceava county), consisting of the physical aggression between two students, which took place in a classroom, to the applause of their colleagues.

The school has taken **measures to sanction the two students involved in the acts of violence** as well as those who have attended, because they did not immediately announce the teacher on duty / homeroom teacher (written reprimand and the associated sanction of lowering the mark for behavior to 8 for the two students who hit each other, respectively to 9 for the students who filmed and shared the video, without announcing the homeroom teacher and the teacher on duty).

Regarding the psychological rehabilitation and social reintegration of the children directly involved in the conflict, as well as those who witnessed the violence scenes which took place in the Argel Gymnasium School, the support was requested from the County Center for Educational Resources and Assistance (CJRAE) Suceava, which provided psychological counseling of the students involved, their parents, as well as the teachers of the Argel Gymnasium School, coordinated by the "Vasile Cocea" Technological High School Moldovița.

The school unit has identified the best solution, correctly taking into account the incidence of Art. 26 of the Order of the Ministry of National Education and Scientific Research no. 4742/2016 according to which, if the students will show a behavior without misconduct during a period of at least 8 weeks of school, until the end of the semester or of the school year, the provision regarding the drop in the mark for behavior, associated with the sanction, may be canceled.

In 2019 there were cases when some authorities and public institutions **did not provide the necessary support** to the People's Advocate institution, which resulted in exceeding the term of resolving the files: Moara Town Hall, Suceava County, Stăuceni Town Hall, Botosani County, Emergency County Hospital "Sfântul Ioan cel Nou" Suceava, Bosanci Town Hall, Botosani County.

Proposals for legislative changes:

- Art. 4 paragraph (1) of Law no. 35/2007 regarding the increase of the security in the educational establishments provides as follows: *The county councils, the General Council of the Municipality of Bucharest and the local councils **allocate, within the approved budgets, financial resources necessary for the realization of the fences, ensuring the security of the buildings of the educational units (...).***

The phrase "*within the approved budgets*" limits the possibility of allocating even minimal funds for increasing security in educational establishments (for example, ensuring guard), since local authorities that do not have sufficient financial resources necessary for their proper functioning will not make efforts to allocate the money to implement measures to increase safety in school units in local communities. Solution: delete the phrase "*within the approved budgets*" and identify the financial resources from the general budget to cover these expenses;

- creating the legal framework that will reduce the existing ratio of 1/800, representing a school psychologist to 800 students. Purpose: to reduce cases of violence in schools and to provide the optimum framework for psychological counseling of students in various educational units;

- by the Government Decision no. 502/2017 regarding the organization and functioning of the commission for child protection, was repealed the Government Decision no. 1437/2004 regarding the organization and the methodology of operation of the commission for child protection, after this modification the representative of the territorial police inspectorate no longer being member in the commission for child protection, specialized body, without legal personality, of the county council, respectively of the local council of the Bucharest Municipality, with decision-making activity in the matter of protecting and promoting the rights of the child.

The commission for child protection remained with seven members, as provided by the old regulations, but its composition has changed as follows: the representative of the territorial police inspectorate is no longer member, and was added as member a new representative of the private bodies accredited, proposed by the secretary of the county, respectively of the Bucharest Municipality, so that at this moment, according to Art. 3 paragraph (1) letter f) the commission for child protection operates with two representatives of the accredited private bodies, proposed by the county secretary, respectively of the Bucharest Municipality – members. Solution: the need to promote a normative act to create the legal framework for the re-establishment of the membership of a representative belonging to the territorial police inspectorates, in the child protection commission. This measure could contribute to a better management of the situation of children predisposed to leave the residential type centers of the general directorates for social assistance and child protection, as well as to identify more effective methods of preventing such cases.

• **Territorial Office Târgu-Mureș:** solved a number of 151 complaints, granted 750 hearings, answered 256 telephone calls through the dispatch service, carried out 97 awareness raising activities / collaboration with other authorities, proceeded ex officio in 12 cases, conducted 12 investigations and made 11 recommendations.

Recommendation implemented successfully:

As a result of the petition addressed by a person deprived of liberty in the Miercurea Ciuc Penitentiary and who claimed an alleged violation of his rights, an investigation was carried out at this penitentiary.

Following the investigation, the People's Advocate issued **Recommendation no. 44/2019**, regarding the observance of the mandatory minimum norms for conditions of accommodation of the persons deprived of liberty, by ensuring the minimum surface of 4 m² / prisoner and of the provisions of O.G. no. 27/2002 regulating the activity of petitions solving.

The Miercurea Ciuc penitentiary informed us that the following measures were taken:

- in order to reduce overcrowding, it will request an analysis from the National Administration of Penitentiaries regarding the possible transfers to Miercurea Ciuc Prison;
- more careful supervision regarding the communication of the response within the term provided by the law, to the petitions filed by the persons deprived of liberty (the petitioner submitted during the period February 28 – June 26, 2019, a number of 149 requests, and the management of the penitentiary is aware about a single situation in which it was not answered in time).

Authorities that have been open to collaboration:

File no. 643/2019 Ex officio notification regarding the situation of some children who, while they were in a sports camp in the town of Borsec, were transported to different hospitals with symptoms of food poisoning.

Following the steps taken, the Harghita Public Health Directorate and the Veterinary Health and Food Safety Directorate Harghita presented in detail information regarding the diagnosis of the children admitted to hospitals, the evolution of their health status, as well as the measures taken and the sanctions applied to the service operator responsible for the event presented in the media.

The conclusions were that it was an outbreak of food poisoning with 16 patients, produced as a result of hygienic-sanitary deficiencies in the restaurant of the complex, regarding: temperature monitoring in refrigerated spaces, handling of raw materials, use of disinfectants, presence in the unit of employees infected with *Stafilococcus aureus*. In this case the contravention sanction was applied according to the provisions of G.D. no. 857/2011, and the complementary sanction of temporary suspension of the activity of the unit.

