

**REGULATION from 17 April 2002 on the organization and functioning of the People's Advocate Institution, republished \*)**

**CHAPTER I: General provisions**

**Article 1**

The People's Advocate Institution, hereinafter-called Institution, shall be organized and shall function in keeping with the provisions of Articles 58-60 of the Constitution of Romania, of Law no. 35/1997 on the organization and functioning of the People's Advocate, republished, with subsequent amendments and of the present Regulation.

**Article 2**

The Regulation on the organization and functioning of the People's Advocate Institution, hereinafter called Regulation, lay down the organizational structure, the powers of the specialist compartments, the legal proceedings for admitting and solving the applications, the status and disciplinary responsibility of the staff.

**Article 3**

The provisions of the Regulation observe the provisions of Law no. 35/1997 on the organization and functioning of the People's Advocate Institution, with further amendments and extensions, and it is amended with the regulations applying to the specialized personnel and the contractual staff.

**CHAPTER II: Management of the Institution**

**SECTION 1: People's Advocate**

**Article 4**

The People's Advocate manages the Institution, by exercising his authority and competence as stated by the law and has the following powers:

- a) shall submit reports to the two Chambers of the Parliament, on an annual basis or on special request;
- b) shall sign the reports, points of view, objections and exceptions of unconstitutionality, recommendations as well as any other documents necessary for the proper functioning of the institution;
- c) shall approve the staffing schedules and the job description cards of the institution's staff;
- d) shall approve the organization of competitive examinations for filling the posts within the institution;
- e) shall appoint, promote, discharge from office the staff, according to the law;
- f) shall approve the staff's transfer from one department on to another;
- g) shall approve the staff's travels abroad;
- h) shall approve, guides and co-ordinates the professional training program for the specialized personnel;

- i) shall entitle the specialized personnel to perform some of his powers, for efficiency of the activity of the institution;
  - j) shall approve the programming of the annual rest leaves;
  - k) shall approve compensation for overtime work;
  - l) shall establish and approve the audience and dispatch schedule;
  - m) shall perform any other duties established by the law.
- (2) The People's Advocate may delegate the exercise of these powers to his deputies or to other persons responsible for the management of the Institution.

### **Article 5**

While exercising the powers relating to the internal activity of the Institution, the People's Advocate issues orders, instructions, methodological rules and regulations.

## **SECTION 2: The deputies of the People's Advocate**

### **Article 6**

The deputies of the People's Advocate shall have the following duties:

- a) shall coordinate the activity within their area of activity;
- b) shall inform the People's Advocate about the activity of their area of activity;
- c) shall distribute the petitions in their respective areas of activity;
- d) shall approve the reports, points of view regarding the exceptions of unconstitutionality, recommendations, as well as any other documents submitted to the approval of the People's Advocate;
- e) shall perform in the order established by the People's Advocate, his duties in case of temporary inability of exercising his duties;
- f) shall carry out any other duties which the People's Advocate may legally establish.

### **Article 7**

The cumulative conditions for the appointment as deputy of the People's Advocate are the following:

- a) graduated and university diploma in judicial, administrative, political or economic sciences;
- b) experience of at least 8 years in the positions referred to para. a) or have been served for 8 years as deputy or senator;
- c) full capacity of exercise and good moral reputation;
- e) health state adequate for the function for which he/she runs;
- f) no criminal antecedents;
- g) no political affiliation;

## **SECTION 3: The Coordinator Director**

### **Article 8**

(1) The Coordinator Director is appointed by competitive examinations or contest on the basis of professionalism, by order of the People's Advocate and he subordinates to the management of the People's Advocate Institution.

