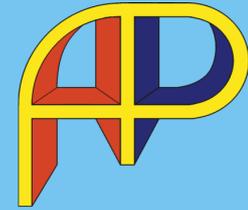




ROMANIA

PEOPLE'S ADVOCATE



SPECIAL REPORT



**on the observance of the rights of
persons persecuted for political reasons
by the dictatorship installed in Romania
between March 6, 1945 and December 22, 1989**

2018

Cover: Fort no. 13 Jilava

Photo source: www.modernism.ro

Summary

of the Special Report on the observance of the rights of persons persecuted for political reasons by the dictatorship installed in Romania between March 6, 1945 and December 22, 1989

Through the *Special Report on the observance of the rights of persons persecuted for political reasons by the dictatorship installed in Romania between March 6, 1945 and December 22, 1989*, the People's Advocate aims, *on the one hand*, to bring to society's attention the difficulties faced by people who have been persecuted for political reasons and their descendants *and, on the other hand*, to contribute, through the proposed recommendations, to the creation of a coherent legislative and administrative framework aimed at ensuring the effective observance of the rights and freedoms enshrined in the Romanian Constitution.

At the same time, in the Special Report are briefly presented, and only by way of example, the social, moral and material sufferings of some persons, as a result of the political persecutions to which they were subjected by the communist regime.

In this respect, in order to convey as clearly as possible the sufferings of the former political prisoners, several interviews were conducted with some of the survivors of the communist terror, interviews that were included **in the first chapter**, along with the presentation of some personalities who, at the time of drafting the Special Report, were no longer alive. **The second chapter and the third chapter** are dedicated to some of the most important personalities who have lost their lives in communism's prisons or survived the prisons of the communist regime. **Chapters four and five** present the legal framework and cases handled by the People's Advocate Institution. In **chapter six** are presented the claims of politically persecuted persons. The last three **chapters, seven, eight and nine** describe the approaches of the People's Advocate Institution, the conclusions, respectively the proposals regarding the improvement of the legislative framework and the activity of the public administration in this matter.

By drawing up this Special Report, the People's Advocate aims to identify and take steps to solve the legal and administrative difficulties of the persons persecuted for political reasons and their descendants.

At the same time, the Special Report aims at highlighting the legislative gaps created after the provisions of Art. 5 par. (1)(a), the first sentence of Law no. 221/2009 were declared unconstitutional.

We have been equally concerned about the effects of the normative acts issued in the field of property rights and the proposal to supplement Art. 33 and/or Art. 34 of Law no. 165/2013 regarding the measures for completing the process of restitution, in kind or equivalent, of the buildings abusively taken over during the communist regime in Romania, in order to establish a priority regime for solving the respective applications and files of the persons covered by the Decree Law no. 118/1990 regarding the granting of rights to persons persecuted for political reasons by the dictatorship established from March 6, 1945, as well as those deported abroad or taken prisoners, republished, with the subsequent modifications and completions.

In this respect, we consider as being relevant the Resolutions of the Parliamentary Assembly of the Council of Europe, respectively Resolution no. 1096/1996 (Measures to dismantle the heritage of former communist totalitarian systems) and Resolution no. 1481/2006 (The need for international condemnation of crimes of totalitarian communist regimes). According to these recommendations for Council of Europe member states, innocent people who have been persecuted for deeds considered lawful in a democratic society should be rehabilitated, given back their property (or receive compensation), if the restitution is no longer possible) and, as long as the victims of the communist regime or their families are alive, they should be able to receive reparations for the moral damage suffered.

On this occasion, we reiterate the fact that in the Special Report of the People's Advocate submitted to the Presidents of the two Chambers of Parliament and to the Prime Minister of Romania in 2012, the Romanian legislator was informed about the necessity to observe the above-mentioned recommendations and to grant the repairs to this category of people.

Thus, in 2012, taking note of the Constitutional Court's referral to the Parliament, the People's Advocate proposed as a solution for solving this situation, the completion of

parliamentary procedures in the case of the Draft Law on the legal status of the rights granted to the victims of the totalitarian communist regime, PL-x no. 244 / 09.05.2011, of course, in a wording that observes both the decisions of the Constitutional Court and the requirements imposed by Art. 138 para. (5) of the Constitution.

In the same Report, the People's Advocate also proposed the amendment of Art. 5 par. (1) (a), the first sentence of Law no. 221/2009, with the following wording:

(1) Any person who has suffered political convictions during the period March 6, 1945 – 22, 1989, or who has been the subject of administrative measures of a political nature, as well as after the death of that person, the spouse or his descendants up to the second degree may also request the court referred to in Art. 4 par. (4), within 3 years from the date of entry into force of these provisions, to oblige the State to: a) grant monetary compensations for moral damages caused by political convictions or administrative measures of a political nature. For amounts higher than 50,000 lei, the payment shall be made in equal installments, within 5 years after the final and irrevocable court decision.

In other respects, we considered it necessary to present the historical dimension of the reparation that should be done to this particular category of people, given the horrors endured by the former political prisoners.

In essence, we consider that the people persecuted by the communist political regime should be rehabilitated, restituted their confiscated property or be compensated with priority if restitution in kind is no longer possible and, as long as these their families (spouses, children) are still alive, they should be compensated for the damages, including moral damages suffered, under conditions guaranteeing equal and effective protection against any discrimination.

As a source of documentation were used the IICCMER archives, books from the Sighet Memorial Library, the collection of newspapers **România liberă**, **Dreptatea**, **Evenimentul zilei**, from 1990-2018, CNSAS archives, written testimonies of the survivors of the communist gulag.

For the accurate understanding of the grievances of the persons persecuted for political reasons, the People's Advocate, through its experts, conducted dozens of interviews with persons benefiting from the Decree-Law no. 118/1990.

Because the Internet is an inexhaustible source of stories about suffering, a vocabulary specific to detention has been used by the editors of the Special Report. The

various cases presented in the Special Report show that the former totalitarian regime discriminated on grounds of religion, ethnicity or political orientation when judging its challengers, unjustly condemning them to years of imprisonment because they opposed the dictatorship.

This Special Report is also meant as a praise to the leaders of the Great Union of 1918, each of the promoters of that unique event in national history having a memorial space to highlight the destiny of great patriots so that the horrors never happen again, and to honor the visionary ancestors who have left this world.

With the occasion of the Centenary, the thoughts of the team that drew up the Special Report went to those who achieved the unification of the Great Romania.

As we have mentioned, in Chapter 1 there we will do a brief presentation of the communist oppressive regime (Soviet and Romanian) from 1945-1989.

As early as 1918, the Soviet regime demanded that elements that do not inspire trust be locked in camps located outside large cities. Among them were aristocrats, merchants and other people who were described as possible enemies of the people. The prisons were insalubrious, closed, uncovered places, which often sheltered too many people. Due to lack of food and inadequate hygiene, many prisoners died. People contracted various diseases, the most common being typhus and dysentery. As Stalin came to power, the camps began to play a central role in the Soviet economy.

Between 1946 and 1949, detainees built 7,000 km of roads in the country's harshest areas. The camps also provided soldiers for the Soviet army, hundreds of thousands of detainees from the concentration camps being sent to the front.

Historians have made various calculations to provide as accurate figures as possible about the number of detainees who have gone through the Soviet camps. According to estimates, until Stalin's death, more than 18 million people had gone through the concentration camps, and six million were sent into exile, deported to the deserts of Kazakhstan or the Siberian forests.

Concerning the Romanian Gulag, represented by the political prisons and labor camps in communist Romania, in 1945, the penitentiary network in Romania had 74 prisons and a capacity of approximately 15,000 places, which constantly increased by successive orders, in order to accommodate the so-called enemies of the people.

According to IICCMER, during the communist regime in Romania, there were 44 main prisons and 72 forced labor camps for political prisoners. These were coordinated by the General Directorate of Penitentiaries. The map of the units in the concentration system, published in the *Addendum* compiled by the Civic Academy Foundation for the Romanian edition of the "Black Book of Communism", for the period 1945-1989, presents 240 detention facilities, including 44 prisons, 61 places of investigation, deposit and exile, 72 forced labor camps, 63 deportation centers and compulsory residences, 10 political psychiatric hospitals, 93 murder places, mass graves. The same statistic speaks about 100 regional, district / county units, where the inquiries of the Securitate were conducted, resulting in 450 places of detention or repression. The map is displayed at the entrance to the Sighet Memorial, and has been completed with nearly 20 places resulting from oral history investigations, visitors' observations and research.

And in terms of the number of detainees, there are several variants. The Association of Former Political Prisoners in Romania states that around 2,000,000 political prisoners have been detained in the prisons, camps and other places of detention and deportation. The statement was made by the then president of the Association of Former Political Prisoners in Romania, Mr. Constantin Ticu Dumitrescu.

Among the political prisoners thrown behind bars were also the entire elite of Romania - dignitaries, political leaders, presidents of historical parties, all generals of the Romanian Army and all the army leadership, a part of journalists, writers, culture people, students and prelates. Priests were especially targeted because they did not want to "enlist" in an atheist party. That is how thousands of Orthodox, Catholic, Roman Catholic priests, etc. were arrested, tortured, taken to forced labor because they chose to fight to death for the faith in God.

Unfortunately, the number of museums evoking Communist terror is small, although 29 years have passed since Romania is a free and democratic country. For example, none of the dozens of death camps on the Danube – Black Sea – Balta Brăilei – Danube Delta channel have remained standing to become a museum and testimony over time of Communist crimes and horrors.

Romania is the country that has had a political prison for minors, including 9-year-old children, and a one of a kind prison where young people were brainwashed.

The millions of Romanians described as "enemies of the people" were, therefore, incarcerated, many killed, and their families harassed, mocked and subjected to a treatment

called "special regime". Abuses known no limits: leading intellectuals of the country have been expelled from faculties because they were "unhealthy in origin" and sent to unskilled work places; the priests were either liquidated or deported to concentration camps; professors, doctors, politicians or peasants woke up overnight arrested, subjected to Securitate tortures and sent to prison. The starvation and terror regime aimed at transforming the "enemies of the people" or "bandits", as they were called by the guards, into the "new man". In Communist prisons, detainees were subjected to the most terrible, uninterrupted tortures, both physical and psychological, the torturers pursuing their conversion to communist ideology.