File no. 251/2019 Ex officio referral in a situation of concern for the entire community, in the sense that medical units of regional interest, with a considerable number of patients and employees - the Clinic of Urology, Radiology and the Morgue of the County Clinical Hospital in Târgu-Mureș, are dumping in the sewage system of the city, toxic solutions used in the specific activity, biological products and liquid secretions with septic potential, without any pre-treatment according to the environmental norms. At the same time, it was said that this state of affairs has been perpetuated for a long time, as there is no wastewater treatment station in the buildings where the medical activity is carried out (operating rooms, laboratories, treatment rooms, medical offices, salons, radiology, sterilization, morgue), an improvised pre-treatment system is used, so that the liquids spilled into the city sewer exceed the maximum contamination limits admissible.

The following actions were taken at: Mureș County Council, Mureș Public Health Directorate, Târgu-Mureș County Clinical Hospital, Târgu-Mureș County Emergency Clinical Hospital, Mureș Environmental Protection Agency and the Mureș County Environmental Guard, resulting the following:

- the water resulting from the laboratories and the infectious sections are subjected to a process of disinfection with chlorine based substances;

- the waste water from the orthopedics-traumatology sections are settled in local installations where bulk gypsum is still used;
- wastewater from kitchens and laundries are passed through fat, mud and sand separators;
- the resulting toxic solutions are collected and disposed of as waste by authorized operators.

All the sanitary units monitor the parameters of the water discharged into the sewerage network, the analyzes being carried out by the accredited laboratories.

The Mureș County Clinical Hospital and the Târgu-Mureș County Emergency Clinical Hospital hold environmental authorizations for each site where they carry out medical activity, issued following the completion of the regulatory procedure according to the legislation in force. At the last efficiency check in accordance with NTPA 022/2002, the analysis bulletin showed that the parameter values fall within the maximum allowed limits. Also, a collection and analysis of the waste water was carried out, following the ex officio notification, and from the test report no. 19137881/1/2019 it resulted that the collected sample does not exceed the maximum limits / concentrations allowed provided in NTPA 002/2002 of G.D. no.188/2002.

File no. 609/2019 The complainant requested the support of the Târgu-Mureș Territorial Office, showing that her minor daughter is classified as seriously disabled with the need of a personal assistant, according to a decision of the Child Protection Commission of December 2017.

The complainant argued that from the date of issuance of this decision, by the order of the mayor of the Sărmașu City, it was granted the monthly allowance starting with February 1, 2018, for the duration of validity of the certificate attesting the serious disability.

In May 2019, she addressed the General Directorate of Social Assistance and Child Protection Mures, and she opted, in accordance with the provisions of Art. 42 paragraph (4) and (5) of Law no. 448/2006 regarding the protection and promotion of the rights of persons with disabilities, for her employment by the public authority - City Hall of Sărmașu, in the position of personal assistant of the person with disability.

Following this request, D.G.A.S.P.C. Mureș issued their agreement for the option expressed, but the City Hall of Sărmașu communicated that the situation of the complainant could not be resolved favorably until a new rectification of the local budget.

We have taken steps to the City Hall of Sărmașu, who informed us that by a decision of the Local Council, a rectification of the local budget of Sărmașu City took place, and that the employment formalities of the complainant will be started as soon as possible in the position of assistant of the disabled person.

Recommendations ignored by authorities:

The Territorial Office Târgu-Mureș carried out an investigation at the Târgu-Mureș Penitentiary following a petition formulated by a person sentenced to a prison sentence, which was infected with the HIV-AIDS virus. Following the investigation, was issued the **Recommendation no. 1/2019**, to the Târgu-Mureș Penitentiary, the National Administration of Penitentiaries and the Ministry of Health.

The Târgu-Mureș penitentiary was advised not to carry out the transfer if the person deprived of liberty is in the quarantine-observation period; the refusal of the person deprived of liberty to undergo a medical intervention has to be made in writing; not to transfer sick people with infectious diseases to other penitentiaries; persons deprived of liberty requiring special treatment to be transferred to a prison hospital.

The National Administration of Penitentiaries (ANP) and the Ministry of Health were advised to take measures to improve the regulatory framework and to support the

interinstitutional mechanisms between the National Administration of Penitentiaries / Ministry of Justice and the Ministry of Health for the allocation of human and financial resources and for establishing a distinct mechanism at the level of ANP, for an integrative monitoring and reporting approach, and not least, for ensuring the transparency of the HIV-AIDS problem, to have access to the secondary prevention services of biological clinical monitoring, both for individuals deprived of liberty, as well as for the personnel of the penitentiary units and of the medical system involved, for reducing the risk of infection / biological.

Both the Târgu-Mureş penitentiary and the National Administration of Penitentiaries communicated an answer explaining the way in which the recommendation will be implemented. The Ministry of Health has not communicated any answer, in this case being notified the hierarchically superior authority – the Government of Romania.

In 2019, there were cases when some authorities and public institutions **did not provide the necessary support** to the People's Advocate Institution: Livezeni commune, Mureş county, Hodac commune, Mureş county, Ulieş Local Land Fund Commission, Harghita county.

● **Timișoara Territorial Office:** solved 182 petitions, granted 262 hearings, answered 311 telephone calls through the dispatch service, carried out 26 awareness raising activities / collaboration with other authorities, proceeded ex officio in 27 cases, conducted 25 investigations and made 1 recommendation.

Authorities that have been open to collaboration:

File no. 102/2019 Ex officio notification in relation to the situation presented by the media, regarding the 11 seriously ill elderly people housed in miserable conditions in a retirement home in the commune of Liebling, Timis County, which has been operating since 2018, without having the authorization of operation and without being functional, as only in February 2019 several construction operations had been started.

Following the steps taken to several public authorities, they were open to collaboration. Both the Department of Public Health Harghita and the County Agency for Payments and Social Inspection Timiș have specified in writing, all the steps they have taken, as well as the results obtained from the actions undertaken.

The Department of Public Health Timiș informed us that after being notified regarding the functioning of the "Casa Trandafirilor Vasimed" SRL Retirement Home, a team of inspectors went to this home, where there were found several hygienic and sanitary deficiencies, the unit being sanctioned with a fine of 25,000 lei and the complementary sanction of suspending the activity.

At the same time, representatives of the Department of Public Health Timiș, together with those of the Territorial Labor Inspectorate (ITM) Timiș, the Social Inspection Timiș, the Jebel Police Station and the Liebling Police Station, participated in a joint control at the "Casa Trandafirilor" retirement home, on which occasion they found that the unit did not comply with the sanction to suspend the activity and it was still functioning. DSP Timiș inspectors applied a fine in the amount of 40,000 lei, and the 11 elderly people housed there were moved to the Deta City Hospital.