- (2) The main duties and responsibilities of the Coordinator Director are:
- a) guides and shall be kept responsible for the activity of the Financial Bureau and Administrative Bureau and ensures the communication between the People's Advocate and the heads of these bureaus;
  - b) supervises and controls the drawing up of the periodical statistical reports of the People's Advocate Institution in the economic - administrative field, stated by the provisions in force;
  - c) organizes the administration of the institution's patrimony and takes measures to ensure its integrity;
  - d) organizes acquisition and maintenance of equipment and establishes measures for the security and the proper employment of the institution's facilities and assets, through the specialized structures;
  - e) supervises contractual procedures in utility services (water supply, heating, electric power, telephone etc.);
  - f) conducts an annual inventory of the institution's property and submits to the People's Advocate a report on this inventory;
  - g) shall be responsible for the observance of the legal provisions on the utilization of the funds included in the revenues and expenses budget of the institution and for the drawing up of the annual draft budget;
  - h) shall be responsible for organization and the commissioning of the IT network of the institution;
  - i) establishes measures to be taken regarding the circulation and transfer of property;
  - j) organizes the activity of fire prevention and extinction, as well as the activity of labor protection;
  - k) approves the inventory value of the books received free of charge;
  - l) performs other duties stated by the law or entrusted to him by the People's Advocate.

### **CHAPTER III: The organizational structure**

#### **Article 9**

- (1) The organizational structure of the institution is provided in Annex no. 1, which is an integral part of this Regulation.
- (2) The Contentious constitutional, legal, human resources, protocol Bureau is directly subordinated to the People's Advocate.
- (3) Within the organizational structure, the People's Advocate may pass specific orders to organize temporary sections, services, other categories of offices or commissions, setting the number of management positions, duties and the necessary staff required for each compartment, in accordance with the competence of the institution, as provided by the law.
- (4) In order to accomplish his duties according to the law, the People's Advocate will establish territorial offices.
- (5) Within each territorial office operates two experts, with the exception of Alba-Iulia Territorial Office, pilot-office that has 3 employees.

### **Article 10**

(1) The institution provides an Advisory Council, composed of the People's Advocate, his deputies, as well as other persons designated by the order of the People's Advocate.

(2) The Advisory Council shall be summoned by the People's Advocate.

### **Article 11**

Internal audit activity is organized and conducted under the direct subordination of the institution's management as provided by the law.

### **Article 12**

The employees of the Contentious constitutional, legal, human resources protocol Bureau, which is directly subordinated to the People's Advocate, fulfill the following tasks:

- a) examine and propose solutions for the problems regarding the organization and functioning of the institution;
- b) elaborate or participate in the elaboration of notes, research studies, evaluation reports, syntheses, bearing on specific activities of the institution, and shall thereupon provide the synthesis data of the legislative activity;
- c) endorse the orders, the instructions, the regulations, the contracts and any other documents issued by the People's Advocate, his deputies and the Coordinator Director in exercising the duties related to the institution's activity;
- d) participate in the work of preparing the annual and special reports, including by periodic centralization of petitions and cases under investigation;
- e) inform the People's Advocate on the social aspects which might represent the object of an ex officio investigations, in collaboration with the departments, if the case may be;
- f) assist the People's Advocate with his written correspondence;
- g) inform promptly the People's Advocate on the questions and problems raised via the mass media with regard to the activity of the institution, and engage in duly answering such questions;
- h) represent the People's Advocate in courts of law or before other jurisdictional bodies;
- i) ensure, with the approval of the budget-holder, the acquisition of the compilation of legal acts and of any other paperwork, which are necessary in the development of the institution's activity, for the scientific documentation fund, following up administration, the processing and the filing within the library (documentation centre);
- j) performs other duties stated by the law or entrusted by the People's Advocate.

### **Article 13**

For the establishment of the organizational structure the following areas of specialization, as they are set out by law will be considered:

- a) human rights, equality of chances between men and women, religious cults and national minorities;

- b) the rights of the child, family, young people, pensioners, people with disabilities;
- c) army, justice, police and prisons;
- d) property, labor, social security, taxes and duties.