Under international pressure, Communist jails opened their doors in the summer of 1964. Guilty of "conspiracy against social order", former political prisoners suffered, however, after the "Great Liberation," being periodically called to Securitate, beaten, threatened. After the liberation of political prisoners in 1964, the Securitate launched a comprehensive informational surveillance action at national level. The suspects were not only former political prisoners, but also people without a political background, but who were considered as having "hostile potential" or persons interacting with former political prisoners. To this end, after 1964, the Communist repression against regime opponents adapted to new realities, using more refined tools to repress them: imposing mandatory domicile, surveillance of former political prisoners, using psychiatric hospitals as places of detention, arrest and investigation under the pretext common law offenses, etc. Even if officially there were no more political prisoners after this year, the reality was different, as proved by the case of Gheorghe Ursu, who was killed by the Securitate in November 1985.

By establishing this diabolical regime, the totalitarian state flagrantly violated the provisions of the Universal Declaration of Human Rights adopted by the UN General Assembly on October 10, 1948, as well as the provisions of many other international treaties, conventions and regulations.

In Romania there were several types of communist prisons, as follows:

Prisons for extermination of the political and intellectual elite: Aiud, Sighet, Râmnicu Sarat, Pitești, Galati, Craiova, Brașov, Oradea.

Penitentiaries of re-education: Pitești, Gherla, Târgu Ocna, Târgșor, Brașov, Ocele Mari, Peninsula, Suceava.

Labor camp: The Danube - Black Sea Canal (Peninsula, Poarta Alba, Salcia, Periprava, Constanta, Midia, Capul Midia, Cernavodă), work settlements in Balta Brăilei.

Sorting and transit prisons: Jilava, Vacaresti.

Investigation prisons: Rahova, Malmaison, Uranus.

Prisons for women: Mărgineni, Mislea, Miercurea Ciuc, Dumbrăveni.

Penitentiaries for Minors: Târgșor, Mărgineni, Cluj.

Penitentiary-Hospitals: Târgu Ocna and Văcărești.

With regard to the above-mentioned prisons, by way of example, we mention the following:

1. In May 5-6, 1950, were brought to Sighet penitentiary about one hundred dignitaries from the whole country – former ministers, academics, economists, military men, historians, journalists, politicians, some of them sentenced to heavy punishments, others without even being judged. Most were over 60 years of age, one at the age of 93. Between October and November 1950, 45-50 bishops, Greek Catholic and Roman Catholic priests were transported to Sighet, and in August 1951 the PNȚ group was transferred - sentenced in November 1947 to "draconian" punishments.

Among the people imprisoned in **Sighet** were: Iuliu Maniu (president of the National Peasants' Party, former Prime Minister, with a decisive role in the achievement of the Great Union in 1918, who died in penitentiary in 1953); Corneliu Coposu (secretary of Iuliu Maniu, then deputy secretary general of the National Peasants' Party, arrested in 1947, released in 1962 from prison and in 1964 sent to forced residence, president of PNȚCD after 1989); Gheorghe I. Brătianu (historian and politician, university professor, member of the Romanian Academy, killed in Sighet in 1953); Constantin Argetoianu (former President of the Council of Ministers, Minister of Justice, Minister of Finance, Minister of Interior, who died in jail in 1952); Ion Bălan (Greek-Catholic bishop of Lugoj); Sebastian Bornemisa (journalist, Secretary of State for Culture from 1937 to 1938, former Mayor of Cluj and Orastie, died in 1953); Constantin I.C. (Dinu) Brătianu (historian, university professor); Dimitrie Burileanu (former Governor of the National Bank, who died in prison); Ion Cămărășescu (former Minister of Interior, died in prison); Arlette Coposu (wife of Corneliu Coposu, clerk at the Ministry of Foreign Affairs, arrested in 1950, released in 1964, died of cancer shortly after her release); Anton Durcovici (Roman-Catholic bishop of Iași, left to starve to death in

prison); Roman Catholic bishop Marton Áron, the Greek-Catholic bishop Alexandru Todea, Aurel Baciú and many others.

Unfortunately, many of the political prisoners in Sighet have perished inside the walls of the prison, and their dead bodies were thrown into the mass grave.

2. In Râmnicu Sărat Prison, left in history as one of the most odious communist prisons, after 1945, were imprisoned members of the Ion Antonescu government, army generals and leaders of the PNT. Among them we mention Ion Mihalache, Corneliu Coposu, Ion Diaconescu, General Dumitru Dobre, General Constantin Pantazi, General Gheorghe Jienescu, Rear Admiral Horia Măcelariu, Ion Petrovici, Victor Pogoneanu. In Râmnicu Sarat, Alexandru Nicolski, the cruelest torturer of all the prisons, has organized, since 1948, the terror and the detention regime.

3. The Pitestî Penitentiary was built between 1937 – 1941 and was the most modern detention facility in the country at that time. Located in the northern end of the city, the four-story structure had a capacity of 700-800 places. In the first years of operation, the prison housed common law detainees under preventive arrest. Since 1942, several young students have been incarcerated, who were arrested for participating in the legionary rebellion in January 1941, being practically the first political prisoners in Pitesti. The number of those imprisoned for political reasons increased significantly after August 23, 1944: politicians members of PNT and PNL, royalists, legionnaires, former policemen or gendarmes.

The prison, known as *the bestiary of the Romanian gulag*, is known for the violent actions which happened there from November 1949 to May 1951, when more students died as a result of the inhumane, cruel treatment they were subjected to.

The "Pitesti phenomenon" represented a unique re-education experiment in the world and consisted of the physical and psychological destruction of the individual. One of the most frightening torturers who had implemented torture techniques not yet seen before was Eugen Țurcanu, a former student from Iasi, who was forced to scold his friends and colleagues in prison. He established the Organization of Prisoners with Communist Beliefs.

His methods of torture involved blows under the sternum, strangling the neck by hand, the infamous spit-roasting beatings, hitting the head on the wall, chaining the individuals in the yoke, beatings with the board, belt, punches and slaps on the feet, buttocks, the back muscles of the legs, palms and face.

The torture continued day and night, whether it was related to sleep, food, interrogation. However, only few have succumbed, even if this is unimaginable.

Other examples of torture:

a) On Easter night, prisoners who refused to do their total "unmasking" in front of the investigative bodies were given feces as Eucharist;

b) Those who didn't collaborate were "baptized" by the torturers, by putting their heads in bowls full of urine;

c) Prisoners were forced to spit their anti-communist fight leader in the mouth to make him take revenge by "unmasking" them;

d) On Christmas Day, a detainee was obliged, under the threat of beatings, to sit down on the feces bowl with his hands crucified to symbolize the birth of Jesus; the other political prisoners were forced to sit on their knees and worship him.

The Pitesti penitentiary functioned until 1977. After 1990, the building was privatized and divided among several construction companies. Today, only a small part of it resembles the former prison.

4. The penitentiary in **Aiud** stands out from the other Romanian Gulag prisons by the fact that it *sheltered not only until 1964, but until 1989, detainees whose crimes were politically defined.*

Those arrived at Aiud between 1945 and 1989 were considered to be the most dangerous of the political prisoners. Legionnaires, former dignitaries, representatives of political, social, cultural, economic elites have lost their lives in inhuman conditions.

According to the survivors' accounts, the detainees were undressed and hanged by a beam, then beaten by a woman with a whip. The blows were applied from top to bottom, first on the face, on the neck, on the shoulders, on the hands, on the chest, then insisting with the whips in the genital area.

In Aiud penitentiary were imprisoned not only politicians, but also many personalities of the cultural life, including Mircea Vulcănescu, Virgil Gafencu, Nichifor Crainic, Sandu Tudor or Radu Gyr. Also called "*the poet of the prisons*", Radu Gyr was subjected to a detention regime of extraordinary harshness. Another important intellectual imprisoned at Aiud, former chief of service and then director within the Ministry for National Economy in the National-Legionary Government, Petre Țuțea was the symbol of what the Communists considered to be the enemy of the people. That is why they tried, in vain, to reeducate him by cruel methods of physical and psychological torture.

Statistically, during the studied period, there were 563 deaths. According to the nominal death certificates registered at the Aiud City Hall, between 1945 and 1947, 149

people died in Aiud Penitentiary, half of whom were charged with political crimes, and 437 people died between 1948 and 1964, but according to some unofficial estimates, the figure would be around 700.

The Institute for the Investigation of Communist Crimes and the Memory of the Romanian Exile started a digging campaign at Râpa Robilor in Aiud, where the remains of former political prisoners from Aiud prison were discovered, buried by communist Securitate.

5. The Gherla Penitentiary functioned as a preventive institute in the interwar period, and the Communists transformed it into a place of detention for political prisoners.

In the mid-1950s, about 1,600 detainees were incarcerated in Gherla, out of which 104 charged with common law offences, 1,186 political prisoners, and 304 arrested by the General Directorate of People's Security. "*Gherla was Hell*", say the former political prisoners, survivors of torture and re-education from Gherla. Here they have known a true death squad: Goiciu, Istrate, the Șomlea brothers, Cârciu. Istrate Constantin Teodor was commander of Gherla and chief of the execution squad.

6. In the Târgu Ocna Penitentiary, according to the Institute for the Investigation of Communist Crimes and the Memory of the Romanian Exile, only between 1950-1954, died 54 political prisoners, but until 1964 the number increased considerably. The dead bodies were buried without a coffin near the penitentiary and without being marked by crosses. Among those buried in Targu Ocna was also Valeriu Gafencu, named the *Saint of the Prisons* by all those who knew him, a title that also appeared in the books written by the monk Nicolae Steinhardt.

During the communist period, to Târgu Ocna Penitentiary were brought the sick persons diagnosed with TB, which led the prison to be characterized in the specialty literature as a real sanitary Bastille of communist Romania.

7. The Suceava Penitentiary, known as a detention place for Moldovan peasant and liberal youth, who opposed Romania's forced transition to communism, was turned into a Palace of Justice.

In Suceava Penitentiary, around 600-700 young people were imprisoned in 1948. Many of them were students at the faculties of the University of Iași: Letters, Law, Medicine, Agronomy. In the Suceava Penitentiary were carried out Securitate investigations, which usually lasted about one year, after which the detainees were sent to other prisons.

The torture methods in Suceava – among the most abominable – tested human resistance. The political detainees were beaten with the whip and the wood bat. The torturers tied their hands and their legs and suspended them on a wood rack. Then they hit their soles and buttocks with a wood bat, the blows being felt to the back of the neck, according to the testimonies of those who survived the horrors. At first, the investigators beat them naked, then, because of the multitude of wounds, they put a wet sheet over them so that torture could be resumed.