The representatives of the County Agency for Payments and Social Inspection performed an unannounced check on the dates of January 22, 2019 and February 4, 2019, at the Retirement Home "Casa Trandafirilor". As a result of the control action, it was found that there were housed 11 elderly persons for whom it was paid a monthly contribution, without being able to present documents in this regard, and also no documents were shown proving

the provision of social services of accommodation and care for these persons, which is why a contravention fine was applied, in the amount of 10,000 lei.

Regarding the compliance with the other measures, namely the cessation of the activity until obtaining the documents necessary for operation within a legal framework, the inspectors found that the unit was not accredited as a social services provider according to the provisions of Law no. 197/2012 and provides social services without having an operating license. At the end of the monitoring action, a control report was concluded regarding non-compliance with the measures stipulated until the deadline set by the social inspectors and a fine of 8,000 lei was applied.

During March 2019, social inspectors checked the "Casa Trandafirilor" retirement home, noting that social housing services for elderly people were no longer provided there.

File 450/2019 The complainant notified the Timișoara Territorial Office showing that, as a legal representative of her son, born in September 2017, she received from March 2019 an insertion incentive, but because she got hired on March 12, 2019, the monthly allowance for raising the child was interrupted. Without any information being communicated to her, the payment of this incentive was suspended on June 13, 2019, motivated by the fact that the complainant would have stopped her professional activity.

Thus, only in November 2019 the complainant received the decision of the County Agency for Payments and Social Inspection Timiș regarding the suspension of the payment of the insertion incentive, without this decision being communicated within the legal deadline.

At the same time, in November 2019, when she submitted the additional document regarding the extension of the employment contract, she was informed that she will no longer be paid the insertion incentive for June-November, although all the documents submitted attested that she has been employed continuously since the date of March 12, 2019.

Following the steps taken, the County Agency for Payments and Social Inspection Timiș informed us that the payment of the right representing insertion incentive has been resumed since June 13, 2019.

Recommendations ignored by authorities:

File no. 61/2018 The petitioner addressed the Timișoara Territorial Office, pointing out that the boundaries of his property located outside the built-up area of the town of Bazoșu Vechi were altered abusively and without being notified in any way by the Recaș City Hall, and his requests addressed to this institution were ignored.

Steps were taken at the Recaș City Hall, but the response received only reiterated those communicated previously to the petitioner, namely, the compensation with a surface of 550 square meters of land outside the built-up area from the reserve available to the Local Commission, for the "landfill" requested by the petitioner.

As to the response received, an investigation was carried out at Recaș City Hall, which sought to clarify the reason for setting up a "landfill", given that the petitioner only requested compensation for the protection area adjacent to the irrigation channel that borders her property.

Following this investigation, the representatives of the city hall showed that there was no point of view from the managers of the land improvement infrastructure, respectively from the National Company for Land Improvements, regarding the necessary land for the protection area adjacent to the irrigation channel that borders the property of the petitioner, although their competence is invoked in almost all the answers of the local authority regarding the arrangement of a "landfill".

Regarding the area of urban land for which the petitioner also requested compensation, the representatives of the city hall have indicated that she will be compensated, and that at the

next meeting of the Land Fund Commission a proposal will be made in this regard, which will be transmitted to the Timișoara Territorial Office.

Following the letter sent to the National Administration for Land Improvements, we were informed that the Territorial Branch for Land Improvements Timiș of the National Agency for Land Improvements within the Ministry of Agriculture and Rural Development has already issued a point of view and communicated it to the petitioner who forwarded it to the city hall, but it was not taken into account.

As we have not received any information from Recaș City Hall, the People's Advocate has issued **Recommendation no. 98/2019**, regarding the legal measures to be taken, required for: compensating the complainant for the extra-urban land area provided by the legislation in the field, for the protection area of the drainage channels; compensation of the complainant for the urban land overlapped by error on the neighboring property.

As the City Hall of Recaș did not formulate an answer regarding the acceptance of the recommendation, the hierarchically superior authority will be notified – the Institution of the Prefect of Timiș County.

In 2019, there were cases when some public authorities **did not offer the necessary support** to the People's Advocate Institution: Satchinez Town Hall, Timiș County, Foeni Town Hall, Timiș County, Belinț Town Hall, Timiș County, Public Finance Administration of Timiș County.

Also, we had difficulties in solving the **ex officio notification no. 126/2019**, initiated following the article published in the press regarding the screams of a child which could be heard through the windows of a building in Timișoara, where a kindergarten and a nursery were operating.

Thus, the kindergarten director, when she was eventually found at work, refused to allow the representative of the People's Advocate institution to visit the unit and she also refused to sign the investigation report, stating that she can ask her lawyer to discuss the case reported by the press, therefore we could not find out the point of view of the kindergarten representatives.

However, the ex officio notification was solved based on the collaboration with the representative of the nursery and the answers received from the Timiș County School Inspectorate and the Public Service for Nurseries within the City Hall of Timișoara.

CHAPTER VIII

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

The service for constitutional litigation, appeal in the interest of the law, administrative and legal litigation, legal affairs, external relations and communication carries out its activity in the direct subordination of the Ombudsperson, being composed of three structures, with well delimited duties: the bureau for constitutional litigation and the appeal in the interest the law, the bureau for administrative and legal litigation and the bureau for legal affairs, external relations and communication.

Section 1. The activity of the Bureau for constitutional litigation and appeal in the interest of the law

The role of the Bureau for constitutional litigation and appeal in the interest of the law is determined by the **accomplishment of the People's Advocate's duties as a defender of the rights and freedoms of the people, through the constitutionality control of the laws and ordinances, as well as the unification of the judicial practice throughout the country**, establishing direct relations between the People's Advocate and the Constitutional Court, the High Court of Cassation and Justice and the other courts.

