



Strasbourg, 29 mai 2015

CDL-REF(2015)018
Engl.Only

Opinion no. 808 / 2015

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

LAW (*)

ON THE PEOPLE ADVOCATE
(OMBUDSMAN)

OF THE REPUBLIC OF MOLDOVA

of 3 April 2014

(*) **Official version provided by the Ombudsman of the Republic of Moldova**

Republic of Moldova**THE PARLIAMENT****LAW****on the People's Advocate (Ombudsman)
No. 52 - 03.04.2014**

Published: 09.05.2014 in the Official Monitor No. 110-114 art No. : 278

Confirming the adherence to the Universal Declaration of Human Rights, Convention for the Protection of Human Rights and Fundamental, other international documents related to the human rights and taking into consideration that, in conformity with the UN Status, the state stimulates the protection of the human rights and freedoms and provides the protection of the rights and freedoms of all individuals on the territory of the Republic of Moldova,
The Parliament adopts the present organic Law.

**Chapter I
GENERAL PROVISIONS****Article 1.** Activity of the People's Advocate (Ombudsman)

(1) The People's Advocate (Ombudsman) (hereinafter – the People's Advocate) ensures the protection of all human rights and freedoms by the public authorities, by the organizations and companies, no matter of the type of property and the legal organizational form, by the non-commercial organizations and by decision-makers at all levels.

(2) The People's Advocate contributes to the protection of the human rights and freedoms through the prevention of their violation, through monitoring and reporting on the modality of protection of the fundamental human rights and freedoms at the national level through the improvement of the legislation related to the human rights and freedoms, through international collaboration in this area, through the promotion of the human rights and freedoms and their protection mechanisms, through the application of the procedures provided by the present Law.

(3) The People's Advocate for the child rights' protection performs his/her duties to ensure the protection of child rights and freedoms, at the national level, by the central and local public authorities, by the decision making officials at all levels of the provisions of the UN Conventions for the Protection of the Rights of the Child.

(4) The activity of the People's Advocate and of the public servants working under his/her authority has a public character.

Article 2. Principles of activity

(1) In his/her activity, the People's Advocate follows the Constitution of the Republic of Moldova, the present

Law, other laws of the Republic of Moldova, as well as the international treaties the Republic of Moldova is party to.

(2) In his/her activity, the People's Advocate follows the principles of legality, equality, impartiality, transparency, social equity, democracy, humanism and follows own conscience.

Article 3. Guarantees of independence

(1) The People's Advocate institution is autonomous and independent from any public authority, legal entity, no matter of the type of property and legal organization form, and any individual in the decision making position at all levels.

(2) The People's Advocate cannot be subject to an imperative or representative mandate. No one can oblige the People's Advocate to comply with one's instructions or provisions.

(3) The People's Advocate cannot be obliged to explain cases reviewed or being reviewed, except situations when they are in the interest of the represented party or contain information of public interest.

(4) The interference into the activity of the People's Advocate, the deliberate ignoring by the responsible officials at all levels of the intimations and recommendations of the People's Advocate, as well as the impeding in any form of his/her activity involve liability in conformity with the legislation.

Article 4. Inviolability of the People's Advocate

(1) The People's Advocate and his/her deputies can't be persecuted or held legally liable for opinions expressed and actions undertaken, in the compliance with the law, during their mandate.

(2) During his/her mandate, the People's Advocate and his/her deputies may be under criminal investigations and trial for other deeds except those provided by Pra. (1), but the People's Advocate cannot be apprehended, searched or arrested without the prior consent of the Parliament.

(3) The People's Advocate and deputies who are arrested or tried on criminal matters shall be suspended by law up to the final decision of the court.

(4) The inviolability of the People's Advocate and deputies expands over their dwelling and office, transportation and telecommunication means used, correspondence, documents and personal property.

Chapter II

PEOPLE'S ADVOCATE STATUS

Article 5. People's Advocate Mandate

(1) The Parliament appoints two People's Advocates, autonomous among them, where one is specialized in the issues of the child rights and freedoms protection.

(2) The People's Advocate is appointed for a 7 years mandate, which can't be renewed. The mandate starts on the day of oath.

(3) The People's Advocate performs public servant's activity.

(4) In the case of cease before term of the People's Advocate mandate, in no more than 3 months a new People's Advocate is appointed.