**CHAPTER IV: Functioning of the Institution**  
**SECTION 1: Registers of the Institution**

**Article 14**

- a) the general register for incoming and outgoing correspondence, which lists all documents that are coming in and going out of the institution, each with a registration number and date;
  - b) the register for cases, including all the paperwork regarding investigation into or decisions on petitions;
  - c) the register for audiences;
  - d) the register for documents (entered in chronological order) issued by the People's Advocate while exercising his powers related to the internal activity of the Institution;
  - e) the special register for secret and confidential correspondence;
  - f) the alphabetical list;
  - g) the archive register;
  - h) the ex officio investigations register;
  - i) the register for investigations
- (2) The filing from the alphabetical list shall be made also in electronic format.
- (3) At the end of each year, after the last operation made in each register, a report of conclusions shall be drawn up; this shall be countersigned by the Coordinator Director.

**Article 15**

For the efficient development of the activity of the institution, the People's Advocate may also approve the drawing up of other registers beside the ones established by Article 14, in view of the powers that were devolved upon him according to the legislation in force.

**SECTION 2: The procedure for receiving and solving petitions.**  
**Procedure for ex officio investigations**

**Article 16**

- (1) The applications addressed to the People's Advocate shall be made in writing, while observing the conditions stated by the law, and may be sent by mail, including e-mail, fax, or may be submitted personally or by a delegate.
- (2) If the petitions submitted by electronic mail (e-mail) do not contain data identifying the petitioner, these data will be required by electronic mail. If the identification data requested is not provided, the petition will be considered anonymous.

(3) If the petition is submitted by a delegate, his/her identification data shall be required.

(4) For grounded reasons, at the petitioner's request, he/she may be allowed to state his demand orally or through the dispatch service of the People's Advocate of the People, which shall be recorded by the staff within the compartment designated for this purpose, on such type-forms as shown in Annexes no 2 and 3 to this Regulation.

#### **Article 17**

(1) Persons whose rights or freedoms were aggrieved by public administration authorities may refer to the People's Advocate audiences program. Audiences are granted by the specialized staff, based on a schedule advised by deputies and approved by the People's Advocate. The territorial offices of the People's Advocate have the same audiences schedule as the central headquarters.

(2) If the aspects mentioned refer to acts of public administration authorities or autonomous state management in the conditions of Law no. 35/1997, republished, with subsequent amendments, the petitioner may refer the matter to the institution by filling a standard application form that receives number and date of registration. If the petition is filed by a delegate, his identification data will be required. For motivated reasons, at the request of the petitioner, the standard application form will be filled by the expert / counselor providing the audience.

(3) Petitioners requesting an audience with a deputy People's Advocate shall submit an application on the matters complained of, and they will be informed on the date the deputy People's Advocate may grant audience. After granting audience by specialized staff, dissatisfied people may require motivated a hearing to the deputy People's Advocate specialized in the issue in case.

(4) If, after competing the above procedure, the petitioners request an audience to the People's Advocate, they will be advised to submit a written reasoned request, and the People's Advocate will decide if the request is founded or not and upon granting the audience.

#### **Article 18**

(1) Petitions shall be submitted to the register office with their respective envelopes and shall be filled in the general register for incoming and outgoing correspondence, the same day. They shall be given a registration number and date and shall be forwarded to the deputy People's Advocate of the People.

(2) The deputy People's Advocate shall distribute petitions according to the area of activity on a register basis.

(3) If the object of the petition falls within the activity field of two or more compartments, the deputy People's Advocate shall designate the one area chiefly responsible for solving the petition, while the other areas shall have the obligation to collaborate.

(4) The delivery and the receipt of the petitions shall be confirmed by signature in a register-book.

### **Article 19**

(1) The person to whom the petition was delivered, further referred to as the officer in charge of the case, shall analyze its object check whether the petitioner has addressed the People's Advocate petitions on the same subject and shall propose the steps to resolve the petition and a draft answer, which is going to be submitted for analyze and endorsement to the deputy People's Advocate who coordinates the area the officer in charge belongs to.

(2) If the petition does not fall within the competence of the People's Advocate, the draft answer shall be approved and signed by the deputy People's Advocate who coordinated the area of activity.