1.1. Direct referral of the Constitutional Court

For 2019, there is an increase in the number of **exceptions of unconstitutionality raised directly** by the People's Advocate, the activity of the Bureau for constitutional litigation and appeal in the interest of the law totaling a number of **12 direct notifications addressed to the Constitutional Court**, whose **purpose** is both to **protect** the rights and freedoms guaranteed at constitutional and legal level, as well as the **observance** of the Constitution in the process of adoption of normative acts, as follows:

a) Protection of vulnerable categories (pupils, students, persons with disabilities, pensioners) and citizens living in rural areas, materialized in challenging the legislative solution by which the paid public transport of persons at county level was eliminated from the sphere of public services, regulated by the Government Emergency Ordinance no. 51/2019 for the modification and completion of some normative acts in the field of passenger transport;

By Decision no. 785/2019, the exception of unconstitutionality was rejected as inadmissible. Until the date of this report, the decision has not been published in the Official Gazette of Romania.

b) The Government's failure to comply with the constitutional requirements and the jurisprudence of the Constitutional Court, regarding the adoption of emergency ordinances, by issuing the Government Emergency Ordinance no. 57/2019 on the Administrative Code;

c) Defending the rights of persons with disabilities, by challenging the Government Emergency Ordinance no. 60/2017, normative act by which occurred a drastic limitation of

the facilities for integration into the private environment of persons with disabilities, determined by the measure of the abolition of the protected units constituted within the economic operators and the nongovernmental organizations, as well as those organized by the person with disability authorized to carry out independent economic activities;

d) Observing the right to intimate, family and private life of the people, materialized by reiterating the arguments regarding the need to regulate safeguards, at the level of the organic law, regarding the collection, storage and use of the identification data of persons, through the direct exception of unconstitutionality invoked in relation to the Government Emergency Ordinance no. 62/2019 for amending and completing the Government Emergency Ordinance no. 34/2008 regarding the organization and functioning of the national system for emergency calls, completing the Government Emergency Ordinance no. 111/2011 regarding electronic communications;

e) Ensuring the equality of legal treatment, regarding the application of the complementary sanction, between drivers who exceed the maximum legal speed allowed by 70 km/h or more and those who exceed the maximum legal speed allowed by a speed between 50 - 70 km/h, from the perspective of a legislative omission in the Government Emergency Ordinance no. 195/2002, as amended and supplemented by Law no. 130/2019;

f) Protecting the electoral rights of citizens (the right to vote and the right to be elected), invoking the unconstitutionality of the legislative solutions that regulate the conditions for being able to run for the Presidency of Romania, as well as the conditions for defining a parliamentary party contained in Law no. 370/2004 for the election of the President of Romania, republished, with subsequent amendments and completions, and in Law no. 208/2015 regarding the election of the Senate and the Chamber of Deputies, as well as for the organization and functioning of the Permanent Electoral Authority, as amended;

g) Removing the deficiencies which appeared after the Government regulated the continuous supply of the population with drinking water, heating or sanitation, without being interested in that service being paid, which incurs the risk that the activity of the public utilities operator could not be sustained - the Constitutional Court was notified with the exception of unconstitutionality regarding the provisions of the Government Emergency Ordinance no. 53/2019;

h) Protecting the right to a fair trial, in its component regarding the legality of the establishment of the panels of judges, arguing the unconstitutionality of the provisions of Law no. 304/2004 regarding the judicial organization;

i) The recognition, under conditions of equality, for the benefit of all the persons classified in the degree of severe disability, of the increase of the monthly scores by 25% for the periods in which they performed activity as persons with serious disability;

j) The protection of the right to a decent standard of living for parents returning to work before the expiration of the childcare leave, by ceasing the payment of the insertion incentive only during the period when the beneficiary no longer earns taxable income, and afterwards the payment of this incentive to be resumed;

k) Guaranteeing the right to a fair trial from the perspective of the need to establish a condition regarding the specialization of prosecutors when they are appointed as Prosecutor of the National Anticorruption Directorate;

l) Respecting the property right, the principle of legal certainty and the principle of legality in case of issuing a decision to restitute the expropriated property as a result of the

revision of the feasibility study, of the modification or finalization of the technical execution project or of the execution details (the decision of restitution has the effect of obliging the former owners to take back their expropriated property, or paying the damages, if the owners accepted the amount of damages).

***The legal effects produced during the year 2019 as a result of resolving the exceptions raised ex officio in previous years**

Following the direct exception raised by the People's Advocate, it is currently **recognized the right of military personnel in activity, police officers and civil servants with special status to obtain the leave for the care of the disabled child up to 18 years old under the same conditions as the other employees.**

Thus, the **Constitutional Court**, by **Decision no. 323/2019** admitted the exception of unconstitutionality raised directly by the People's Advocate and found that Art. 15 paragraph (2) of Law no. 80/1995 on the status of military personnel and the phrase "except" in Art. 61 of the Government Emergency Ordinance no. 158/2005 regarding the holidays and the social insurance benefits are unconstitutional.

Therefore, between July 19, 2019 – September 1, 2019, the provisions of Art. 15 paragraph (2) of Law no. 80/1995 were suspended by law, **ceasing their legal effects starting with September 2, 2019**, as the legislator did not intervene to modify the contested provisions.

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

During the reference period, following the constitutionality analysis on the normative acts invoked by comparing to the allegedly violated constitutional texts, a number of **189 points of view** were sent to the Constitutional Court.

In a number of **45 files**, points of view were expressed in the sense of the unconstitutionality of the analyzed normative act or were formulated points of view subject to interpretation. In the case of the other **144 requests**, the expressed point of view was in the sense of constitutionality.

1.3. Resolution of petitions requesting the referral of the Constitutional Court

In **2019**, were resolved a number of **960 petitions** requesting the referral of the Constitutional Court regarding certain normative acts considered by the petitioners as unconstitutional.

The resolution of the petitions addressed to the Bureau for constitutional litigation and appeal in the interest of the law requesting the referral of the Constitutional Court implies the carrying out of the constitutionality analysis of the normative acts invoked by the petitioners, by reference to the allegedly violated constitutional texts, as they were developed in the case law of the Constitutional Court, of the European Court of Human Rights, of the High Court of Cassation and Justice and in the doctrine.

Following the constitutionality analysis, the petitioners who requested the support of the People's Advocate receive a detailed answer containing the arguments on which is based the decision of the People's Advocate to refer or not matter to the Constitutional Court.