(5) The People's Advocate is in position until his/her replacement by the successor, except the cases of mandate cease before term or revocation on the grounds provided by Art. 14.

(6) Declaration of the state of emergency, siege or war on the whole territory of the country or in some localities does not suspend the activity of the People's Advocate and does not restrain his/her duties.

Article 6. Eligibility criteria

(1) The People's Advocate position may be held by the individual corresponding to the following criteria:

- a) citizen of the Republic of Moldova;
- b) full legal capacity;
- c) license diploma or its equivalent;
- d) work experience of at least 10 years and notorious activity in the area of human rights protection and

promotion;

- e) enjoying a spotless reputation;
- f) knowing the official state language.

(2) A candidate for the position of People's Advocate:

- a) have criminal records, including served ones, for an intended offence or being amnestied by an amnesty or grace document;
- b) have been fired or released of duties from imputable motives.

Article 7. Selection of the candidates for the People's Advocate position

(1) For the selection of the candidates for the position of People's Advocate is created a Special Parliament Commission, comprised from members of the Human Rights and Inter-ethnic Relationships Commission and Legal, Appointments and Immunities Commission. The Special Parliament Commission organizes the selection of the candidates for the position of People's Advocate in conformity with the regulations approved by it.

(2) The information on the organization and implementation of the selection, requirements for the candidates and documents to be submitted is displayed on the official webpage of the Parliament and published in the mass media at least 20 days prior to the selection day.

(3) The selection organization and implementation procedure is based on the following principles:

- a) open competition, through the provision of free access to all individuals meeting the requirements set by the Law;
- b) transparency, through the provision of information related to the modality of the selection to all the interested parties;
- c) equal treatment, through the non-discriminating application of the selection criteria and conditions for all candidates.

(4) The CV-s of the candidates are placed on the official website of the Parliament for public consultations.

(5) The selection is considered valid if there are at least two candidates for each position called for selection. In the case when were submitted insufficient files for the selection or the candidates do not meet the requirements set by the present Law, a repeated selection is called, which is organized in a 30 day term.

(6) The selection of the candidates for the position of the People's Advocate is organized at least 3 months before the expiry of the current People's Advocate.

(7) The information on the results of the selection are placed on the official webpage of the Parliament and is published in mass media.

Article 8. Appointment procedure

(1) The Special Parliament Commission selects the candidates who did gather the biggest number of points at evaluation, 2 for each position of People's Advocate, and is presenting them to the plenary session of the Parliament for appointment. For each candidate a motivated review is being prepared.

(2) Is appointed in the position of People's Advocate the candidate who did get the votes of the majority of the members of the Parliament. If in the first round no candidate obtains the needed number of votes, the candidate/candidates with the most votes is submitted for the next round of selection.

(3) In the case when the needed number of votes for the appointment of the People's Advocate wasn't met, the Special Parliament Commission in a 15 day term calls a new selection which shall be organized in conformity with Art. 7.

Article 9. People's Advocate Oath

(1) When starting working in the position, the People's Advocate takes the following oath to the Parliament: „I swear to follow the Constitution and the laws of the Republic of Moldova, the People's Advocate status, to protect the fundamental human/child's rights and freedoms, to exercise my duties in good faith and impartially, to protect the dignity of the People's Advocate institution”.

(2) The refusal to take the oath prevents the People's Advocate from undertaking the position and opens the

selection procedure and the appointment of another individual.

Article 10. Incompatibilities with the position

(1) The People's Advocate and his/her deputies positions are incompatible with any public or private position, except didactic, scientific or creational activities.

(2) The People's Advocate and the deputies do not have the right to undertake political activity and can't be members of a political party.

(3) In a 15 day term from taking the oath, the People's Advocate is obliged to cease any activity incompatible with his/her status.