According to research conducted by Dr. Radu Florin Bruja, one of the specialists in the field of recent history from Suceava, in the yard of the penitentiary there were at least five mass graves for these who died during the investigations, one of them in the inner courtyard of the former prison, 15 meters behind the three statues that gave the park's nickname (*The three bearded men*).

8. Between 1907 and 1948, **Fort 13 Jilava** functioned as a military prison in the subordination of the Army General Staff. In the period 1948-1964, most of the political prisoners were brought to Jilava Penitentiary, being a transit point to other prisons. The large influx of detainees turned the penitentiary into a center of the concentration world.

According to the National Administration of Penitentiaries, on arrival at the Jilava Penitentiary, detainees were forced to go through a "tunnel" consisting of two rows of guards, armed with clubs, handles of brooms or shovels, whips and rubber batons, with which they struck from all directions. During this passage, the guards beat the detainees in the head and other parts of the body, so that no detainee escaped unharmed.

Between 1948 and 1966, the detention regime at Jilava was one of extermination of political prisoners through beatings, torture and starvation, according to a material posted on the official website of the National Administration of Penitentiaries.

Fort 13 Jilava became a Memorial and can be visited.

9. During 1948-1952, in **Târgșor**, Prahova County, operated the only prison for children in the world. Hundreds of minors were brought to Târgșor, after the communist authorities identified them as enemies of the people, despite their young age. Among the detainees brought to Târgșor were minors caught sharing manifesto or helping, in various other ways, those who opposed the Communists. Many of the young men had begun to organize resistance movements.

Târgșor functioned as "the prison of children" between 1948-1952, and afterwards, adult political prisoners were brought here. Survivors mentioned in their post-1989 memoirs

a dialogue between Alexandru Nicolski and the youngest of the children imprisoned who was 12 years old at that time and confronted the Securitate torturer with no fear. On the contrary, he told him that although he is only 12 years old, he does politics since one year, but it is the politics of love for nation and country.

10. In the **Malmaison** Prison, the first to be brought were the PNT leaders, the entire Party leadership, known as the "Tămădău Lot" arrested in 1947, after some fell into the Communist trap, being trapped as they were trying to leave the country with an airplane. Iuliu Maniu, Ion Mihalache, Nicolae Penescu and Corneliu Coposu were among those brutally investigated at Malmaison.

11. At the Periprava labor camp, 50 years ago, one of the most sinister forced labor camps was set up, where political prisoners were subjected to a regime of terror of unimaginable cruelty. Many of them have not survived. There have been periods when two or three detainees died in Periprava every night.

According to IICCMER reports, documentary information and numerous testimonies from former political prisoners indicate that the deaths were caused by starvation, cold weather, lack of drinking water and medical assistance, accidents from exhausting work and the detention regime that many have endured in the camps and prisons where they were previously imprisoned. Some detainees were shot under different circumstances, others were beaten savagely by the guards.

12. For the communist regime, the Canal (**Canal Labor Camps**) was another preferred method of exterminating political opponents. Since May 1950, along the 65 km between Constanta and Cernavoda, on Stalin's recommendation, the government of Gheorghe Gheorghiu Dej has created 12 forced labor extermination camps, where many political prisoners have died. According to IICCMER, in 1952, detainees accounted for 82.5% of the Canal workforce.

Until now, there is no official figure on the number of political prisoners who have died at the Canal.

Reprisals on Romanian students – 1956

The anticommunist student movements in Timisoara started and took place in the context created by the Hungarian anti-Communist Revolution. There were other attempts in Bucharest, Iași, but the totalitarian regime suppressed them from the first moments.

The student movement in Timisoara has set as main objectives: solidarity with the Hungarian university youth, promoter of the Hungarian Revolution and condemnation of the communist system in Romania guilty of complicity in the subjugation of the country by the USSR, governance through terror and crime, the abolition of fundamental human rights, economic and social disaster, the degradation of Romanian education and of the entire educational system.

The students arrested and taken to the Securitate underwent lengthy investigations in emergency regime and were sent to trial in two batches:

- the first batch – composed of seven students and a university assistant – was judged on 15-16 November 1956;

- the second batch – consisting of 20 students – was judged on December 12-13, 1956.

The sentences ranged between 6 months and 8 years of imprisonment. With eight years of imprisonment were punished the three main organizers: Caius Muțiu, Teodor Stanca and Aurel Baghiu. Many students were expelled. Unfortunately, their exact number is not known. The expelling continued in the following year and even in 1958. The number of sanctioned persons reached about 250 people.

In the higher education institutes, a real regime of terror has been installed for a long time. Many teachers, found guilty of students' behavior, have been sanctioned and even eliminated from higher education system.

Administrative measures of a political nature

The Communist regime aimed not only to change the administration of the state but also to impose a model of society in which the "new man" was the one liberated from the constraints of memory and the desire for freedom. The new ruling party has removed all its political opposition. Against the leaders who did not want to abandon their ideological beliefs, administrative and coercive measures were imposed through the Ministry of the Interior.

a) The regime applied to former refugees from the other side of the Prut and the Dniester

Between 1944 and 1946, following the decision of the Allied Command, about 100,000 people "born in the USSR" were arrested and sent over the Prut, according to a study

by the National Association of Refugees from the other side of the Prut and Dniester. On the night of September 12/13, 1944, the Armistice Convention was signed with the Allies in Moscow. *Point 5 of the Convention provided for the "repatriation" of Soviet citizens (Bessarabians and Bucovinians).*

Of the 400,000 people which the Russians expected to repatriate, they were able to take to the USSR, by arresting them, between 60,000 and 100,000 Romanians. They were condemned and taken to forced labor in the mines of copper, nickel, uranium, etc. some of them even beyond the polar circle. Approximately 300,000 people were saved due to the work of the young lawyer Danielopol.

b) Deportation of Saxons and Swabians from Transylvania and Banat to the USSR

More than 50,000 Saxons and Swabians from Transylvania and Banat were deported to Russia after the Second World War, according to data collected by Historia magazine. Almost ten thousand of them died in Russian camps, according to the quoted source.

It all began on January 13, 1945 (four months before the May 9th 1945 armistice). The Soviet occupation power imposed to the Government of Nicolae Rădescu to issue the Order no. 031/6 January 1945, for the deportation of ethnic Germans, both women and men, although the Armistice Convention, negotiated and signed on 12 September 1944 in Moscow with the Allied Powers, did not provide for this "compensatory" measure.

The Romanian Government of that period, led by a career military man, General Nicolae Rădescu, tried to oppose the measure ordered by the Soviets. Also, the Minister of Foreign Affairs, Constantin Vișoianu initiated a long series of diplomatic steps to the governments of Great Britain and the United States, but without success.

c) Labor detachments – the military service in the labor detachments of the General Department of Labor Service, from 14 January 1950 to 28 February 1961

By Decree no. 2 of the State Council of January 14, 1950, the Labor Service / DGSM was set up, in the organizational chart of the Ministry of Constructions. Through the newly established authority, the Party and State leadership sought to attract unpaid young labor force. The only advantage of participating in the work camps was the exemption from the compulsory military service for the participants in the work camps in Valea Jiului and Salva Vișeu. The young people were working on the construction of railways, roads and bridges. These punished were sent to the uranium mines. Sons of priests, former industrialists and

former merchants were treated with the utmost harshness.

d) Deportations in Bărăgan

The Pentecost Night, June 17-18, 1951, changed the lives of tens of thousands of Romanians from the counties of Timiș, Caraș-Severin and Mehedinți. More than 40,000 people in nearly 300 localities, near the Yugoslavian border, were deported to Bărăgan.

The peasants resisted collectivization. The Communist regime regarded them as enemies of the people and called them the *chiaburi*. They were in fact wealthy peasants with several hectares of land and livestock.

That night they were taken from their homes and sent to the train station. They could take with them just the bare minimum. For several days they traveled like animals in train cars undivided into compartments. The deportees were taken out of the trains in the middle of the field, where each family was assigned a batch of land to build a hut. And so began the nightmare of the uprooted. Survivors remember the winter of 1952, which was the harshest for children and the elderly. They lived, for almost five years, in huts, in poor conditions, among earthworms and roaches.

e) Totalitarian rules

In the context of relations getting tense between Romania and Yugoslavia, the neighboring country being excluded in 1948 by the Soviets from the Socialist International, the border between the two countries became a sensitive area for the communist government in Bucharest. The ethnics present here, especially in the Plain Banat, were considered as *elements of high risk*.

Following the Soviet model, on October 26, 1950, HCM no. 1154 was issued, modified by HCM no. 344 of March 15, 1951, which partially regulated the issue of establishing a compulsory domicile for some categories of persons, authorizing the Ministry of Internal Affairs to enforce the judgment.

The document stipulated that *"the Ministry of the Interior may, by decision, order the removal from the crowded centers of any persons who do not justify their presence in those centers, as well as move, from any locality, those who, through manifestations against the working people harm the construction of socialism in the Romanian People's Republic. Those concerned may be ordered to set their compulsory domicile in any locality."*

This Decision of the Council of Ministers, which contravenes the Universal Charter of Human Rights, has created the framework for carrying out deportation actions previously committed without a legal regulation.

Chapter 2 mentions the most important personalities killed in communist prisons.

Two million Romanians suffered in the Romanian Communist Gulag in various ways – harsh imprisonment, labor camps, forced residence, Securitate inquiries, collectivization, etc.; among them were politicians, cultured people, journalists, peasants, students, prelates, officers of the Romanian Army, but also simple people.

Targeted were especially those who could break the plans of the Communists, who could mobilize the masses, those who were the landmarks of society. This is why the first persecuted category was the elite of Romania. Within a few years, Romania was beheaded of its more valuable members of society - former prime ministers, ministers, historians, generals of the Romanian Army, all being thrown behind bars, some, younger and stronger, survived, others did not. Among those who have found their end in the communist prisons are the following: *Iuliu Maniu* - one of the Union's artisans, thrown into the mass grave, *Ion Mihalache* - the cooperative model, *Gheorghe Bratianu*, a great historian, dead in mysterious conditions, *Constantin Titel Petrescu* - a left wing intellectual who opposed the regime established after 1945, *Ion Flueraş* - unionist carpenter, *Iosif Jumanca* – a man from Banat who made a clear distinction between social democracy and communism, *Gheorghe Ene-Filipescu* - a convinced atheist, discovered God in the communist prisons, *General Nicolae Ciupercă* - who liberated Bessarabia, dead in the communist dungeon, *Victor Rădulescu Pogoneanu* - a martyr diplomat, *Sass Kálmán* – a priest who was executed, etc.

