1. **Basic Information**

1.1 **Desire Number:** RO-0106.05

1.2 **Title:** Strengthening the Capacity of the Romanian Ombudsman

1.3 **Sector:** Human rights and the protection of minorities (Political criteria)

1.4 **Twinning Component:** RO2001/IB-OT-02, Strengthening the Capacity of the Romanian Ombudsman, Budget: € 0.8 M, Duration: 24 months

1.5 **Location:** Bucharest, Romania

2. **Objectives**

2.1 **Overall Objective**

To support the Romanian authorities in their efforts to achieve stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.

2.2 **Immediate Objectives**

To complete and implement an Institution Building (IB) plan for the Office of the Ombudsman (O.O.) at central and regional levels which should result in the enhancement of its operational capacities in relation to its principal tasks of defending the citizens’ rights and freedoms in their relation with public authorities.

1.3 **Accession Partnership and NPAA Priority**

*Short-term Priorities*

- to facilitate the access to legal advice and representation.

*Medium-term Priority*

- implement measures aimed at fighting discrimination, including within public administration
- implement a comprehensive public administration reform programme with a view to improving the capacity of the public administration to implement and manage the acquis
- ensure training of lawyers in EU law.
NPAA
- accelerate the structured and functional reform of the public administration in order to enhance the flexibility, effectiveness and coherence of administrative activities
- continue the reform of the civil legislation (legal regime of abusively seized buildings, legal interest rate, associations and foundations,...)
- provide better guaranties for the rights of natural and legal persons by adopting a new law of the Ombudsman’s Office, the bill of which has been adopted by the Government
- draft a bill on mediation as an alternative to judiciary procedure in solving litigation

3. Description

3.1 Background and Justification

During the year 2000, the Romanian Government submitted reform proposals in the field of human rights. Their objective is to make the judicial process more efficient and to bring Romanian law in line with European standards. However due to a lack of support in Parliament, important legislation, mainly related to political and civil rights, remains blocked in Parliament. The Government ordinance of September 2000, prohibiting discrimination by public employees, individuals, private companies and economic operators on the grounds of nationality, race, ethnicity, age, gender or sexual orientation is seen as a very positive step.

In general, there are still major problems in public sector such as the presence of corruption, deficient organisational structures and lack of financial means. Financially weak institutions, with inadequate infrastructure and investment, particularly in relation to modern equipment, remain for the time being an operational disadvantage.

The different reforms in progress are likely to improve the Romanian administrative and judicial system. Structures and legislation are still subject to necessary revision and work has still to be done in terms of amending legislation, appreciating its impact and ensuring its rigorous implementation. Professional skills must also be strengthened, taking into consideration new techniques and methods of operation, practice and administration.

Although International Conventions on human rights ratified by Parliament automatically become part of domestic legislation, efforts are still required to ensure effective implementation of this principle. As for the human rights, important deficiencies were noted with regard to the protection of individual liberties and the rights of the Roma.

It is obvious that the slow pace and high legal costs result in many people abandoning the legal process. At present, arbitration is the only foreseen alternative method of dispute solving, (although the possibility of introducing conciliation is examined). Many complaints relating to problems with the judiciary (and not with the administration) are therefore submitted to the Romanian Ombudsman Office, who is seen often more as an alternative Supreme Court rather than an Ombudsman. Since its establishment in December 1997, the institution registered around 10,000 complaints whose number increases every year. 35% of the complaints referred to alleged infringements of individual rights on the return of
nationalised or confiscated property, other 30% to infringements of social and economic rights. Individuals belonging to ethnic minorities, largely the Roma, have also resorted the Ombudsman.

A regional pilot-office has been established in Oradea in June 2000 for a duration of six months, with the aim of making the institution more accessible and raising the awareness of the institution at a regional level.

It appears from the above that the functioning of the O.O. is not only a matter of sound legislation and operational practice. There must be an effective administrative and legal support staff servicing the operational work of the Ombudsman, his deputies and counsellors and this requires (in addition to adequate and functional office premises) good procedures, modern technical means (including hardware and software) and well-trained and motivated staff.

3.2 Linked Activities

The Ombudsman Office as such has had no direct exposure to traditional Phare support. Although a twinning with the Ministry of Justice has been established under the Phare 1998 programme, the scope of the four components was not directly related to the O.O. and no direct benefit accrued to the Office. Relationships with specialised NGOs have been established mainly to promote and protect in common the rights and freedoms of the citizens. With the financial support of the UNDP, promotion material (set of initials, poster and information leaflet) has been printed and largely distributed. The UNDP country cooperation framework for Romania (2000-2004) identified fortifying the most critical governance institutions for democracy and human rights and preventive development as a priority and, therefore, resolved to strengthen the ombudsman institution, including regional ombudsman offices and awareness-raising activities. UNDP will meet the costs of managing the project over its three-year life (to start in 2001), which are – on indicative basis – 100,000 USD. The project will focus on the following objectives:

1. to strengthen the management and administration capacity of the O.O. by establishing an improved organisational and staffing structure and increasing its information management capacity,
2. to develop an efficient process for monitoring human rights situations, improved complaint-handling and investigation,
3. to develop the capacity of the O.O. to publish its own reports and informative materials, and to publicise its own role and activities,
4. to develop the capacity of the O.O. to conduct high quality human-rights-oriented analysis of existing or drafted legislation and to provide high-quality advisory services.
5. to modify the legal framework related to the O.O. in agreement with its complaints role currently exercised.