1.4. Notification of the High Court of Cassation and Justice with appeal in the interest of the law

In 2019, the High Court of Cassation and Justice has **admitted three applications for appeal in the interest of the law formulated by the People's Advocate**, as follows:

► *The appeal in the interest of the law regarding the interpretation and application of the provisions of Art. 30 paragraph (1) lit. a) of Law no. 263/2010 regarding the unitary system of public pensions with subsequent modifications and completions, and Art. 3 point 1 of the Mining Law no. 85/2003, with the subsequent modifications and completions, in the sense of determining whether the activity carried out within the units of geological exploration or underground operations is considered activity carried out in a «mining unit» and can be classified under special working conditions.*

The solution of the High Court of Cassation and Justice

By **Decision no. 9/2019**, the High Court of Cassation and Justice **admitted** the appeal in the interest of the law formulated by the People's Advocate and, as a consequence, established that: in interpreting and applying the provisions of Art. 30 paragraph (1) letter a) of Law no. 263/2010 regarding the unitary system of public pensions, with subsequent amendments and completions, and Art. 3 point 1 of the Mining Law no. 85/2003, with the subsequent modifications and completions, the activity carried out within the units of geological prospecting or underground operations cannot be considered activity carried out in a "mining unit" and classified under special working conditions.

In this file, the High Court of Cassation and Justice established an interpretation contrary to the point of view expressed by the People's Advocate and the Public Ministry.

► *The appeal in the interest of the law having as object the interpretation and application of Art. 22 of Law no. 104/2003 regarding the manipulation of human corpses and the removal of organs and tissues from bodies for transplantation, republished*

The solution of the High Court of Cassation and Justice

By **Decision no. 24/2019**, the High Court of Cassation and Justice admitted the appeal in the interest of the law formulated by the People's Advocate, within the meaning of the point of view expressed by our institution, and established the recognition of the jobs of the personnel that carry out their activity in the pathological anatomy and mortuary services of the hospitals, as well as of the personnel from the university disciplines of anatomy, histology, pathological anatomy and the department of cell biology as being classified *ex-lege* in the category of jobs under special conditions, without having to follow the methodology provided by secondary normative acts.

► *The appeal in the interest of the law having as object the non-unitary interpretation and application of the provisions of Art. 59 paragraph (2) and Art. 64 paragraph (2) of Law no. 192/2006 regarding the mediation and organization of the profession of mediator, with the subsequent amendments and completions, requesting the High Court of Cassation and Justice to issue a decision to determine whether the court can take note of the mediation agreement, by which the parties agreed about the dissolution of the marriage and the resolution of the accessory aspects of the divorce.*

The solution of the High Court of Cassation and Justice

By **Decision no. 33/2019**, the High Court of Cassation and Justice has admitted the appeal in the interest of the law formulated by the People's Advocate and has decided that the court cannot take note of the mediation agreement regarding the understanding of the parties regarding the dissolution of the marriage. Regarding the resolution of the accessory aspects of the divorce, the court can take note of the mediation agreement having this object.

In this file, the solution delivered by the High Court of Cassation and Justice was in agreement with the point of view of the People's Advocate and of the Public Ministry.

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

During the analyzed period, a number of **44 petitions** were solved, in which the petitioners requested the referral of the High Court of Cassation and Justice.

The resolution of the petitions requesting the referral of the High Court of Cassation and Justice implies: (i) identifying the legal provisions whose interpretation and application determined the non-judicial judicial practice; (ii) identifying the same legal problem that received a different solution; (iii) referral of the 15 courts of appeal.

Of the 44 petitions:

a) in **6 files** were formulated requests to the courts of appeal from the whole country, in order to communicate the court decisions regarding the non-judicial judicial practice;

b) in **4 files**, since the non-judicial judicial practice was not found at the level of the whole country, but only at the level of a single court of appeal, the respective courts of appeal were asked to unify the non-judicial judicial practice through the **monthly meetings of the judges, in which to discuss the legal problems that led to the pronouncement of different solutions or legal problems of great novelty, which could generate non-unitary practice.**

Section 2 The activity the Bureau for administrative and legal litigation

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

2.1. Formulating 6 administrative litigation actions

a) **Timiș Tribunal - File no. 3753/30/2019**, with a court date on December 3, 2019 - *annulment of the Decision regarding the rejection of the request for administrative change of the name of the petitioner, the acknowledgment of the unjustified refusal to solve the request of administrative change of the name, and consequently, the issuance a new order for administrative change of the applicant's name;*

b) **Vrancea Tribunal - File no. 1716/91/2019** - *the partial annulment of a decision regarding the establishment of local taxes and fees at the level of the Suraia Commune for the year 2018, approved by the Local Council of the Suraia Commune regarding the establishment of the local taxes and fees for the year 2018 provided for in Art. 1 paragraph (1) letter a) with reference to Annex no. 1, point 13 "Special taxes" by which the special sanitation tax was established and levied, and consequently the acknowledgment that it is illegal to establish and collect the debit, representing a sanitation tax;*

c) **Mehedinți Tribunal - File no. 4496/101/2019** - *Partial annulment of the Decision of the Local Council of Sisești, Mehedinți county regarding the modification, starting with the fiscal year 2019, of the level of local taxes and fees, by indexing with the inflation rate in percentage of 5%, in the sense of exemption from payment of the special fee for security and garbage, established by the Annex no. 1, for unoccupied buildings;*

d) **Gorj Tribunal** - *Partial annulment of two decisions issued by the Stănești Local Council, Gorj county, having as object the establishment of local taxes and fees, as well as the suspension of the legal effects of these administrative acts;*

e) **Brasov Tribunal** - *Oblige the Brasov County Council and of the "Petru Rareș" High School in Feldioara to allocate, calculate and pay the amounts due to a minor student, consisting of daily food allowance, school supplies, bedding, clothing and footwear and of the amounts for personal needs for students with special educational requirements in the pre-university mass education, established by Law no. 1/2011 of the national education.*

f) **Ilfov Tribunal** - *Action in administrative litigation regarding the registrations of immovable property in the fiscal records of some territorial administrative units.*

2.2. Resolution of petitions requesting the referral of the administrative litigation court

A number of 44 files have been resolved, requesting the referral of the administrative contentious court regarding the illegality of some administrative acts.