Article 11. People's Advocate Rights

During his/her mandate, the People's Advocate has the right:

a) to be granted audience by the President of the Republic of Moldova, by the Chairman of the Parliament and by the Prime-minister during working hours as well as outside those;

b) to get the audience immediately and with no form of obstruction from the heads and all responsible officials at all levels of public authorities, institutions, organizations and companies, no matter of the type of property and legal organization form, of the police inspectorates and their detention places, of the penitentiary institutions, criminal investigation isolators, military bases, placement centers for immigrants or asylum seekers, social, medical or psychiatric care institutions, special educational and re-educational institutions or curative and re-educational institutions for juveniles and other similar institutions;

c) to assist to and speak at the meetings of the Parliament, of the Government, of the Constitutional Court, of the Superior Council of the Magistrates, of the Superior Council of the Public Prosecutors;

d) to submit to the Parliament or Government the recommendations on the improvement of the legislation in the area of protection for the human rights and freedoms;

e) to verify the compliance and accordingly enforcement by the public authorities, by the organizations and companies, no matter of the type of property and legal organization form, by thenon-commercial organizations, by the responsible officials at all levels of their duties related to the protection of the human rights and freedoms;

f) to present individuals or groups of individuals in front of the public institutions and courts in complex matters related to the human rights and freedoms or in matters of public interest;

g) to act ex officio in cases provided by the Law;

h) to have free access to all public authorities, to assist to the meetings of their subdivisions, including meetings of their colleges bodies;

i) to have free and fast access to institutions, organizations and companies, no matter of the type of property and legal organization form, in police inspectorates and their detention places, in penitentiary institutions, in criminal investigation isolators, placement centers for immigrants or asylum seekers, social, medical or psychiatric care institutions, special educational and re-educational institutions or curative and re-educational institutions for juveniles and other similar institutions;

j) to have unlimited and immediate access, at any time of the day, to any sector of the places of detention, to any information on the treatment and conditions of detention of the people in custody;

k) to request and receive from public authorities, from responsible officials at all levels information, documents and materials necessary to perform their duties, including official data with limited access and data from the state secret category in under the law;

l) to invite for hearings and to receive from responsible officials explanations and information necessary to reveal the circumstances of the investigated matter;

m) to request the competent state institutions a judiciary expertise, a technical-scientific and forensic conclusion and the submission of the expert report or protocol on the impossibility to draw such a report;

n) to have unlimited confidential meetings and conversations, without witnesses, and when necessary with a

translator, with an individual in the places listed at letter b), as well as with any other individual who, in his/her opinion, could provide useful information;

o) to request the conclusions of the competent institutions on the protection of the human rights and freedoms in the case when there are sufficient grounds to suspect the violation of the rights and freedoms guaranteed by the Constitution of the Republic of Moldova and international treaties the Republic of Moldova is party to;

p) to make public all the results of the investigation of the cases of human rights and freedoms violation;

q) to collaborate with international and regional institutions and organizations working in the area of human rights and freedoms protection.

Article 12. People's Advocate Obligations

(1) The People's Advocate is obliged:

a) to protect the human rights and freedoms in conformity with the Constitution of the Republic of Moldova, with the international laws and treaties in the area of human rights and freedoms which the Republic of Moldova is party to, to perform own duties in conformity with the law;

b) not to divulge the state secret and other information protected by the Law;

c) not to divulge confidential data, as well as personal data which were communicated to him/her within the professional activity, without the consent of the individual it refers to;

d) to refrain from any activities non-complying with his/her status.

(2) When starting to work on the job and every year, the People's Advocate shall submit, under the law, the income, property and personal interest declaration.

Article 13. The state protection and social guarantees

(1) The People's Advocate benefits of protection on behalf of the state. Based on the grounded request of the People's Advocate, the relevant bodies provide his/her safety.

(2) The social status and guarantees of the People's Advocate are similar to those of the Supreme Court of Justice judges.

Article 14. Early termination of the People's Advocate mandate

(1) The People's Advocate mandate ceases before term in the case of:

a) resignation;

b) loss of citizenship of the Republic of Moldova;

c) revocation;

d) incompatibility;

e) impossibility to perform duties for more than 4 consecutive months due to the health condition, confirmed by a medical certificate;

f) getting an irrevocable court sentence;

g) death.

(2) The grounds provided by Para. (1) letter a), b) and letter d)–g) are found in the plenary session of the Parliament, based on a Human Rights and Inter-ethnic Relationships Commission report, by adopting a decision which takes act of the appearance of the reason for the early termination of the mandate.

(3) The proposal for the revocation from the occupied position of the People's Advocate can be submitted by at least 20. The decision of revocation from the position is adopted with the votes of 3/5 of the total number of elected MPs based on the Special Parliament Commission, comprised of members of the Human Rights and Inter-ethnic Relationships Commission and Legal, Appointments and Immunities Commission.