(3) If the petition falls within the competence of the People's Advocate, the officer in charge of the case shall verify if the legal requirements are met and, if the case, shall request with the approval of the deputy People's Advocate, supplementary information, by the telephone or in writing to the petitioner, or to the authority. When necessary, the presence of the petitioner may be required and a case shall be opened, which shall have the number of the petition, as specified in Article 18.

### **Article 20**

If an inquiry is considered necessary upon preliminary enquiry, the officer in charge of the case shall make a proposal and forward it for endorsement to the deputy People's Advocate who coordinates the area of activity the officer belongs to. The People's Advocate shall approve the investigation and shall empower the persons who are to carry it out.

### **Article 21**

(1) The People's Advocate shall suspend the enquiry every time he concludes that the petition has received a friendly solution, or that the grounds on which it was entered have ceased to exist.

(2) The cessation of the procedure shall be notified to the petitioner.

### **Article 22**

(1) According to the same procedure, when preliminary investigation or the enquiry concludes that the petition of the aggrieved individual is substantiated, the People's Advocate shall notify the public administration authority which has violated the petitioner's rights by a written request to reform or revoke the administrative act, to redress for the damage thus caused and to reinstate the aggrieved person to his/her former state.

(2) If the petitioner's rights are found to have been seriously violated, or an administrative document is found to be illegal, the People's Advocate shall issue a recommendation addressed to the public administration authority which has violated the respective rights or has issued the illegal document.

### **Article 23**

- (1) If the concerned public administration authority endorses the recommendation, the People's Advocate or the person designated by him approves the proposal to close the file.
- (2) Otherwise, the People's Advocate shall proceed to notify the hierarchical authorities.
- (3) In both cases, the final resolution will be noticed to the petitioner.

### **Article 24**

- (1) Anonymous petitions are considered inadmissible and shall therefore not be registered.
- (2) If a person addressed several petitions, noticing the same problem, the officer in charge proposes to the deputy People's Advocate, to fill away those petitions and the petitioner will receive a single reply, which refer to all petitions received.
- (3) If after the reply is send a new petition with the same content and without further evidence is received, it will be filled away at the number, making the mention that the petition was answered.

### **Article 25**

- (1) The People's Advocate may approve an ex officio investigation when he learns, by any means, that the rights or freedoms of individuals have been violated.
- (2) The ex officio investigation will be registered in the general register for incoming and outgoing correspondence and in the ex officio investigations register.
- (3) Inquiry procedures shall follow the steps previously described in the present section.
- (4) The procedure carried out as a result of the ex officio investigation shall cease on request of the person aggrieved.

## **CHAPTER V: The status of the Institution's Staff**

### **Article 26**

The provisions of the Statute for staff of the specialist structures of Parliament and the present Regulation are applicable to the People's Advocate staff.

### **Article 27**

The requirements for filling the management positions, others than those provided for the deputies of the People's Advocate and also for the execution posts are set up by the People's Advocate.

### **Article 28**

The evaluation of staff' professional activity observes the terms provided by the regulations applicable for the personnel within the Parliament specialist structures.



### **Article 29**

The staff in the execution and management positions benefit from all the rights granted by law for the similar positions in the Parliament specialist structures.

### **Article 30**

The remuneration of the staff in the execution and management positions is done according to the level provided by law for the similar positions in the Parliament specialist structures.

### **Article 31**

(1) The staff of the institution has the right to a paid rest leave, as established, in accordance with the length of employment, by the regulations on rest leaves, approved by the People's Advocate.

(2) The staff is legally entitled to compensation for the number of days of the rest leave that were not carried out, only in the case of individual termination of employment.

(3) The staff of the Institution shall legally benefit by study leaves, supplementary leaves, medical leaves, unpaid leaves, paid holidays, and overtime work.

### **Article 32**

While performing their duties, the staff of the Institution must act with professionalism, loyalty, fairness, and must promptly and continuously improve their professional training.