2.3. Resolution of preliminary Complaint

12 responses to preliminary complaints were issued.

2.4. Files in which the People's Advocate was a defendant; procedural documents drawn up:

In 2019, at the level of the Bureau for administrative and legal litigation, **25 files were opened for the following documents:** a) **2 points of view to the National Council for Combating Discrimination;** b) **2 responses to the notices** of the Prosecutor's Office attached to the Bucharest Court of Appeal, in file no. 25/P/2019; c) **2 remedies;** d) **33 statements of defense;** e) **2 statements of defense in the appeal and 1 statement of defense in the appeal for annulment;** f) **5 clarifications in the files;** g) **11 written notes / conclusions;** h) **ensuring representation before the courts;** i) preparation or revision, as the case may be, and legal opinion for all orders and regulations issued by the People's Advocate; j) formulation of points of view on various administrative acts or deeds, at the request of the People's Advocate.

Section 3 The activity of the Bureau for legal affairs, external relations and communication

3.1. For the reference period, the activity can be summarized as follows: a) analyzing 199 draft laws in order to exercise the right to refer the Constitutional Court; b) making comments on the Country Report on the human rights situation in 2018, prepared by the United States Department of State; c) analyzing the statutes of the International Ombudsman Institute, the European Ombudsman Institute, the Association of Mediterranean Ombudsmen, the Association of Francophone Ombudsmen and Mediators, as well as the statements establishing the European Network of Ombudsmen, the South East Europe Children's Rights Ombudsperson's Network, the Network of National Preventive Mechanisms in South-East Europe, with a view to formalizing the Network of Balkan Ombudsmen; d) analyzing the proposal for a Regulation of the European Parliament establishing the statute and general conditions for the exercise of the functions of the Ombudsman (Statute of the European Ombudsman) and for repealing the Decision 94/262 / ECSC, EC, Euratom, of 29 March 2019 as well as the legal opinion of the Legal Service of Council of the European Union - SJCONS, and formulation of the response of the People's Advocate Institution; e) formulating some points of view, at the request of the People's Advocate.

3.2. Externally, the Ombudsperson, the deputies of the Ombudsperson and representatives of the institution participated in international meetings, organized by: the European Ombudsman Institute, the International Ombudsman Institute, the Association of Francophone Ombudsman and Mediators, the Council of Europe, other Ombudsman institutions:

- *Meeting of the Bureau* of the Association of Francophone Ombudsmen and Mediators - AOMF - France;
- Consultation Workshop on *Strengthening the Rights of Suspected or Accused Persons in Criminal Procedures - Role of National Human Rights Institutions* - Hungary;

- *20th Anniversary of the Ombudsman Institution in Greece* - Greece;
- *General Assembly of the European Network of National Human Rights Institutions* - ENNHRI - Switzerland;
- *Board meeting of the European Ombudsman Institute* - EOI - Slovakia;
- *Conference of the European Network of Ombudsmen* - Belgium;
- *Meeting on the functioning of the FRONTEX group of monitors* - Greece;
- *16th International Conference of Ombudsmen* - Azerbaijan;
- *Second Supplementary Human Dimension Meeting (SHDM) II on Effective Multilateralism in the OSCE Human Dimension* - Austria;
- *the visit of the People's Advocate in Serbia*, at the invitation of the Protector of Citizens (Ombudsman) of the Republic of Serbia, September 23-24, 2019;
- *Annual - Human Dimension Implementation Meeting (HDIM) of the Organization for Security and Cooperation in Europe (OSCE)* - Poland;
- *23rd Annual Conference of the European Network of Ombudspersons for Children (ENOC)* - Northern Ireland - United Kingdom;
- *Conference of the European Commission against Racism and Intolerance* - ECRI / ECRI Anniversary - France;
- *2nd meeting of the National Preventive Mechanisms of the South-East Europe Network* - North Macedonia;
- *Thematic meeting of the Children's Rights Ombudsmen Network in South-East Europe* - CRONSEE - Albania;
- *Board Meeting of the Association of Francophone Ombudsmen and Mediators - AOMF and the AOMF / APF Joint Meeting* - Morocco;
- *Conference on the elaboration of guidelines for the National Human Rights Institutions* - Austria;
- *11th International Conference of Ombuds Institutions for Armed Forces*, - Bosnia and Herzegovina;
- *Regional Conference on Ombudsman Capacity Building - Increasing accessibility for all citizens* - Serbia;
- *30th Anniversary of the European Committee for the Prevention of Torture* - CPT - France;
- *Monitoring mission at Centre Hospitalier de Montfavet din Avignon*, together with the National Preventive Mechanism in France;
- *Conference of the European Network of National Human Rights Institutions* - ENNHRI - Belgium;
- *Expert meeting of the National Preventive Mechanisms on the topic Treatment of certain groups of prisoners in situations of vulnerability* - Bulgaria.

3.3. Of the numerous events that took place *internally*, we mention:

- Visit to Romania of the Protector of Citizens of the Republic of Serbia. In the context of the priority theme of Romania's Presidency of the Council of the European Union - strengthening the global role of the European Union by promoting the enlargement policy through the action of the Union in the vicinity - The People's Advocate of Romania and the Protector of Citizens of the Republic of Serbia have concluded a Memorandum of Understanding;
- the visit of a delegation of the Commission for Integrity and Anti-Corruption in Jordan;

- visit of a delegation of the Complaint Reception Office of Shanghai Municipal Government;
- the practical workshop on *Monitoring of psychiatric institutions*, organized by the Association for the Prevention of Torture, in collaboration with the Department for the prevention of torture in places of detention;
- meeting with a team of the Organization for Security and Cooperation in Europe - Office for Democratic Institutions and Human Rights (OSCE-ODIHR), which evaluated the electoral process.

And in the course of 2019, the People's Advocate Institution continued to collaborate with universities throughout the country, by *conducting student internships* both at the headquarters and at the territorial offices - 173 students.

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In order to make the activity more efficient and to strengthen the relations with the public authorities willing to collaborate with the People's Advocate institution, collaboration protocols have been concluded: *Protocol between the Documentation Center for Jurists and Legal Assistance for Citizens of Partner 1 – West University of Timisoara of the Project "Legal counseling services for victims of abuses or irregularities in the administration and justice" and the People's Advocate Institution*, concluded on April 3, 2019 and *Protocol between the Romanian Association for Transparency and the People's Advocate Institution*, concluded on October 24, 2019.