(4) May serve as grounds for the revocation of the People's Advocate:

a) actions incompatible with the People's Advocate status;

b) the violation of the legal provisions on the conflict of interest, found by a final court decision;

c) divulging of the state secret and other information and data protected by the Law.

Chapter III PEOPLE'S ADVOCATE DEPUTIES

Article 15. People's Advocate Deputies

- (1) The People's Advocate is assisted in his/her activity by two deputies, whose duties are determined by People's Advocate.
- (2) People's Advocate Deputies exercise public servant's duties.
- (3) People's Advocate Deputies are appointed into the position by the Parliament with the votes of the majority of the present MPs, at the proposal of the People's Advocate, following a selection.
- (4) The selection is organized by the People's Advocate. The People's Advocate selects the candidates who do correspond to the eligibility criteria set by present Law and are presenting them to the plenary of the Parliament.
- (5) The activity of the People's Advocate Deputies ends under the provisions of Art. 14. The decision on the revocation from the positions of Deputies is adopted by the Parliament, at the initiative of the People's Advocate, with the votes of the majority of the elected MPs.
- (6) People's Advocate Deputies are appointed for the duration of the People's Advocate mandate, in no more than 60 days from the appointment of the People's Advocate.
- (7) People's Advocate Deputies benefit of state protection and social guarantees in conformity with the provisions of Art.13.
- (8) People's Advocate Deputies have personal liability for the failure to perform or improper performance of their duties.

Chapter IV THE EXERCISE OF DUTIES OF THE PEOPLE'S ADVOCATE

Article 16. People's Advocate duties

The People's Advocate exercises the following duties:

- a) receive and review complains on the violation of the human rights and freedoms and remits, in the set deadlines, written replies on the decisions;
- b) submits to the authorities and/or individuals in key positions recommendations on the recovery of rights for the individuals for whom was found a violation of their human rights and freedoms;
- c) contributes to the amiable solution of the conflicts between public authorities and individuals;
- d) contributes to the improvement of the legislation in the area of human rights and freedoms;
- e) submits proposals and recommendation for the ratification or adhering to international tools in the area of human rights and freedoms and provide methodological support to ensure their implementation;
- f) intimates the Constitutional Court and initiates matters in courts, presents the opinion at the request of the Constitutional Court;
- g) hires employees and exercises the right of disciplinary authority under the Law;
- h) promotes human rights in the society;
- i) performs other duties under the Law.

Article 17. People's Advocate for the rights of the child

- (1) The People's Advocate for the rights of the child provides protection and assistance to the child at his/her request, without seeking the parents' or legal representatives' consent. The child is announced on the result of the review of the request in the form corresponding to his intellectual and mental development.
- (2) In order to ensure the protection of the rights and freedoms of the child, the People's Advocate for therights of the child has the right to act ex officio in order to help the child in difficulty or at risk without seeking the parents' or legal representatives' consent.

CDL-REF(2015)018

(3) The People's Advocate for the rights of the child cooperates with any individual, non-commercial organization, institution or public authority acting in the area.

(4) The People's Advocate for the rights of the child decides upon the complaints on the violation of the rights and freedoms of the child.

(5) In order to protect the rights and freedoms of the child, The People's Advocate for the rights of the child may initiate court matters.

(6) In his/her activity, The People's Advocate for the rights of the child is assisted by a special subdivision within the People's Advocate Office.

Article 18. Competence for the review of complaints

(1) The People's Advocate reviews the complaints of the individuals, no matter of the citizenship, age, gender, political or religious beliefs, living permanently, being or having been temporarily on the territory of the country (hereinafter – petitioners), whose rights and freedoms were allegedly violated by the Republic of Moldova.

(2) The People's Advocate doesn't substitute by his/her competencies the public authorities, legal bodies or courts.

(3) The People's Advocate reviews the (complaints on the decisions, actions or inactions of the public authorities, organizations and companies, no matter of the type of property and legal organization form, of the non-commercial organizations and responsible officials at all levels who, in the petitioner's opinion did violate his/her rights and freedoms.

Article 19. Conditions for the intimation of the People's Advocate

(1) The complaint addressed to the People's Advocate is submitted before the expiry of one year from the day of the alleged violation of the rights of the petitioner or from the day when the petitioner did learn of the alleged violation.

(2) The complaints are submitted in person or by mail, fax, e-mail or another communication mean. The complaint may be submitted also by a representative of the person whose rights were violated, by non-government organizations, trade unions and other representative organizations on his/her behalf.