Chapter 3 presents, by way of example, the most important personalities who survived communist prisons

Many political prisoners were young at the time of the arrest. Thus, they resisted the precarious conditions and aggressions in prisons. Some of them refused to collaborate with the communist system after liberation. They worked on construction sites, since their diplomas were not recognized.

Among the survivors of Communist prisons are: *Corneliu Coposu*, a political prisoner incarcerated 17 and a half years, *Ion Diaconescu*, "the only real speaker", *Radu Câmpeanu*,

the first president of PNL after 1989, eight and a half years of harsh prison, Cardinal *Iuliu Hossu* with his famous statement, "My struggle is over, yours continues", *Constantin Ticu Dumitrescu*, AFDPR's first president, *Elisabeta Rizea*, the heroine from Nucșoara, *Wilhelm Filderman*, the secular leader of the Jewish community, *Márton Áron*, the Roman Catholic bishop who survived the terror, *Remus Radina*, a martyr of the Romanian nation, *Ion Radu*, a teenager thrown in jail, *Ilie Lazăr*, a great patriot from Maramureș, *Caius Petric*, Nicolae Chiselef, George Cușă, Mirel Stănescu, Mihail Giuran, Paul Andreescu, the survivor of the Death ferry, to whom is dedicated the Monument in Poarta Albă, the Transylvanian *Moyses Márton*, who set himself on fire just like Jan Palach, *Cicerone Ionițoiu*, a witness of the communist ordeal, Octav Bjoza, who fought to death for the cause of political prisoners, *Teodor Stanca*, the leader of the student movement in Timișoara, *George Cucu*, a highjacker, the lawyer *Mișu Benvenisti*, who has not found justice, *Abraham Leiba Zissu*, imprisoned under two dictatorships, etc.

Chapter 4 highlights the legal framework in this field, as follows:

a) Decree-Law no. 118 of 30 March 1990 on the granting of rights to persons persecuted for political reasons by the dictatorship installed as from March 6, 1945, as well as those deported abroad or taken prisoners, republished, as subsequently amended and supplemented

By the Decree-Law no. 118/1990, the legislator sought to establish certain regulations of a reparatory nature for the persons who suffered socially, morally and materially, as a result of the political persecutions they were subjected to by the regimes established in Romania starting from March 6, 1945.

In addition to the people who suffered directly, their descendants and / or their spouses suffered as well.

The Romanian legislator paid attention to this special category of persons by establishing legal provisions granting fair rights and benefits for the suffering caused, as stated in the explanatory memorandum; over time, the decree-law has had numerous modifications, additions and republications.

b) Law no. 221 of 2 June 2009 on political convictions and administrative measures assimilated to them, issued between March 6, 1945 and December 22, 1989, as subsequently amended and supplemented

Law no. 221/2009 is part of the category of normative acts that regulated the reparatory measures granted to persons, for political convictions and administrative measures assimilated to them.

Although the intention of the legislator was to establish legal norms providing for reparations for the suffering caused by the communist regime from March 6, 1945 to December 22, 1989, the Law no. 221/2009 has been particularly challenged both by authorities and by individuals.

But the most criticized text was Art. 5 (1) (a) first sentence, of the law, declared at the end of 2010, unconstitutional, by the constitutional litigation court.

c) Government Emergency Ordinance no. 62 of June 30, 2010 for amending and completing the Law no. 221 of 2 June 2009 on political convictions and administrative measures assimilated to them, issued between March 6, 1945 and December 22, 1989, and for suspending the application of some provisions of Title VII of Law no. 247/2005 on property and justice reform, as well as some accompanying measures

The Government Emergency Ordinance no. 62/2010 was justified by the Government at that time by **the need to regulate fair criteria for the award of damages in respect of political convictions issued during March 6, 1945 – December 22, 1989, taking into account the difficulty of assessing the moral prejudice suffered.** Also, "it was necessary to maintain the budgetary balance", and, under Law no. 221/2009, it was threatened by the enforcement of final and irrevocable court decisions for the payment of monetary damages, the amount of which could not be estimated.

d) Law no. 189 of 2 November 2000 on the approval of the Government Ordinance no. 105 of 30 August 1999 on the granting of rights to persons persecuted by the regimes installed in Romania from September 6, 1940 to March 6, 1945 for ethnic reasons and the main rights granted

Initially, Ordinance no. 105 of 30 August 1999 aimed at amending and completing Decree-Law no. 118/1990 on the granting of rights to persons persecuted for political reasons by the dictatorship installed as of March 6, 1945, as well as to those deported abroad or taken prisoners.

By Law no. 189/2000, the title of the Ordinance was amended as follows: "*Ordinance on granting certain rights to persons persecuted by the regimes installed in Romania from September 6, 1940 until March 6, 1945 on ethnic grounds*".

e) Law no. 309 of 22 May 2002 on the recognition and granting of rights to persons who carried out the military service in the General Directorate of the Labor Service in the period 1950-1961 and the main rights granted

By Law no. 309 of May 22, 2002, certain rights were established for the Romanian citizens who have served the military service in the detachments of labor within the General Department of the Labor Service between 1950 and 1961.

f) Fiscal Code (Law No. 227/2015) - the way in which it negatively influenced some rights of the beneficiaries of the Decree-Law no. 118/2010

Article 8, paragraph (1) of Decree-Law no. 118/2010 regarding the granting of rights to persons persecuted for political reasons by the dictatorship established as from March 6, 1945, as well as those deported abroad or taken prisoners, stipulating that "*persons in one of the situations provided for in Art.1 are exempt from local taxes and fees*", is currently abrogated by Art. 502 par. (1) point (7) of Title XI of the Fiscal Code (Law No 227/2015).

However, in the given situation, by repelling the provisions of Art. 8(1) of Decree-Law no. 118/2010, was also repealed the right of the persons provided in Art. 5 (the spouse of the deceased) to benefit from the exemption of local taxes and fees, given that Art. 8(3) of Decree-Law no. 118/1990 provides that "*the rights provided for in para. (1) and (2) shall also apply to the persons referred to in Art. 5*".

The Fiscal Code (Law No. 227/2015) expressly provides for the exemption from certain local taxes and fees for the beneficiaries of Decree-Law no. 118/2010. Thus, Art. 62(v) in conjunction with point 3(1), XV letter (o) of Section 2, Chapter. I, Title IV of the Methodological Norms for the application of Law no. 227/2015 regarding the Fiscal Code, approved by the Government Decision no. 1/2016, stipulates that income in cash and / or in kind, established by law and received by persons persecuted for political reasons by the dictatorship established as of March 6, 1945, is not taxable, meaning that, the allowances granted under the Decree-Law no. 118/2010 are exempt from tax.

The provisions of Art. 476 (1) (b) of the Fiscal Code stipulate: "*The following shall be exempted from the tax for issuance of certificates, approvals and authorizations: b) the certificates, approvals and authorizations whose beneficiaries are the persons stipulated in*

Art. 1 of Decree-Law no. 118/1990, republished, as subsequently amended and supplemented;"

Also, according to Art. 456 (1) (s) of the Fiscal Code, as amended by Art.1 of Law 145/2018, (1) *No tax / fee shall be paid on buildings for: s) the building used as a home owned or co-owned by the persons referred to in Art. 1 and Art. 5 of Decree-Law no. 118/1990, republished, as subsequently amended and supplemented, and the natural persons referred to in Art. 1 of the Government Ordinance no. 105/1999, approved with amendments and completions by Law no. 189/2000, as subsequently amended and supplemented".*

g) Legislation in the field of restitution - how it negatively influenced certain rights of the beneficiaries of Decree-Law no. 118/2010

Law no. 10/2001 instituted an administrative procedure for the restitution in kind of immovable property abusively confiscated, with or without valid title, by the State or by other legal persons during the period March 6, 1945 - December 22, 1989, irrespective of the purpose of the buildings, which on the date of the entry into force of the law, were in the property of the legal persons referred to in Art. 21(1). The rule established by law in this matter is the restitution in kind of the buildings, with the exception of cases expressly provided by law for equivalent compensation. According to Art. 1(2) of the Law no. 10/2001, if the restitution in kind was not possible, compensatory measures were imposed by the equivalent, which consist in compensation with other goods or services offered, as equivalent, to the holder, with the consent of the entitled person, or the granting of shares to commercial companies traded on the capital market, or of nominal securities used exclusively in the process of privatization or monetary compensations.

In the report, a number of amendments to the legislation have been formulated.

Chapter 5 presents the relevant cases of the People's Advocate Institution, and the steps taken to solve the petitions of persecuted persons, for political reasons, by the dictatorship installed on March 6, 1945

Through the cases presented in the report, we wanted to highlight administrative malfunctions that led to violations of the right to a decent standard of living, the right to health or equality of rights. The actions taken by the People's Advocate revealed the failure of the Romanian public administration to meet the demands of individuals. The involvement of public administration is rather reactive rather than proactive, and there are cases where local

public administration authorities and civil servants are insecure, while the managerial capacity to implement decentralized responsibilities is insufficiently strengthened.

On the occasion of meetings with the People's Advocate, the Association of Former Political Prisoners in Romania drew attention to issues brought to the knowledge of the Government of Romania and aimed, inter alia, at the fact that:

- persons to whom Decree-Law no. 118/1990 is addressed shall benefit only from **certain free medicines** (and **only for the basic substance**, the cost difference being borne by the beneficiaries);

- beneficiaries of Decree-Law no. 118/1990 are granted **a very small number of tickets for treatment in a balneary spa resort**; in addition, the tickets are awarded together with the tickets for other categories of beneficiaries, to whom the tickets have been granted in accordance with the provisions of Order no. 62/2005 of the President of CNPPP (**Note: it established, for 2015, the criteria according to which pensioners are given tickets for treatment; currently the criteria are established by Order No. 129/2017 of the President of CNPP**).

- the beneficiaries have difficulty **in getting monthly and / or quarterly visa on the transport permits**, while the other categories of pensioners do not have such an obligation;

- the amendment of the tax legislation has implications on certain provisions of Decree-Law no. 118/1990.

From the cases encountered by the People's Advocate Institution there are other issues, for which the legal means have been used to solve them.

Chapter 6 presents the claims of persecuted persons for political reasons

1. Claims of former political prisoners

By the Government Emergency Ordinance no. 46/2016 for completing the Law no. 227/2015 regarding the Fiscal Code and subsequently by Government Emergency Ordinance no. 84/2016 for amending and completing some normative acts in the financial-fiscal field, the necessary amendments were made so that in case of co-ownership, the spouses of the beneficiaries of the law would not pay part of these taxes (buildings and land) **although some inconsistencies between the two normative acts may still give rise to interpretations.**

At the same time, AFDPR considered that the repeal of Article 8 paragraph (1) of Decree-Law no. 118/1990 practically annulled the content of the provisions of Art. 5

regarding exemption from the local taxes and duties of the spouse of the deceased, and consequently the persons mentioned in Art. 5 are not exempt from local taxes and duties.