### **Article 33**

In their relationships with individuals, the staff of the Institution has the following duties:

a) to express concern and politeness;

b) to ensure, in the process of decision making and enforcement, as well as in solving the petitions an equal treatment thereof, without favors or discriminations;

c) to fulfill the duties devolved upon their position exclusively to the purpose stated by the law;

d) to let no personal interests or political interventions interfere with their professional conduct;

e) to ensure the individuals' access to legally granted documents;

f) to wear a distinctive badge.

## **CHAPTER VI: The disciplinary liability**

### **Article 34**

(1) The culpable infringement of professional duties by the staff of the Institution induces disciplinary liability.

(2) The misbehavior is a deed connected with the labor and consists of a culpable action or inaction of the employee that results in an infringement of

legal provisions, present regulations, individual labor contract, orders and disposals of the hierarchical leaders.

(3) Disciplinary sanctions applicable to violations committed under para. (2) are those provided by the Labor Code.

(4) The procedure for investigation, applying and contesting the disciplinary measures is provided by the present Regulation and Labor Code. The preliminary disciplinary investigation is made by the person mandated by the order of the People's Advocate.

#### **Article 35**

(1) The person mandated by the People's Advocate to make the preliminary disciplinary investigation shall propose by a motivated report, the applicable disciplinary sanction or concluding of the notification.

(2) People's Advocate shall apply the disciplinary sanction by an order. This power may be mandated to one of his deputies.

(3) The employee unsatisfied with the disciplinary sanction may appeal against the sanction order to the competent court, according to the Labor Code.

#### **Article 36**

(1) The disciplinary sanction applied will cease *de jure* after one year from the moment when it has been applied, if the sanctioned employee did not commit another deviation from the disciplinary norms.

(2) The ceasing of the disciplinary sanctions will not influence their patrimonial effects.

#### **Article 37**

The labor reports will cease under the terms provided by the Labor Code.

### **CHAPTER VII: Final provisions**

#### **Article 38**

The People's Advocate shall develop relationships with similar foreign authorities and may participate in the activity of international bodies relating to his field of activity, or may become a member of those bodies.

#### **Article 39**

The norms of expenses for protocol, travels abroad, motor resources and monthly fuel consumption shall be established by order of the People's Advocate, according to the law.

#### **Article 40**

The present Regulation shall enter into force on its publication in the Official Gazette of Romania, Part I, after being approved by the Standing Bureaus of the Chamber of Deputies and Senate.

#### **Article 41**

(1) When the present Regulation have entered into force, the Regulation on the organization and functioning of the People's Advocate Institution, published in the Official Gazette of Romania, Part I, no 393 of August 19th, 1999, shall be revoked.

(2) When the present Regulation has entered into force, their provisions shall apply to the entire staff of the Institution.

(3) Annexes no. 1-3 are part of the present Regulation.