(3) The complaint on behalf of a person in detention, of a person in criminal investigation isolators, from military or military bases isn't subject to censorship and is sent by the administration of the respective institutions to the People's Advocate in a 24 hours term.

(4) The complaints addressed to the People's Advocate are exempt of the stamp duty.

(5) The People's Advocate reviews also verbal complaints, during audiences organized at least once a month in conformity with the regulations approved by the People's Advocate.

Article 20. The content of the complaint

(1) In the complaint addressed to the People's Advocate are indicated:

a) name, surname and domicile of the petitioner and, if necessary, the name, surname of the person whose rights were violated;

b) brief description of the matter circumstances;

c) the name of the authority or the name and surname of the person or the name and surname of the responsible official following whose actions and/or inaction took place the violation of the rights and freedoms, in the case when this person is known;

d) signature and date.

(2) In the case when the facts invoked in the complaint were subject to other authorities review, the complaint is annexed also with copies of the respective authorities' replies.

(3) The complaint which doesn't correspond to the requirements provided by Para. (1) are returned without being reviewed.

Article 21. The complaints' receipt for review

(1) After receiving the complaint, the People's Advocate has the right:

CDL-REF(2015)018

- a) to accept the complaint for review;
- b) to return the complaint without review, explaining to the petitioner the procedure he/she is entitled to use to protect his/her rights and freedoms;
- c) to remit to the competent bodies to be reviewed conformity with the provisions of the legislation on petitions.

(2) In a 10 day term from the receipt of the complaint, the People's Advocate announces the petitioner on the decision taken. In the case when the complaint is returned with no review, are mandatorily provided the motives for the return.

(3) The decision for the return of the complaint can't be challenged. The repeated complaint may be submitted after removing the motives which did serve as grounds for the return.

(4) The repeated complaint against the same individuals and deeds is accepted for review only in the case of new circumstances.

(5) Is not received for review the complaint:

- a) submitted over one year from the finding of the violation of the human rights and freedoms, except cases when the People's Advocate may extend this term, but with no more than one year;
- b) which is under court trial for substantive examination, except complaints on actions and/or inactions of the judge;
- c) the review of which is in the competence of other bodies (initiation of a criminal investigation, explanation of the court decision);
- d) on a tried matter, for which there is a sentence or a substantive court decision;
- e) submitted by a person found incapable by a court decision;
- f) which contains calumnies and insults, discredits the state authorities in general, local authorities, citizens' associations and their representatives, instigating to national, racial, religious and other types of hate and other actions for which liability by law is provided.

Article 22. Ex officio intimation of the People's Advocate

(1) In the case of having information on the mass or severe violation of the human rights and freedoms, in the cases of special social importance or in the case when is needed the protection of the interests of people who cannot use on their own legal defense means, the People's Advocate has the right to act ex officio.

(2) In the case when are found mass or severe violations of the human rights and freedoms, the People's Advocate has the right to present special reports at the Parliament's sittings, as well as to propose the creation of special commissions to investigate these facts.

Article 23. The modality for the review of the complaints

(1) When reviewing complaints, in order to check the mentioned facts, the People's Advocate has the right to request the involvement of the authorities and responsible officials in order to organize the control of the circumstances to be revealed. The control can't be entrusted to the authority or responsible official whose decisions, actions or inactions are challenged.

(2) The responsible officials of all levels are obliged to submit to the People's Advocate materials, documents and information requested in relation with the performance of his/her duties in no more than 10 days from the day of request, if the request doesn't provide differently.

(3) The People's Advocate applies the due diligence to solve the complaints through the conciliation of the parties and seeking some mutually acceptable solutions. The conciliation may take place at any stage of the complaint review and, at the request of the parties, may end by signing a conciliation agreement. The conciliation of the parties serves as ground to cease the complaint review procedure.

(4) If, following the review of the complaint was found that the rights or freedoms of the petitioner were violated, the People's Advocate issues a motivated decision on the cease of the complaint review.

(5) The decision on the cease of the complaint review can't be challenged.

Article 24. Recommendations of the People's Advocate

(1) In the situations when are found violations of the petitioner's rights or freedoms, the People's Advocate presents to the authority or responsible official whose decisions, actions or inactions, in his/her opinion violate the human rights and freedoms, a notice covering the recommendations on measures to be undertaken for the immediate restoration of the petitioner's rights.