AFDPR also criticized the provisions of Law no. 165/2013 regarding the measures for completing the process of restitution, in kind or equivalent, of the buildings abusively taken over during the communist regime in Romania.

Other laws that granted rights to persons politically persecuted by the communist dictatorship and which were withdrawn or modified to the detriment of the beneficiaries, such as Law 145/1997 - Law on Social Health Insurance - at Art. 6 par. (1) letter d) as well as the new Health Law, law 95/2006 - Law on Health Reform - at Art. 213 para. (1) letter c) stated that:

The Government Emergency Ordinance no. 107/2010 on amending and completing the Law 95/2006 on health reform removed the provision *"as well as those resulting from pensions"*, so that, through this amendment of Law 95/2006, the vast majority of beneficiaries of the Decree-Law no. 118/1990 were obliged to pay the health insurance contributions, which at that time **was considered unlawful by the AFDPR.**

According to the provisions of the Single Article, paragraph (1) letter d) of **the Law no. 225 of July 28, 2015, regarding the exemption from social health insurance contribution for certain categories of natural persons, including for persons whose rights are established by Decree-Law no. 118/1990, by Government Ordinance no. 105/1999 (...) for the incomes granted under these laws or, as the case may be, for the base income represented by the minimum gross basic salary per country established on the basis of Art. 296³² Law no.571 / 2003 with subsequent amendments and additions, if they have not made other categories of revenue for which the contribution was due."**

Subsequently, according to Art. 224 par. (1) of the Law no. 95/2006, the persons whose rights are established by Decree-Law no. 118/1990, by the Government Ordinance no. 105/1999 benefit from insurance, without the payment of contribution, under the conditions of Art. 154 of Law no. 227/2015, with subsequent amendments and additions (are exempted).

Through the letters sent to the Secretary General of the Government and the Minister of Public Finance 3741 and 3742 of May 14, 2018, the President of the Association of Former Political Prisoners in Romania, Mr. Octav Bjoza expressly requested the amendment of Decree-Law no. 118/1991, annexing a draft law to this effect.

2. Claims of Refugees in the region beyond the Prut and Dniester

On this occasion, we also highlighted **the situation of the refugees from beyond the Prut and Dniester**, whose representatives met during the year 2018, with the People's Advocate, Mr. Victor Ciorbea.

The National Association of Refugees from beyond the Prut and Dniester (ANRPN), through the voice of the engineer Mr. Aurel Marian Ph.D., president, expressed its dissatisfaction with the fact that the **social group he represents is not defined by the *Law no. 189/2000 for the approval of the Government Ordinance no. 105/1999***. The members of the association have called for a change in the legal framework governing these situations, pointing out that, unlike the other refugees and evacuees, the Bessarabians and Transdnistrians, natives of those places, did not return to their homes, lost property, left behind families and faced a hostile regime.

Chapter 7 mentions the steps taken by the People's Advocate Institution.

In the course of its activity, the People's Advocate Institution has received numerous complaints from politically persecuted persons or their descendants, both in their own name and through their associations, either in writing or in the hearings held by the People's Advocate or by other representatives of the institution.

The received notifications reveal a state of discontent at national level. The authors of these petitions appreciate that the legal texts are, in many ways, unconstitutional, discriminatory, manifestly unlawful and issued with serious violations of the binding rules adopted by the European Union and in disregard of the case law of the Romanian Constitutional Court. The Association of Former Political Prisoners in Romania, during the meetings with the People's Advocate, Mr. Victor Ciorbea, brought to his attention many illegalities, legislative gaps, etc., aspects they have also brought to the attention of the Romanian Government. Discontent was also expressed during the meetings with the representatives of the People's Advocate Institution and the National Association of Refugees from beyond the Prut and Dniester.

Thus, from the discussions held and the cases dealt with by the People's Advocate Institution, were highlighted a series of problems that could affect the rights of the former political prisoners and other categories of people politically persecuted by the communist regime.

I. In the context, we reiterate that, given the existence of Decisions no. 1354/2010, no. 1358/2010 and no. 1360/2010 of the Constitutional Court, **in 2012, the People's Advocate, prepared and sent to the presidents of the two Chambers of Parliament, as well as to the Prime Minister a Special Report on the legislative gap created as a result of declaring as unconstitutional Art. 5 par. (1) lit. a) the first sentence of Law no. 221/2009** on convictions of a political nature and the administrative measures assimilated to them, pronounced between 6 March 1945 and 22 December 1989, and for the suspension of the application of some provisions of Title VII of Law no. 247/2005 on the reform in the fields of property and justice, as well as some accompanying measures, with subsequent amendments and completions, proposing the creation of a legislative framework aimed at providing reparations for the suffering caused by the communist regime from 6 March 1945 to 22 December 1989.

Thus, in the mentioned Report, having in mind the following:

- the provisions of Art. 147 par. (1) of the Constitution and
- the resolutions of the Parliamentary Assembly of the Council of Europe, mentioned in this Special Report, as well as
- the state of legal actions based on the provisions declared unconstitutional, pending before the courts, which were rejected as a result of the *erga omnes* binding nature of the decisions of the constitutional litigation court; and
- the impossibility of formulating new actions in order to obtain compensation by the persons referred to in Law no. 221/2009,

the People's Advocate, considered that it was needed as soon as possible to legislate new provisions to replace the provisions of Art. 5 par. (1) lit. a) the first sentence of Law no. 221/2009, declared unconstitutional.

A first proposal by the People's Advocate aimed to amend Art. 5 par. (1) lit. a) the first sentence of Law no. 221/2009, as follows: *(1) "Everyone who has suffered political convictions during the period March 6, 1945 – December 22, 1989, or who has been the subject of administrative measures of a political nature, and, after the death of that person, its descendants up to the second degree of kinship can request the court provided by Art. 4 par. (4), within 3 years from the date of entry into force of these provisions, to oblige the State to: a) "provide monetary compensations for moral damages caused by political convictions or administrative measures of a political nature. For amounts higher than 50,000*

lei, the payment shall be made in equal installments, within 5 years after the final and irrevocable court decision. "

Another solution proposed by the People's Advocate in the Special Report was that of **finalizing the parliamentary procedures in the case of the Draft Law on the Legal Status of Rights for the Victims of the Communist Totalitarian Regime PL-x no. 244 / 09.05.2011**, of course, in a wording corresponding to both the decisions of the Constitutional Court and the requirements imposed by Art. (5) of the Constitution.

At the time of drafting this Special Report, the draft law on the legal status of the rights granted to victims of the communist totalitarian regime PL-x no. 244 / 09.05.2011, was pending before the Committees of the Chamber of Deputies (the last standpoint being transmitted by the Government on 24.03.2017).

In this context, we mention that the Senate adopted the above-mentioned Project, on May 4, 2011, Art. 5 par. (1) lit. a) of Law no. 221/2009, being amended and completed as follows:

"The introductory part and point a) of paragraph 1 of Article 5 shall have the following content:

(1) Any person who has suffered political convictions between March 6, 1945 and December 22, 1989 may apply to the competent court within 3 years from the date of entry into force of this law, to oblige the State to:

a) provide monetary compensations for the moral damages caused by the personal political detention, consisting of an amount equal to the equivalent of 24,000 euros for each conviction year. For amounts due in excess of EUR 100,000 the payment shall be made in two equal installments, within two years after the final and irrevocable court decision."

II. Requests were addressed to the National Health Insurance House and the Ministry of Health, to communicate the normative acts in the field of social health insurance with reference to the application of Decree-Law no. 118 of March 30, 1990, republished, as subsequently amended and supplemented, having regard to the elaboration by the People's Advocate Institution of a Special Report on the Rights of Former Political Prisoners.

As a result of the requests made by the People's Advocate, the notified institutions communicated to us responses containing the main regulations in the matter. These replies are reproduced in the Special Report.

Chapter 8 includes the conclusions drawn from the legal and administrative verifications carried out

After 1989, the legislator was concerned with regulating rules for reparations for the suffering caused by the communist regime from March 6, 1945 to December 22, 1989.

In this respect, regulations have been adopted on:

1. the restitution of movable and immovable property taken abusively and, to the extent that this is no longer possible, the granting of compensation for them;
2. rehabilitation of those convicted for political reasons;
3. the granting of allowances or compensations for moral damages suffered, as well as other rights.

Relevant in this field are: the provisions of **Decree-Law no. 118/1990** regarding the granting of rights to persons persecuted for political reasons by the dictatorship established as of March 6, 1945, as well as those deported abroad or imprisoned, republished, as subsequently amended and supplemented, **Law no. 221/2009** on convictions of a political nature and the administrative measures assimilated to them, pronounced between March 6, 1945 - December 22, 1989, with subsequent amendments and completions, **Law no. 189/2000** regarding the approval of Government Ordinance no. 105/1999 for amending and completing Decree-Law no. 118/1990 regarding the granting of certain rights to persons persecuted for political reasons by the dictatorship established as of March 6, 1945, as well as those deported abroad or imprisoned, republished, with subsequent amendments, as well as **Law no. 309/2002** on the recognition and granting of rights for the persons who performed the military service within the General Department of the Labor Service during 1950-1961, with subsequent amendments and completions.

Also, in the matter of restitutions, several normative acts on the restitution of the immovable property seized or nationalized during March 6, 1945 – December 22, 1989, were adopted. Thus, by the **Land Fund Law no. 18/1991**, republished in the Official Gazette of Romania, Part I, no. 1 of January 5, 1998, with the subsequent amendments and completions, the right to restitution of land was recognized, and by **Law no. 1/2000** for the reestablishment of the right to property on agricultural land and forestry land, was recognized the right to

compensations in case of impossibility of full restitution in kind. Also, by **Law no. 112/1995** for the regulation of the legal situation of some of the immovable properties with the destination of housing, which were transferred to state property, and subsequently by the **Law no. 10/2001** on the legal status of immovable properties abusively taken over from March 6, 1945 to December 22, 1989, the right to restitution in kind was established and, insofar as this is not possible, the right to reparation by equivalent, for the buildings abusively taken over by the state during the communist period.