3.4. Communication and relations of the People's Advocate Institution with the media

In 2019, especially in the second part of the year, the image and media relations component of the institution underwent a major transformation. Beyond the fact that the People's Advocate remained receptive to the signals released by the media regarding possible violations of the rights and freedoms of citizens by public authorities or institutions, a new approach was initiated within the institution, by **organizing regular press conferences**, held both by the Ombudsperson and her deputies, as well as by counsellors or experts, direct participants in the investigations and other actions undertaken by the institution.

The objectives that are maintained for 2020 are: initiating a constant collaboration with the public radio station at central level; to draw up, like other Ombudsman institutions, a list of public institutions and authorities that have not implemented or delayed the implementation of the recommendations of the People's Advocate; start of collective hearings (meetings with citizens); carrying out information campaigns, in the high school and university environment, on the duties of the People's Advocate and on the issues related to the defense of human rights and fundamental freedoms.

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The Ombudsperson and her deputies participated in **99 radio-TV programs**, **145 articles** were published in the central and local press, were issued **184 press releases** and **5 press conferences** were organized:

- August 28, 2019, occasioned by the presentation of the new Ombudsperson;
- October 2, 2019, during which were presented, among others, the results of the investigations regarding the Caracal case and those regarding the increase of traffic safety;
- October 18, 2019, presentation of the *Special Report on the situation of human rights in the psychiatric hospitals in Romania*;

- November 8, 2019, presentation of the conclusions of the *Special Report on the outcome of investigations related to prescribing psychotropic substances to children in residential centers*;

- November 19, 2019, organized by the People's Advocate and the Save the Children Organization, in which the *Special Report on respecting the rights of the child in Romania* was launched.

The communication and relations of the territorial offices with the media have experienced a significant increase. Thus, in 2019, **422** articles were published in the local press, regarding the activity of territorial offices, and their representatives participated in **168** radio and television programs.

CHAPTER IX.

HUMAN, MATERIAL AND BUDGETARY RESOURCES

Section 1 – Human resources

The institution is led by the Ombudsperson, assisted by 6 deputies, specialized in six fields of activity.

In 2019, after two deputies of the People's Advocate reached the term of their mandates, through the Decision of the Permanent Bureaus of the Chamber of Deputies and the Senate no. 4 / December 18, 2019 was appointed a new Deputy Ombudsperson for the Department for the prevention of torture and other cruel, inhuman or degrading punishments or treatments in the places of detention and was reconfirmed in office the Deputy Ombudsperson of de Department for Army, justice, police, penitentiaries.

Within the People's Advocate institution operates, under the direct subordination of the Ombudsperson, the Service for constitutional litigation, appeal in the interest of the law, administrative and legal litigation, legal affairs, external relations and communication, which is composed of three structures, having well delimited duties: Bureau for constitutional litigation and appeal in the interest of the law, the Bureau for administrative and legal litigation and the Bureau for legal affairs, external relations and communication.

In the territory, the activity is carried out through the 14 territorial offices, organized on the geographical criterion of the courts of appeal, as well as through the 4 regional centers of the National Preventive Mechanism.

The existing staff in the institution of 146 employees, is made up of: 7 dignitaries, 1 coordinating director, 1 head of service, 4 heads of bureau, 90 counselors, 23 experts, 5 reviewers, 12 drivers, to which are added 2 counselors and 1 reviewer at Cabinet of the Ombudsperson. Of these, 97 are women and 49 are men.

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

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

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

The People's Advocate Institution carried out its activity in 2019 with a staffing scheme comprising a total of 165 funded positions, out of which 157 were distributed to the headquarters and territorial offices, as well as to the four regional centers; and 8 positions at the Cabinet of the Ombudsperson.

At the beginning of 2019, 140 employees and 25 vacancies were registered, of which 1 management position and 24 execution positions. During the year, between January and December, there have been 18 entries and 12 exits.

At the end of 2019, 19 vacancies were registered, of which 1 management position and 18 execution positions (5 positions at the Cabinet of the Ombudsperson).

The Staff Regulations from the specialized structures of the Parliament are also applicable to the staff of the People's Advocate Institution.

Section 2 Material and Budgetary Resources

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

The situation of the budget credits allocated and consumed by the People's Advocate Institution in 2019 is presented in the following table:

Title	Initial budget Law 50/2019	Influences of the budgetary adjustment according to O.G. no. 12/2019	Credit transfers 2019	Withdrawal of credits according to Art. 54 of Law no. 500/2002	Diminished budget available	Budget consumed at December 31, 2019	Consumed %
Total, of which:	23.532.000	-1.054.000	-	-80.000	22.398.000	22.247.944	99,33
Staff expenditure	18.513.000	-600.000	-	-69.000	17.844.000	17.758.784	99,52
Goods and services	4.604.000	-460.000	-2.000	-	4.142.000	4.083.716	98,59
Other transfers	15.000	-	-	-	15.000	14.853	99,02
Other expenses	130.000	+6.000	+2.000	-	138.000	137.216	99,43
Capital	270.000	-	-	-11.000	259.000	253.374	97,83

In order to carry out the activity in 2019, the People's Advocate Institution was assigned by **Law no. 50/2019 of the state budget for the year 2019**, credits amounting to **23,532,000 lei**.

The budget execution of the year 2019 was achieved at the level of 99.33% of the allocated budget.

The largest share in the total of the budgetary credits is for the personnel expenses, in a percentage of 78.67%

The People's Advocate Institution operated within the budget credits initially allocated by the Law of the state budget no. 50/2019.

The consumption of funds regarding personnel expenses was made in compliance with the provisions of Law no. 153/2017 regarding the remuneration of the staff paid from the public funds, according to which the personnel of the Institution of the People's Advocate was employed.

The budget remaining to be executed in 2019, following budgetary adjustments and the availability of budget credits was 17,844,000 lei, the expenses with salaries were, at the end of 2019, amounting to 17,758,784 lei, the budget execution being 99 33%.

The People's Advocate Institution has no debts or delays in paying salaries or contributions to the state budget and the state social insurance budget.