(2) In his/her activity for the prevention of torture, the People's Advocate presents to the authority or responsible official his/her recommendations in order to correct the behavior towards detainees, to improve the conditions of detention and to prevent torture.

(3) The authority or responsible official who did receive the notice is obliged to review it in a 30 day term and to communicate in writing to the People's Advocate on the measures undertaken in order to remedy the situation.

(4) In the case when the People's Advocate disagrees with the undertaken measures, he/she has the right to address to a hierarchically superior body to undertake measures necessary to enforce the recommendations covered by his/her notice and/or inform the public opinion. The hierarchically superior body is obliged to communicate on the measures undertaken in a 45 day term.

Article 25. Procedural actions of the People's Advocate

(1) Based on the results of the complaint review, the People's Advocate has the right:

- a) to submit to the court a request to protect the interests of the petitioner whose fundamental rights and freedoms were violated;
- b) to intervene with the competent authorities with a demarche to initiate a disciplinary or criminal procedure against the responsible official who did commit violations which did generate the violations of the human rights and freedoms;
- c) to intimate the public prosecutor on the committal of the offence provided by Art. 320 of the Contraventions code of the Republic of Moldova;
- d) to intimate the public officials of all levels on the cases of negligence at work, violation of professional ethics, delay and bureaucracy.

(2) The People's Advocate has the right to file a court action in relation with the detected facts of mass or severe violation of the human rights and freedoms. The application for summons submitted by the People's Advocate is exempted of the stamp duty.

(3) The People's Advocate may intervene into the trial for conclusions for the protection of the legitimate rights, freedoms and interests of the persons.

Article 26. Intimation of the Constitutional Court

The People's Advocate has the right to intimate the Constitutional Court in order to control the constitutionality of the laws and decisions of the Parliament, of the decrees of the President of the Republic of Moldova, of the Government decisions and orders, as well as of the international treaties the Republic of Moldova is party to.

Article 27. Improvement of the legislation in the area of human rights and freedoms

In order to improve the legislation in the area of human rights and freedoms, the People's Advocate:

- a) submits to the subjects with the right for a legislative initiative proposals and recommendations to improve the legislation in order to remove the causes and conditions creating premises for the violation of the human rights and freedoms;
- b) issues opinions on the draft normative documents which envisage the human rights and freedoms;
- c) issues opinions on the compatibility of the national legislation with the international legal tools in the area of human rights and freedoms.

Article 28. Promotion of the human rights and freedoms

(1) The People's Advocate implements activities for the promotion of the human rights and freedoms through

the:

a) public awareness in order to protect the human rights and freedoms through mass-media and other available means;

b) awareness raising on cases of violation of the human rights and freedoms;

c) introduction to the public of the mechanisms for the protection of the human rights and freedoms;

d) contribution to the consolidation of the education in the area of human rights and freedoms and participation to the development of the formal and non-formal education curricula;

e) development and dissemination of the informational materials on the human rights and freedoms;

f) other mechanisms and means allowed by the Law.

(2) The People's Advocate collaborates with national and international non-commercial organizations in the area of human rights and freedoms protection, as well as with the mass-media.

Article 29. Reporting on the protection and promotion of the human rights and freedoms

(1) Before the 15th of March each year, the People's Advocate submits to the Parliament the annual report on the human rights and freedoms in the Republic of Moldova. The report shall contain, mandatorily, a chapter dedicated to the situation of the protection of the rights and freedoms of the child and a chapter on the prevention of torture.

(2) The draft annual report on the protection of the human rights and freedoms in the Republic of Moldova is subject to public debate at least one month prior to its submission to the Parliament and is published on the webpage of the People's Advocate Office.

(3) The annual report on the protection of the human rights and freedoms in the Republic of Moldova is heard in plenary in a 60 day term from its submission. The People's Advocate may be asked questions related to his/her activity or the presented report. Following the hearing of the report, the Parliament adopts a decision.

(4) The Parliament Commission for Human Rights and Inter-ethnic Relationships presents the information on the People's Advocate activity prior to the hearing of the annual report on the protection of the human rights and freedoms in the Republic of Moldova.

(5) The annual report is published on the official webpage of the Parliament. The Parliament decision on the report is published in the Official Monitor of the Republic of Moldova.