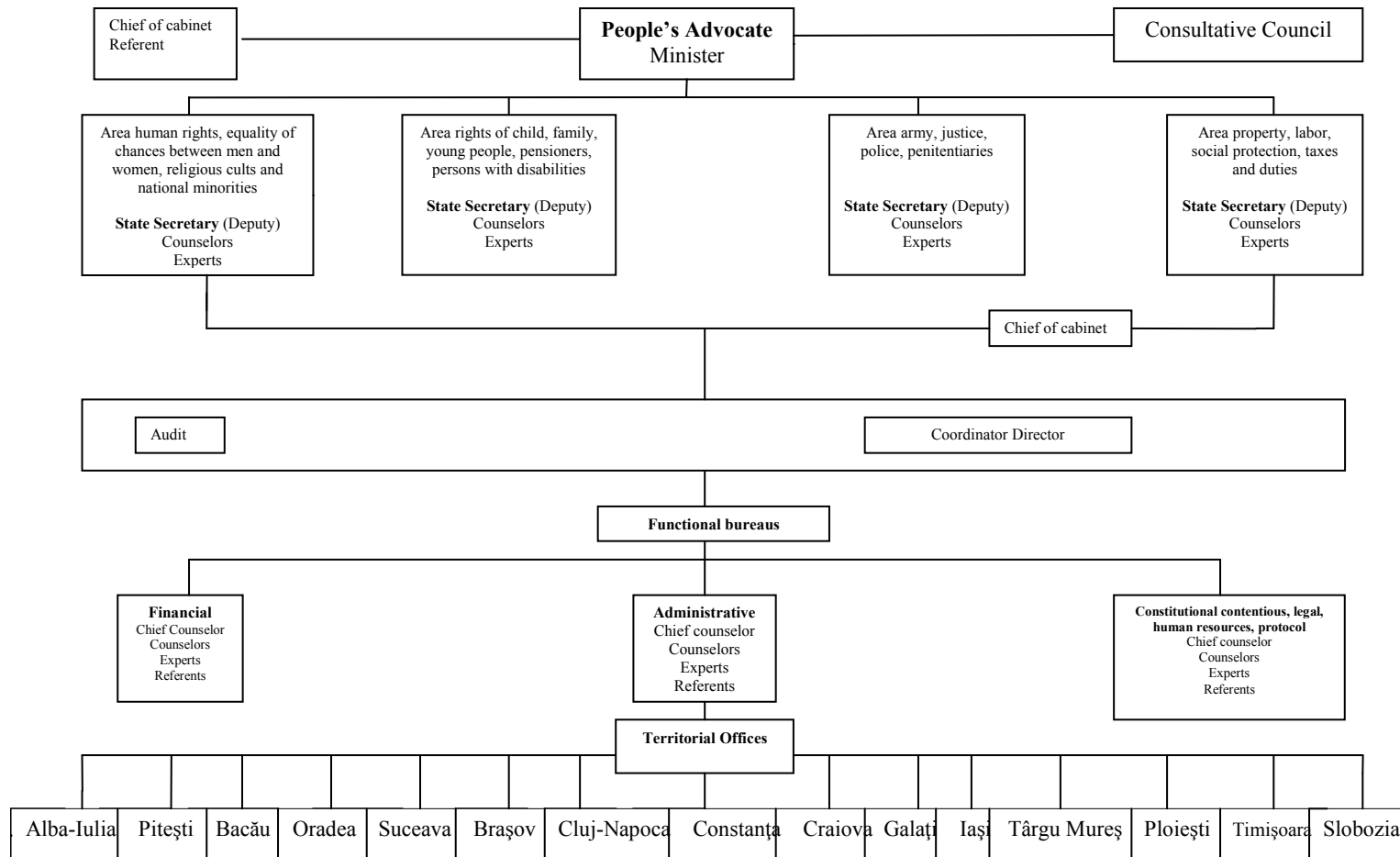
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\*) Republished under art. II of the Decision of the Standing Bureaus of the Chamber of Deputies and Senate no. 1/2011 on the amendment of the Regulation on the organization and functioning of the People's Advocate Institution, published in the Official Gazette of Romania, Part I, no. 692 of 29 September 2011, giving a new numbering of the texts.

Regulation on the organization and functioning of the People's Advocate Institution was approved by the Decision of the Standing Bureau of Senate no. 5/2002, republished in the Official Gazette of Romania, Part I, no. 922 of 11 October 2004 and was completed by the Decision of the Standing Bureaus of the Chamber of Deputies and Senate no. 6/2007 on the Regulation for organization and functioning of the People's Advocate Institution, republished, published in the Official Gazette of Romania, Part I, no. 445 of 29 June 2007.

#### **ANNEX no. 1: ORGANIZATIONAL STRUCTURE OF THE PEOPLE'S ADVOCATE INSTITUTION**



**NOTE:**

Total staff financed by the state budget law - 99.

Functional offices are headed by a chief counselor.

Functions that according to the laws get bonus for work complexity are: preventive financial control and audit.

Coordinator Director leads the Financial and Administrative Bureaus.

Territorial offices will have two employees, except Alba-Iulia Territorial Office, pilot-office that will have three employees.

\*) This unauthorized translation was performed by Andreea Băicoianu, counselor within the People's Advocate Institution.