In **Title II Goods and services**, during the year 2019 the consumption of budgetary credits was carried out on the basis of Law no. 98/2016 regarding public procurement. The public procurement, with minor exceptions, was made through SICAP. All purchases during the year 2019 were made by direct purchase, not exceeding the threshold provided in Law no. 98/2016 in Art. 7 paragraph (5).

Within the expenses for goods and services, the largest share is the **expenses with the rent** of the building where the institution operates, resulting from the conclusion of the Framework Agreement no. 8205/31 May 2018 with GENERALCOM SA, for a period of 5 years from the date of its signing, with the possibility of renewal, according to the law. The monthly value of the subsequent contract is 49,184.26 Euro (including VAT). Each year, a Subsequent Contract for the Framework Agreement is concluded. For 2019, the expenses with the rent amounted to 2,803,749 lei, representing 68.66% of the total budget credits consumed under Title II Goods and services.

The budget remaining to be executed in 2019, following the budgetary adjustments and the availability of budgetary credits was 4,142,000 lei, and the expenses made were, at the end of 2019, in the amount of 4,083,716 lei, the budget execution being 98.59%.

At **Title VII Other transfers**, were allocated by the Law of the state budget no. 50/2019 budget and commitment credits in the amount of 15,000 lei.

The People's Advocate Institution is affiliated with a number of international bodies where it pays annual fees, as follows:

- Association of Francophone Ombudsmen and Mediators – 1100 Euro / year;
- International Ombudsman Institute – 1,500 Euro / year and
- European Ombudsman Institute – 350 Euro / year.

During 2019, payments were made in the amount of 14,853 lei. The budget execution was of 99.02% the amount being totally destined to pay the member subscription of the People's Advocate institution to the international bodies to which it is affiliated.

At **Title XIII. Non-financial assets** The highest share of expenses incurred was made by the purchase of two cars worth 140,724 lei for equipping the Alba and Craiova area centers of the NPM, respectively 55.54%.

A significant proportion of the investments were expenses incurred with the purchase of licenses: Windows 10 Pro (20 pcs), Office Home and Business 2019 (20 pcs), IBM Domino petitions platform license (1 pcs), in total value of 50,919 lei.

The budget remaining to be executed in 2019, following the availability of budget credits was 259,000 lei, and the expenditures made were, at the end of 2019, in the amount of 253,374 lei, the budget execution being 97.83%.

CHAPTER X.

AUDIT AND RISK MANAGEMENT

In 2019, within the People's Advocate Institution, the activity of internal audit continued, as in previous years, to support the structures audited through opinions and recommendations, to ensure a better monitoring of the compliance with the existing rules and procedures. In this regard, the internal audit missions for the year 2019 were carried out in accordance with the Annual Internal Audit Plan. The themes of the missions referred to:

- evaluation of the 2019 corruption prevention system – mission requested by the Central Harmonization Unit for Internal Public Audit;
- audit of the accounting system of the People's Advocate Institution;
- the audit of treasury operations (money settlements);
- audit of personnel expenses and payment of related rights, taxes and contributions;
- evaluation of compliance with the law in the field of public procurement, the functionality of internal control, the completeness of registrations;
- the audit of the Territorial Offices of Braşov and Craiova.

In the audit reports drawn up, were noted the functionality of the internal control and governance processes, the reliability of the audited systems, as well as aspects that require improvements both procedurally, organizationally and from perspective of the human resources involved. The recommendations referred to the need to strengthen the internal control system, through the risk management, the elaboration of new internal operational procedures and the revision of the existing ones, the improvement of the professional training and the computer system. The main recommendations referred to the following aspects:

- professional training of the staff of the Financial, Payroll, Human Resources Bureau by participating in the training sessions in the ForExeBug course – practical applications;
- the continuation of the good practices so far regarding the monitoring of the money operations, the security of the cash operations, the tracking of the maturities, in accordance with the legal and contractual terms;
- informing the personnel of the institution, both at the time of employment and during the activity, regularly, regarding the provisions of the Code of ethics and other normative acts regarding ethics and integrity;
- periodic backup for the financial-accounting database, so that the information can be recovered if for different reasons, the data on the hard disk is lost or can no longer be accessed;
- disposing of used inventory items and fixed assets fully depreciated, depreciated both physically and morally, to relieve the institution of redundant assets and to create the possibility to purchase new, functional ones;
- periodic change of access passwords to the financial-accounting information system, which minimizes the risk of access by unauthorized persons;
- handing over to the archive the documents provided in the archive register regarding the previous year; special attention should be paid to the archiving of payrolls, which must be kept for 50 years, according to Art. 25 of the Accounting Law no. 82/1991, republished;
- continuing the training activity for developing the specialized knowledge and including the personnel of the territorial offices in the annual professional training plans;
- intensifying the communication with the media, so that the activity of the territorial offices will be popularized and enhance the visibility of the institution, for the benefit of the citizens, who will become more aware of the rights they have.

An aspect identified during the audit mission regarding the activity of public procurement was the provision of maintenance services as an integral part of the contract for renting the office building of the headquarters. The Court of Accounts issued a decision, on the occasion of the financial audit mission carried out in 2019 for the year 2018, regarding the need to modify the contractual clauses regarding the explanation and individual reception of all categories of maintenance services. This requires the conclusion of a new contract, with modified clauses, in agreement with the lessor, or the relocation of the head office to other appropriate premises, according to the conditions of Art. 59 paragraph (7) of Law no. 35/1997 on the organization and functioning of the People's Advocate Institution, republished.

During the year 2019, risk management represented a continuous process based on permanent control and monitoring activities. The members of the Monitoring Committee met regularly to identify and analyze the risks that could affect the achievement of the objectives and to draw up appropriate plans, in the direction of limiting the possible consequences of these risks. The risk analysis was performed at the level of each compartment, to monitor the risk exposure, an indicator calculated according to two components: the probability of occurrence of the risks and the impact of the risks on the achievement of the institution's objectives. Strategic, informational, organizational, operational, financial risks and risks generated by legislative, structural, managerial changes were analyzed.

In 2019, the Operational Procedure on Risk Management in the People's Advocate Institution was revised, establishing a unitary set of rules describing the internal control activities to limit the effects of potential risks.