(6) The People's Advocate may present in public thematic reports on the protection of the human rights and freedoms.

(7) The People's Advocate takes part to the development of the periodical reports on the protection and promotion of the human rights and freedoms which the Republic of Moldova presents to the international and regional organizations and institutions from the area of human rights and freedoms protection.

Chapter V

THE NATIONAL MECHANISM FOR THE PREVENTION OF TORTURE

Article 30. Prevention of torture

(1) In order to protect individuals from torture and other punishment or cruel, non-human or degrading treatment, beside the People's Advocate Office is created the Council for the Prevention of Torture (hereinafter – the Council) as a national mechanism for the prevention of torture, in conformity with the Optional Protocol of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

(2) In order to provide the protection of people against torture and other cruel, inhuman or degrading treatment or punishment, the People's Advocate ensures preventive and monitoring visits of the members of the Council to places where could be people deprived of their freedom, placed there by the disposal of a state body or at its directions, or with its agreement or consent.

(3) It is prohibited to order apply, admit or tolerate any type of sanction, as well as the prejudice in another way of a person or organization for the communication of any information, true or false, to the members of the

Council and other people accompanying them in performing their duty to prevent torture.

(4) In the meaning of this law, the notion of deprivation of freedom is defined as any form of placing an individual, by an order of any judiciary, administrative or another body, in a state or private detention place, which he cannot leave at his will, as punishment, sanction, procedural or constraint measure, safety measure, as well as a result of the dependence of the care provided or based on any other motive.

Article 31. Organization of the torture prevention activity

(1) The regulations for the organization and operation of the Council are approved by the People's Advocate, with the notice of the Commission for the Human Rights and Inter-ethnic Relationships.

(2) The People's Advocate is by default chairing of the Council.

(3) The Council is comprised of 7 members. The People's Advocate and the People's Advocate for the rights of the child re members by right of the Council. The other members proposed by the civil society, are selected by a selection process organized by People's Advocate Office and are appointed for a 5 year mandate, which can't be renewed.

(4) Member of the Council may be the individual corresponding to the following requirements:

a) have higher education in the area of law, health, psychology, pedagogy, social assistance or another area relevant for the mandate;

b) a work experience of at least 3 years in the area of human rights;

c) no criminal records;

d) no public servant job, no member of the Parliament or member of a political party;

e) not employed by the law enforcement bodies.

(5) The Council may involve into making preventive and monitoring visits specialists and experts from various areas including lawyers, doctors, psychologists.

(6) The Members of the Council are performing their duties based on principles of independence, impartiality, objectivity and confidentiality.

(7) The Members of the Council have an official pass and enjoy the guarantees for independence and inviolability set for the People's Advocate.

(8) The resources necessary for the realization of the Council's duties, to contract specialists and experts are included in a separate budget line, part of the budget of the People's Advocate Office. The members of the Council, except the members by right, have the right to a remuneration amounting 10% of the average monthly salary on the economy for each day they did make preventive visits to detention places or took part to the Council meetings.

(9) In its activity, the Council is assisted by a special subdivision from the People's Advocate Office.

Article 32. Visits to places where are or can be people deprived of their freedom

(1) The Councilmembers chose independently the places which shall be visited and people they are willing to discuss with.

(2) In order to make preventive and monitoring visits isn't necessary to give a prior notice, nor the permission of any authority.

(3) During the preventive and monitoring visits may be used audio or video devices, with the consent of the individual to be recorded.

(4) Following each visit a report is drawn, including, if necessary proposals and recommendations to improve the situation.

Article 33. The cease of the Council membership

(1) The membership of the Council ceases upon the expiry of the mandate, in case of dismissal, revocation, death or in the case of non-compliance with the conditions provided by Art. 31 Para.(4) letter d) and e).

(2) The Councilmember may be revoked by the People's Advocate, with the notice of the Commission for Human Rights and Inter-ethnic Relationships, in the case of non-performance of the conditions provided by

Art. 31 Para.(4), in the case of impossibility to perform his/her mandate or, at the request of the Council, for failure or improper performance of duties.

(3) In the case of vacancy of a member of the Council, the People's Advocate Office organizes the selection process for candidates, complying with the provisions of Art. 31 Para.(3) and (4). The chosen member of the Council is appointed for a new mandate.