At the same time, the citizens belonging to the national minorities benefited from special regulations in the matter of restitution of properties, according to **Government Emergency Ordinance no. 83/1999** on the restitution of immovable property belonging to the communities of citizens belonging to national minorities in Romania, republished, with the subsequent modifications and completions.

It is noteworthy that although by Decree-Law no. 118/1990, a series of rights were established for the persons persecuted for political reasons by the dictatorship established as from March 6, 1945, as well as for those deported abroad or taken prisoners, over time these rights were conditioned, diminished or abolished by various normative acts (*tax or property laws, health law, unitary pension law, Framework Contract on the conditions for granting healthcare within the social health insurance system, Implementing Rules of the Framework Contract, etc., orders, instructions or other normative acts*).

Despite the fact that these rights are largely found in Decree-Law no. 118/1990, in fact, by many regulations that followed, included in other normative acts issued in various fields, these rights have been diminished, practically until their dissolution.

It is true that through some normative acts, especially in recent years, some of the discrimination and "amputations" have been partially or even totally removed, and some allowances have been increased.

An important moment in which the idea of granting rights to persons persecuted for political reasons by the dictatorship established as from March 6, 1945, as well as those deported abroad or taken prisoners was outlined in the **2006 Communism Condemnation Report, as well as Resolution 1481 of 2006 of the Parliamentary Assembly of the Council of Europe on "The need for international condemnation of the crimes of totalitarian communist regimes"**.

In this context, **Law no. 221/2009** on convictions of a political nature and administrative measures assimilated to them, pronounced between March 6, 1945 - December 22, 1989, with subsequent amendments and completions, which enacted remedies, including the granting of moral damages to the persons who suffered political convictions and administrative measures assimilated to them.

Initially, Art. 5 par. (1) lit. a) of Law no. 221/2009 established **compensations for the moral damages suffered, without imposing any limit on the amount of compensations**, taking into account only the remedies already granted under Decree-Law no. 118/1990 and the Government Emergency Ordinance no. 214/1999 regarding the granting of the status of fighter in the anticommunist resistance to persons convicted for crimes committed for political reasons, the persons against whom, for political reasons, were imposed abusive administrative measures, as well as persons who participated in rebellion actions with weapons and overturning by force of the communist regime established in Romania, with the subsequent modifications and completions.

Under the pretext of the significant impact on the state budget, which would have generated additional financial implications on the budget expenditures, as a result of the payment of the damages for the moral prejudice suffered through conviction, established on the basis of Law no. 221/2009, the **Government of that time adopted the Emergency Ordinance no. 62/2010** for amending and completing the Law no. 221/2009 on political convictions and administrative measures assimilated to them, pronounced between March 6, 1945 - December 22, 1989, and for the suspension of the application of some provisions of Title VII of Law no. 247/2005 on property and justice reform, as well as some accompanying measures, **which set maximum limits on the amount of compensation for the moral prejudice suffered. These limits were derisory:**

Thus, compensation for the moral damage suffered due to the conviction was paid up to:

- 1. € 10,000 for the person who suffered a political conviction during March 6, 1945 – December 22, 1989, or who was subject to administrative measures of a political nature;*
- 2. € 5,000 for the spouse and first degree descendants;*
- 3. € 2,500 for descendants of second degree;*

Following the exception of unconstitutionality formulated by the People's Advocate with regard to the unconstitutionality of Art. I point 1 and Art. II of Government Emergency Ordinance no. 62/2010, by Decision no. 1354/2010, the

constitutional litigation court upheld the objection of unconstitutionality, holding in essence that:

- *the criticized legal provisions created premises for discrimination between individuals;*
- *the legal provisions criticized violated the principle of non-retroactivity;*
- *the legal norms violated the provisions of Art. 115 par. (6) of the Constitution and Art. 1 par. (5) of the Basic Law.*

Subsequently, through Decisions **no. 1358/2010** and **no. 1360/2010**, the **Constitutional Court found that the provisions of Art. 5 par. (1) lit. a) the first sentence of Law no. 221/2009** on political convictions and administrative measures assimilated to them, pronounced between March 6, 1945 - December 22, 1989, with subsequent amendments and completions, **were unconstitutional.**

By **Law no. 69/2015 for amending the Decree-Law no. 118/1990** regarding the granting of rights to persons persecuted for political reasons by the dictatorship established as from March 6, 1945, as well as those deported abroad or taken prisoners, which came into force on July 1, 2015, **the allowances for the persons covered by the mentioned normative act increased (practically doubled) from 100 lei to 200 lei**, respectively from **200 lei to 400 lei**, according to the criteria established by the Decree-Law no. 118/1990.

The Fiscal Code (Law No. 227/2015) expressly provides for the exemption from certain local taxes and duties for the beneficiaries of Decree-Law no. 118/2010. Thus, Art. 62 lit. (v) in conjunction with point 3 (1), XV (o) of Section 2, Chapter I, Title IV of the Methodological Norms for the application of Law no. 227/2015 regarding the Fiscal Code, approved by the Government Decision no. 1/2016, stipulates that the income in cash and/or in kind, established by law and received by persons persecuted for political reasons by the dictatorship established as of March 6, 1945, is not taxable, that is to say, the allowances granted under the Decree-Law no. 118/2010 are exempt from tax.

According to paragraph 3(1), XV (o) of Section 2, Chap. I, Title IV of the Methodological Norms for the application of Law no. 227/2015 regarding the Fiscal Code, approved by the Government Decision no. 1/2016, *“(1) In the category of non-taxable income provided under Art. 62 lit. a) of the Fiscal Code are included the incomes obtained by natural persons, legally, such as (...):*

XV. o) allowances granted under Decree-Law no. 118/1990 regarding the granting of rights to persons persecuted for political reasons by the dictatorship established as from March 6,

1945, as well as those deported abroad or taken prisoners, republished, with the subsequent modifications and completions;”

The provisions of Art. 476 par. (1), lit. b) of the Fiscal Code stipulate: *"The following shall be exempted from the tax for issuance of certificates, approvals and authorizations: b) the certificates, approvals and authorizations whose beneficiaries are the persons stipulated in Art. 1 of Decree-Law no. 118/1990, republished, as subsequently amended and supplemented;"*

According to art. 456 lin. (1) lit. s) of the Fiscal Code, as amended by Art.1 of Law 145/2018, (1) *No fee / tax shall be paid on buildings for: s) the building used as home owned or co-owned by the persons referred to in Art. 1 and Art. 5 of Decree-Law no. 118/1990, republished, as subsequently amended and supplemented, and the natural persons referred to in Art. 1 of the Government Ordinance no. 105/1999, approved with amendments and completions by Law no. 189/2000, as subsequently amended and supplemented"*.

According to Art. 469 par. (1) letter c) of the Fiscal Code *"There is no tax on means of transport for:*

(...)

c) means of transport owned or co-owned by the persons referred to in Art. 1 and Art. 5 of Decree-Law no. 118/1990, republished, as subsequently amended and supplemented, and the natural persons referred to in Art. 1 of the Government Ordinance no. 105/1999, approved with amendments and completions by Law no. 189/2000, with the subsequent modifications and completions, for a single means of transport, at the choice of the taxpayer...

Law no. 234/2016 for the amendment of Art. 2 of the Law no. 309/2002 on the recognition and granting of rights to persons who have carried out the military service within the General Department of Labor Service between 1950 and 1961, **modified the allowances for the persons who performed the military service in the labor departments within the Directorate General of Labor Service in the period 1950-1961 (from 15,000 lei (ROL – old currency) for each month of military service carried out within the General Department of the Labor Service to 5 lei (RON – new currency).**

Also, by **Law no. 126/2017** amending Government Ordinance no. 105/1999 regarding the granting of certain rights to the persons persecuted by the regimes established in Romania from September 6, 1940 until March 6, 1945 **for ethnic reasons, the allowances for this category of persons have also changed**, being granted differentiated, according to criteria

set out in the Emergency Ordinance mentioned above (400 lei for each year of deportation or detention, or 250 lei for each year of resettlement, forced labor or eviction from their own dwelling).

Unfortunately, although the allowances for the persons covered by the aforementioned normative acts have been subject to some increases, they are insignificant in relation to the needs of those concerned, while their children, who have also suffered all their lives, have been ignored, not to mention the fact that unjustified and unacceptable discrimination has been created over time between these categories of anti-communist fighters and those referred to in Law no. 341 of July 12, 2004, on the gratitude for the victory of the Romanian Revolution of December 1989, of the anticommunist workers' revolt in Brasov in November 1987 and of the anti-communist workers' revolt in Valea Jiului - Lupeni - August 1977.

Against this background, we believe that it is imperative to review the legislation in the field, as shown in the proposals.

The 9th chapter, as we have shown, includes proposals for improving the legislative framework and the activity of the public administration in the matter, as follows:

Proposals addressing legislation in the field

In view of the findings of the People's Advocate at the time of drafting of this special report and in particular the lack of unitary, coherent and predictable regulations for the purpose of rehabilitating or receiving compensation for the political, economic, social, moral and material suffering of persons persecuted by the regime established in Romania after 1944, we consider it appropriate for **the legislator to consider the creation of an adequate legislative framework meant to ensure the effective observance of the rights and freedoms stipulated in the Constitution of Romania, the decisions of the Constitutional Court and the international documents for this category of persons.**

A proposal by the People's Advocate to resolve this situation would be to adopt a single piece of legislation establishing a common legal regime, mainly for the purposes of granting the same rights or at least similar rights for all persecuted persons by the communist political regime.

Such a solution would, in essence, be justified by the following points:

a) The sufferings of people politically persecuted by the communist regime which, following their oppression, suffered unimaginable torments, many of them losing their lives or suffering serious economic, social and moral discrimination, with consequences for the rest of their existence and of their families, including their children.

Against this background, we believe that people persecuted by the communist political regime must be rehabilitated, the confiscated property restituted or be compensated with priority if restitution in kind is no longer possible and, as long as they or their families (spouses, children) are still alive, be compensated for the damage, including moral damage suffered, under conditions guaranteeing equal and effective protection against any discrimination.

It is worth pointing out that over time, the number of these people has considerably diminished. Thus, of the approximately 150,000 former political prisoners still alive in 1990, today survive less than 2000. The vast majority of beneficiaries of the Decree-Law no. 118/1990 (about 35,000) consists of deportees, displaced persons, and the wives of the deceased, whose number decreases annually at an alarming rate. For example, of the over 44,000 persons deported (displaced) in Bărăgan between 1951 and 1956, approximately 6-7 thousand are still alive.