Chapter VI PEOPLE'S ADVOCATE OFFICE

Article 34. People's Advocate Office

(1) People's Advocate Office (hereinafter – Office) is subordinated to the People's Advocate and provides organizational, legal, informational and technical assistance to the People's Advocate in order for him/her to perform his/her duties.

(2) The Office has a status of a legal entity, has a seal and forms with its name and the image of the State Emblem.

(3) The Regulations for the organization and functioning of the Office are approved by the Parliament.

(4) The Regulations for the interior order of the Office re approved by the People's Advocate.

(5) In order to provide consultative assistance to the People's Advocate, in the Office may be hired experts with experience in the area of human rights and freedoms protection and other related areas or may be created expert councils. The operational regulations of the expert councils are approved by the People's Advocate.

(6) The location of the Office is in the municipality of Chisinau.

Article 35. Secretary General

(1) The Secretary General leads the organizational and administrative activity of the Office. The duties of the Secretary General are provided in the Regulations for the organization and operation of the Office.

(2) In the position of Secretary General may be appointed an individual with a license diploma or its equivalent in law, economy, public administration or management, with a work experience of at least 5 years in one of the respective areas and with no criminal records.

(3) The Secretary General is appointed by the People's Advocate following a public selection and has a public servant status. The release of duties of the Secretary General, the application of the stimulating and sanctioning measures towards him/her are done by the People's Advocate.

Article 36. Office staff

(1) The Office staff is comprised of public servants, technical and other staff.

(2) The People's Advocate may empower the Office staff to act on his/her behalf.

(3) The Office staff can't be obliged to submit explanation on matters reviewed by the People's Advocate or under review, can't be prosecuted or held liable for the actions or opinions expressed during the performance of their work duties.

(4) The Office staff has free access to detention places and unlimited access to any information on the treatment and conditions of detention of the detained persons.

(5) For the public servants holding the positions of control and performing their activity in risk conditions for the health and life, the main salary is increased by two grades for the period of performing the duties.

(6) In his/her activity, the People's Advocate may be assisted by staff in his own office, in conformity with the provisions of the Law no. 80 from the 7th of May, 2010, on the status of the staff of the office of responsible public officials.

Article 37. Financial provision of the Office

(1) The Office has its own budget, which is part of the state budget.

(2) The costs of the Office activities for the planning of the annual budget are estimated for at least two next years.

(3) The annual budget of the Office is approved by the Parliament, at the proposal of the People's Advocate. The reduction of the approved costs related to the Office activity is allowed only by the Parliament decision.

(4) The Parliament remits to the Government the annual approved budget of the Office for its inclusion into the draft state budget for the respective budget year.

(5) The Office may have other financial sources not prohibited by the Law.

Article 38. Office branches

(1) In other municipalities and cities can be open branches of the Office, as territorial subdivisions. The branches are created and liquidated by the decision of the People's Advocate depending on the place, number of population, specific activities, degree of autonomy.

(2) The tasks and obligations of the Office branches are set in the Regulations approved by the People's Advocate.

Chapter VII

FINALAND TRANZITORY PROVISIONS

Article 39

On the date when this Law becomes effective is abrogated the Law no. 1349-XIII from the 17th of October, 1997, on the Parliamentary advocates.

Article 40

(1) The Parliamentary advocates appointed in conformity with the Law no. 1349-XIII from the 17th of October, 1997, on the parliamentary advocates shall perform their duties up to the expiry of their mandate. The parliamentary advocates whose mandate didn't expiry on the moment when this Law became effective and at the appointment of the People's Advocates shall continue their mandate, having competencies set by the present Law for the People's Advocate Deputies, with the preservation of the main salary in the amount set on the date when the present law became effective. The working tasks shall be set by the People's Advocate.

(2) The mandates of the members of the Consultative Council, appointed under the Law no. 1349-XIII from the 17th of October, 1997, on the parliamentary advocates cease by law on the date when the present law became effective.

Article 41

(1) People's Advocate Office is the successor by right of the Center for Human Rights.

(2) In a 3 month term from the coming into force of the present Law, the Government shall present to the Parliament the draft Regulations for the organization and operation of the People's Advocate Office and proposals on the update of the current legislation in accordance with the present Law.

(3) In a 6 months term from the coming into force of this Law, the Government shall provide an office for the People's Advocate Office.

CHAIRMAN OF THE PARLIAMENT
Igor CORMAN

No. 52. Chisinau, 3rd of April, 2014.