By the measure we propose, we basically recognize the sacrifice of people politically persecuted by the Communist regime and show respect for those who have opposed the measures imposed by this regime, which, through the prisons, the "experiments" like the Pitesti phenomenon, the Danube-Black Sea channel, etc., were often subjected to cruelty and savagery at least at the level of the of the Soviet Gulag.

b) The provisions of Decree-Law no. 118/1990 regarding the granting of rights to persons persecuted for political reasons by the dictatorship established as of March 6, 1945, as well as those deported abroad or taken prisoners and the provisions of the Law no. 221/2009 on convictions of a political nature and administrative measures assimilated to them, pronounced between 6 March 1945 and 22 December 1989.

As regards the granting of rights to the persons persecuted by the communist regime, it can be observed that there are a series of normative acts having a reparatory character for certain categories of persons who suffered both economically, morally and socially as a result of the political persecution they were subjected to by the communist regime.

In principle, **although Decree-Law no. 118/1990 enshrines the rights enjoyed by persons persecuted for political reasons, deported abroad or taken prisoners, unfortunately, there are a multitude of examples that substantially limit or even cancel these rights, as mentioned above.**

By way of example, it should be noted that: **the tax benefits are provided by the Fiscal Procedure Code, the restitution in kind of the confiscated goods and the compensation for them are determined by laws adopted in the field of property, the benefits related to the observance of the right to health are provided by the health law, the treatment tickets are subject to the law on the unitary pension system, etc. At the same time, we underline that, on the basis of the normative acts issued by the legislator, a series of government decisions, ministerial orders, instructions, etc. are issued, which condition or simply cancel what is recognized by the special law / laws.**

Conclusive in this respect are the provisions of Decree-Law no. 118/1990 regarding the granting of rights to persons persecuted for political reasons by the dictatorship established from March 6, 1945, as well as those deported abroad or taken prisoners and the provisions of the Law no. 221/2009 on convictions of a political nature and administrative measures assimilated to them, pronounced between March 6, 1945 and December 22, 1989.

These normative acts establish a series of rights, such as: the right to a monthly allowance of 400 lei for each year of detention or of living in resettlement, deportation abroad or as prisoner; the right to a monthly allowance of 200 lei for each year of abusive hospitalization in psychiatric hospitals or compulsory domicile (Article 4 of Decree-Law No 118/1990); medical care and medicines, free of charge and with priority, both in outpatient treatment and during hospitalizations; free urban transport by means of public transport belonging to state or private companies (bus, trolleybus, tram, subway); twelve free trips, annually, on the Romanian railways, in the first class, on all categories of passenger trains, by means of road transport or by means of river transport (Article 8 of Decree-Law No 118/1990); the spouse of the deceased, from the category of those missing or exterminated during detention, abusively admitted to psychiatric hospitals, deportees, prisoners or these to whom was established mandatory domicile, as well as the spouse of these who died after leaving prison or the psychiatry hospital, or after returning from resettlement, from deportation, from captivity or following the termination of the compulsory domicile, are entitled to a monthly allowance of 400 lei, non-taxable, if they have not remarried (Article 5 of Decree-Law no. 118/1990); granting damages representing the

equivalent of the value of goods seized by a conviction decision or as a consequence of an administrative measure, if the respective goods have not been reimbursed to them or they have not been compensated by equivalent, under Law no. 10/2001 regarding the legal regime of immobile properties abusively taken over from March 6, 1945 to December 22, 1989, republished, with subsequent amendments and completions, or Law no. 247/2005 regarding the reform in the field of property and justice, as well as some accompanying measures, with subsequent amendments and completions; [Art. 5 par. (1) lit. b) of Law no. 221/2009]; **reinstatement of rights if, by the conviction decision, were withdrawn certain rights or military ranks** (Art. 5 par. (1) lit. c) of Law no. 221/2009].

The two normative acts enshrine a series of rights for the people persecuted for political reasons by the communist regime, which, according to the decisions of the Constitutional Court, **are not clear and predictable.**

Decisions of the Constitutional Court no. 1358/2010 and 1360/2010

In Decision no. 1358/2010, the Constitutional Court found that *the purpose of awarding damages for the moral damage suffered by persons persecuted during the communist period is not only the reparation of the damage suffered by restoring the persecuted person to a situation similar to that previously had - which is also impossible, but the purpose of establishing this reparatory norm is to produce moral satisfaction by recognizing and condemning the measure which was contrary to human rights, a principle derived from internal normative acts, in full compliance with the recommendations of the Parliamentary Assembly of the Council of Europe.*

In its Decision no. 1360/2010, the Constitutional Court *found that the criticized regulation violated the legislative technique norms, by creating situations of incoherence and instability, contrary to the provisions of Law no. 24/2000, republished.*

The Court notes that – in the field of compensation for moral damages to persons persecuted for political reasons during the communist period – there are parallel regulations, namely, on the one hand, Decree-Law no. 118/1990, republished and Government Emergency Ordinance no. 214/1999, approved with amendments and completions by Law no. 568/2001, as subsequently amended and supplemented, and, on the other hand, Law no. 221/2009 on convictions of a political nature and administrative measures assimilated to them, pronounced between March 6, 1945 and December 22, 1989.

In view of the above, we appreciate that the normative acts concerning the rights of persons politically persecuted by the communist regime are insufficient to characterize the legal norm as clear and predictable.

In the context, we appreciate that, **in the matter of granting the rights of persons persecuted by the communist political regime, there must be a clear, precise, adequate, proportionate and non-discriminatory legislation that does not give rise to different interpretations and applications in practice, which could lead, among others, to human rights violations found by the European Court of Human Rights.**

Therefore, we believe that the development of a single piece of legislation or at least a unitary legislation for all politically persecuted persons should be made taking into account mainly:

- the resolutions of the Parliamentary Assembly of the Council of Europe no. 1096 (1996) entitled "Measures to dismantle the heritage of former communist totalitarian systems" and no. 1481 (2006) entitled "Need for international condemnation of crimes of totalitarian communist regimes". According to these Recommendations addressed to the member States of the Council of Europe (to which Romania adhered by the Law no. 64/1993 on the accession of Romania to the Council of Europe, published in the Official Gazette of Romania, Part I, No. 238 of October 4, 1993), given the **human rights violations by the communist regime, it is necessary that the innocent persons who have been persecuted for deeds which would be considered lawful in a democratic society to be rehabilitated, to have their confiscated property returned (or receive compensation if this this is no longer possible) and, as long as the victims of the communist regime or their families are still alive, to receive compensation for the moral damage suffered,**

and

- The Decisions of the Constitutional Court no. 1354/2010, no. 1358/2010 and 1360/2010 as well as other relevant decisions in the matter.

Moreover, we note that the **establishment of rights and the granting of compensation for persons persecuted by the communist political regime is at the discretion of the Legislature, who - under Art. 61 of the Basic Law, according to *which "The Parliament is the supreme representative body of the Romanian people and the sole legislator of the country" - is competent to determine the conditions and criteria for granting them.*** However, the Parliament, in drafting the country's legislative policy, is in a position to opt for the adoption of any legislative solution to provide reparation measures to

those entitled, for the damage suffered during the communist period, with the observance of the provisions and principles of the Constitution.

In conclusion, we appreciate that a single legislative framework or, at least, a uniform, clear, precise, appropriate, proportionate and non-discriminatory regulation constitutes the ideal situation for restoring a moral and material equity to those who have sacrificed their lives in communist prisons and camps for defending the freedom, dignity and faith of the Romanian people, as well as for those who have been persecuted in other ways by the communist political regime (*have executed a custodial sentence on the basis of a final court decision or have been deprived of their liberty on the basis of a preventive arrest warrant for political offenses; have been deprived of liberty in places of detention on the basis of administrative measures or for investigations by the repressive authorities; were admitted to psychiatric hospitals; had compulsory residence; were moved to another locality; for ethnic reasons; were part of the work detachments, etc.*).

This would avoid any wrong, incorrect or unfair interpretation of the rights of people politically persecuted by the communist regime.

Alternatively, to the extent that the adoption of such a legislative act would not be possible:

- **consider the close link between the provisions of Decree-Law no. 118/1990 regarding the granting of rights to persons persecuted for political reasons by the dictatorship established from March 6, 1945, as well as those deported abroad or taken prisoners and the provisions of the Law no. 221/2009 on convictions of a political nature and administrative measures assimilated to them, pronounced between March 6, 1945 – December 22, 1989;**
- **the numerous decisions of the Constitutional Court and of the High Court of Cassation and Justice, in relation to the regulations of the two normative acts;**
- **legislative amendments made to them;**
- **the legislative gap created as a result of the decisions of the Constitutional Court no. 1354/2010, no. 1358/2010 and no. 1360/2010 which was not "covered" by the Parliament's regulations in this matter;**
- **avoidance of parallel regulations;**
- **failure to bring the legislation in line with the decisions of the Constitutional Court;**

- **the proposals of the associations of the persons persecuted politically by the communist regime**, noted in this report;

We recommend the elaboration of a law of reparative nature regarding the persons covered by the Decree-law no. 118/1990 on the granting of rights to persons persecuted for political reasons by the dictatorship established from March 6, 1945, as well as those deported abroad or taken prisoners and of **Law no. 221/2009** regarding the convictions of a political nature and the administrative measures assimilated to them, pronounced between March 6, 1945 and December 22, 1989, **taking into account all the aspects mentioned above.**

Until the adoption of a single normative act or a unitary legislation establishing similar rights for all categories of persons persecuted by the communist political regime, we propose the following amendments and completions of some normative acts in force:

a) Considering the provisions of Art. 147 paragraph (1) of the Constitution, as well as the Resolutions of the Parliamentary Assembly of the Council of Europe, mentioned in this special report, but also the situation of the court actions based on the provisions declared unconstitutional, which are pending before the courts, which are rejected due to the binding *erga omnes* character of the decisions of the constitutional litigation court and the impossibility of formulating new actions in order to obtain damages by the persons referred to by Law no. 221/2009, **we consider that it is necessary to legislate new provisions that will replace the provisions of Art. 5 paragraph (1) letter a) the first thesis of Law no. 221/2009, declared unconstitutional, in compliance with the instructions of the Constitutional Court.**

b) Also, **taking into account the referral of the Parliament by the Constitutional Court**, a solution for resolving this situation would be to **finalize the parliamentary procedures in the case of the Draft Law on the legal regime of the rights due to the victims of the totalitarian communist regime** - PL-x no. 244 / 09.05.2011 (*the Draft Law on the legal regime of the rights due to the victims of the totalitarian communist regime*), of course, **in a formulation that is in agreement with both the decisions of the Constitutional Court and with the requirements imposed by Art. 138 par. (5) of the Constitution.**

In the context of the legislative gap generated by the decisions of the Constitutional Court, **the elimination from Art. 5 paragraph (1) of Law no. 221/2009, in the current form, of the phrase "within 3 years from the date of entry into force of this law (...)" and**

establishing a new term in which the beneficiaries have the possibility to ask the court to grant their rights, from the date of entry into force of the new amendments.

According to **Art. 122 paragraph (1) of Law no. 263/2010** regarding the unitary system of public pensions, with subsequent modifications and completions, the granting of the benefits consisting in spa treatment is made by assigning **treatment tickets** to the rightful applicants, *within the limit of the number of places available in the treatment units owned by the National House of Public Pensions, as well as the number of places contracted with other units and the amounts allocated for this purpose through the law of the state social insurance budget.* At the same time, according to Art. 124 of the aforementioned normative act, the number of spa treatment tickets, ***including those granted free of charge to the beneficiaries of certain reparative laws (and for the former political prisoners), as well as the way of granting, distributing and reimbursement are established, annually, by Government Decision.***

In the given context, in the new law of pensions, currently under debate in the Parliament, we consider that it is necessary to introduce a provision establishing that the politically persecuted persons by the totalitarian regimes shall receive a free ticket per year, for treatment, without this right being subject to other conditions.

Regarding the **provision of medical care and medicines**, free of charge and with priority, both in the outpatient setting and during the hospitalization, given that, **at present, only certain medicines are provided free of charge (and only for the basic substance) and some medical investigations**, only within the limit of some amounts granted by the health insurance houses, which are totally unsatisfactory, **we propose the revision of the legal provisions regarding the categories of persons provided by the Decree-law no. 118 of March 30, 1990 on the granting of rights to persons persecuted for political reasons by the dictatorship established from March 6, 1945, as well as those deported abroad or taken prisoners, or by other laws concerning politically persecuted persons** (e.g. for ethnic or religious reasons or who have suffered administrative measures of a political nature).

The repeal of Art. 8 paragraph (1) of the Decree-law no. 118/2018, with the subsequent modifications and completions, led to annulling the content of the provisions of Art. 5 of the mentioned normative act (**about the spouse of the deceased to be exempted from the local taxes and duties**), so that the persons provided **in Art. 5 of the Decree-law no. 118/2018 are not exempt from local taxes and duties. We appreciate that, in this**

case, a review of the legislation to also exempt this category of persons from the payment of all local taxes and duties.

Issuing an emergency ordinance amending Decree-Law no. 118/2018, in the sense of:

a) **updating the allowances due to the persons mentioned in the decree at the level of these granted to the beneficiaries** of Law no. 341/2004 on the gratitude for the victory of the Romanian Revolution of December 1989, for the anti-communist labor revolt in Brasov from November 1987 and for the anti-communist labor revolt of the Jiu Valley - Lupeni - August 1977;

b) granting **some allowances to the first degree descendants of the persons who are the object of the Decree-Law no. 118/2018, as in the case of those covered by** Law no. 341/2004 on the gratitude for the victory of the Romanian Revolution of December 1989, for the anti-communist labor revolt in Brasov from November 1987 and for the anti-communist labor revolt of the Jiu Valley - Lupeni - August 1977;

c) **the exoneration from the payment of the amounts representing allowances granted under the Decree-law no. 118/1990, amounts considered to be received unduly and which the beneficiaries must return as a consequence of the decision of the Pension House of the Municipality of Bucharest or the decision of the county pension houses or other institutions with control powers, of some so-called prejudices, generated, in particular, by the different way of interpreting the phrase "compulsory domicile",** already having a precedent that can be classified as having a discriminatory character (see Art. II of *Law no. 237 of 10 October 2018 for amending Government Ordinance No. 105/1999 regarding the granting of rights to persons persecuted by the regimes established in Romania from September 6, 1940 to March 6, 1945 for ethnic reasons*).

Thus, **the text could have, for example, the following wording:**

“I. (1) Shall be exempted from payment the amounts representing allowances granted under the Decree-Law no. 118 of March 30, 1990 regarding the granting of rights to persons persecuted for political reasons by the dictatorship established from March 6, 1945, as well as those deported abroad or taken prisoners, with subsequent amendments and completions, amounts considered to be unduly received and which the beneficiaries must return as a consequence of the decision of the Pension House of the Municipality of Bucharest or the decision of the county pension houses or other institutions with control powers, which found that some prejudices were caused.

(2) *The amounts recovered up to the date of entry into force of this law, as a result of the decisions provided in par. (1), shall not be returned.*

(3) *At the date of entry into force of this law, shall be ceased the payment to the beneficiaries of the amounts representing allowances granted according to par. (1), which the Pension House of the Municipality of Bucharest or the county pension houses or other institutions with control powers found that they were granted unduly and damages were created; it shall also cease any attempt to recover these sums.”*

Shall be constructed, equipped and managed care and assistance centers for the beneficiaries of the Decree - law no. 118/1990 or other laws regarding the rights of the politically persecuted persons (e.g. for ethnic reasons, or who carried out the military service in the labor divisions of the General Directorate of Labor Service during 1950-1961, etc.);

Amendment of the Order of the Minister of Health and of the President of the National Health Insurance House no. 397/836/2018 regarding the application of the Government Decision no. 140 of March 21, 2018 for the approval of the service packages and of the **Framework Contract regulating the conditions for the provision of healthcare, medicines and medical devices within the health insurance system for the years 2018-2019, for the purpose of recognizing healthcare and medicines, free of charge and with priority, both in the outpatient treatment and during the hospitalizations, as provided by Art. 8 paragraph (2) letter. a) of the Decree-Law no. 118 of March 30, 1990, republished, as subsequently amended and supplemented.**

Regarding the fact that, on the one hand, **the rights of refugees beyond Prut and Dniester are not clearly defined** in Law no. 189/2000 regulating the rights of persons persecuted by the regimes established in Romania from September 6, 1940 to March 6, 1945, with subsequent amendments and completions, **and on the other hand, according to the current regulations, some rights are recognized only for the period 1944 -1945, which is why we consider that it would be necessary to promote a special law in this field.**

In view the above, we propose that, when establishing the basis for calculating the rights of the refugees beyond Prut and Dniester, the historical and legal reality regarding this category of beneficiaries to be taken into account, starting with August 23, 1944 and until 1953.

In view of the sufferings endured by the politically persecuted persons after August 23, 1944, as well as the fact that the rights recognized to them are non-unitary and

uncorrelated with other categories of fighters against the communist regime, **we propose the recognition of similar rights and allowances, established at the same level, or in a very judicious, fair, legal and equitable amount correlated for all persons persecuted by the communist regime who were detained, prisoners, deprived of liberty in places of detention based on administrative measures or for investigations by the repression bodies, hospitalized in psychiatric hospitals, who had established mandatory domicile, were relocated to another locality, were deported abroad after August 23, 1944; have undergone administrative measures of a political nature or have been persecuted for ethnic or religious reasons (for example: to be granted the same rights both for the persons displaced in another locality and for the persons who were obliged to reside in another locality).**

Issuing a normative act amending the Government Decision no. 563/2014 regarding the organization and functioning of the State Secretariat for the recognition of the merits of the fighters against the communist regime established in Romania during the period 1945-1989 republished, within the meaning of **establishing within it two distinct structures for the categories of persons covered by the aforementioned government decision.**

In the opinion of the People's Advocate, **a structure would be required for the December 1989 revolutionaries and another structure for the fighters in the anti-communist resistance, the former political prisoners, as well as for the people who sacrificed their lives or suffered as a result of the anti-communist workers' revolt in Braşov from November 1987, taking into account, in particular, the fact that these persons are subject to different normative acts, with different rights.**

We propose that the newly established structures have their own budget, headquarters, and organizational chart, and that the duties of the staff and of the structures within it to be expressly provided for each category, given their specificity, including by granting the right of control over the application of the provisions of the special laws.

Completion of Art. 33 and Art. 34 of Law no. 165/2013 regarding the measures for completing the process of restitution, in kind or by equivalent, of the buildings taken over abusively during the period of the communist regime in Romania as follows:

Completion of Art. 33 paragraph (4) as follows:

(4) The applications shall be analyzed in the order of their registration with the entities mentioned in par. (1). *By way of exception, the requests formulated by the beneficiaries of*

the Decree - Law no. 118/1990 regarding the granting of rights to persons persecuted for political reasons by the dictatorship established from March 6, 1945, as well as those deported abroad or taken prisoners, republished and the requests made by the beneficiaries of Law no. 221/2009 regarding the convictions of a political nature and the administrative measures assimilated to them, pronounced between March 6, 1945 and December 22, 1989.

Completion of Art. 34 paragraph (5) with a new letter, letter. e) as follows:

(5) By exception from the provisions of par. (4), shall be settled with priority:

(...)

e) the files in which decisions were issued regarding the proposal for compensation / compensatory measures for the beneficiaries of the Decree - Law no. 118/1990 regarding the granting of rights to persons persecuted for political reasons by the dictatorship established from March 6, 1945, as well as those deported abroad or taken prisoners, republished and the requests made by the beneficiaries of Law no. 221/2009 regarding the convictions of a political nature and the administrative measures assimilated to them, pronounced between March 6, 1945 and December 22, 1989.

Proposals for improving the activity of the local and central public administration:

The public administration authorities have the obligation to apply and monitor the legal provisions regarding the granting of the due rights to all categories that are subject to the Decree-law no. 118 of March 30, 1990 and of the other normative acts, regarding the granting of rights to the persons persecuted for political reasons by the dictatorship established from March 6, 1945, as well as to those deported abroad or taken prisoners or by other laws on the politically persecuted persons. (e.g. for ethnic reasons, or who have carried out the military service in the labor divisions of the General Directorate of Labor Service in the period 1950-1961, etc.) Thus, **the failure to comply with this obligation may lead to administrative, civil or criminal liability, as the case may be.**

The authorities of the public administration involved must carry out a professional examination of the applications that have as object the granting of the rights established by laws or other normative acts.

The civil servants or employees in the public administration must benefit from continuous training programs to ensure their professional skills development.

Regarding the cases brought to the attention of the People's Advocate Institution, we will consider the possibility of promoting an appeal in the interest of the

law in order to unify the practice of the courts, if some of them expressly decide, in the content of the pronounced decisions, the non-retroactivity of the exemptions from payment of the taxes and fees provided by the Fiscal Code, levied on the beneficiaries.