The UNDP project and this project are not overlapping, rather supplementing each other. This project could be made conditional on the successful development and implementation of the UNDP project. It is in any case necessary that the PAA and MS experts will check and take into account the success indicators of the UNDP project which are in relation to the identified sub-projects, and to harmonise approach and strategies.
3.3 Results

The concrete results of this project will be the general enhancement of the institutional capacity of the Romanian Ombudsman in its role as public institution to defend citizens’ rights and freedoms in their relation with public authorities. The results will emerge after a proper institutional need analysis, conducted by the Pre-Accession Adviser (PAA) and Member States’ (MS) experts, focusing on the organisational and legal/administrative framework, the training requirements and equipment needs and the subsequent provision of training and investment in the upgrade of the equipment.

These activities should also lead to the production of a comprehensive Institution Building plan containing a chapter for each section covered. Each chapter will include the following items:

- primary operational problems
- current institutional capacity and response measures
- institutional development policies in each area
- recommendations for enhancement
- implementation plan.

The IB plan will be submitted to the European Commission at the end of the project implementation.

The different project activities will result in:

<table>
<thead>
<tr>
<th>Sub-project 1: Assessment of the legal and organisational framework</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Results at the end of Phase 1 (timing depending on the agenda to be agreed with selected MS):</strong></td>
</tr>
<tr>
<td>- Current law on the organisation and functioning of the O.O. and relevant draft amendments assessed in detail,</td>
</tr>
<tr>
<td>- Current organisational structure and standing rules on the organisation and operation of the O.O., including activity in the region, fully assessed,</td>
</tr>
<tr>
<td>- Concrete recommendations for the improvement of the legal and organisational framework conditions (central and regional level),</td>
</tr>
<tr>
<td>- Proposals for the drafting of new legal/administrative provisions.</td>
</tr>
</tbody>
</table>

| **Results at the end of Phase 2 (i.e. the end of the twinning):** |
| - Draft legislation ready for submission, if needed |
| - The enhancement of the existing organisational structure and functioning of the O.O., |
| - The elaboration of a multi-annual strategy and project proposals for the O.O. which would be supported by Phare. |
Sub-project 2: Training

- **Results at the end of Phase 1 (timing depending on the agenda to be agreed with selected MS):**
  - Training needs fully assessed and identified,
  - Concrete recommendations for the development of a training plan for the administrative/IT staff, the legal staff and for the management of the O.O.,
  - Plan for training courses implemented.

- **Results at the end of Phase 2 (i.e. the end of the training):**
  
  As for the administrative and IT staff; this training will result in the introduction and implementation of appropriate administrative procedures, leading to:
  - efficient administrative service and secretariat,
  - speedier analysis, research and output,
  - reduction of the case load and reduction in average time per case on the basis of a relevant checklist,
  - ability to use and maintain modern and adequate IT systems especially in connection with the electronic processing of complaints (forms).

  As for the legal staff (specialised departments), the result of this training will be:
  - use of clear criteria for determination of receivable complaints/audiences,
  - improved standards of inquiries and investigations,
  - efficient treatment of cases and preparation of recommendations,
  - more effective task-related use of IT systems.

  As for training of the management, the result will be:
  - an efficient, tailor-made system of management,
  - ensure effective project management for Phare supported programmes,
  - more effective task-related use of IT systems.

Sub-project 3: Equipment

Limited informatics and communication equipment will be procured for the national and local offices of the Romanian Ombudsman, on the basis of priorities identified in the context of the planned programme to improve citizens’ access to the Ombudsman.

3.4 Activities

Within this project there will be three main activities: Institution Building, Training and Investment which will be implemented in two successive phases (duration of phases depending from agenda to be agreed with selected MS).

**Phase 1: Needs Analysis Exercise**
Three full needs analysis exercise will be conducted by the PAA and his team in order to ascertain the following:

- Sub-project 1: Assessment of the legal and organisational framework
- Sub-project 2: Training
- Sub-project 3: Equipment

The following activities aim at the above results:

### Sub-project 1: Assessment of the legal and organisational framework

- Assessment of the overall legal framework in the organisation and functioning of the O.O. in relation to its principal tasks,
- Assessment of the organisational structure and standing rules on the organisation and operation of the O.O., including activity in the region,
- Identification of legislative or administrative gaps in the provisions regulating the activity of the O.O. or problems of implementation,
- Identification of the precise nature of new legal/administrative provisions required,
- Development of a programme for the drafting of amendments (if required) and a timescale for its drafting,
- Identification of required EU expertise in terms of TA,
- Collegiate development of tactical and operational-level programmes,
- Development of a regular operational information exchange mechanism,
- Elaboration of effective operational liaison procedure.

### Sub-project: Training

- Identification of the current skills shortage in the O.O. (task-related),
- Determination of the precise numbers and categories of individuals requiring training and to what level,
- Recommendations on an institutional training strategy,
- Examinations of the possibility to utilise open and (or) distance learning,
- Indication of training modules required and required expertise in terms of TA.

### Sub-project 3: Equipment

- Identification of equipment needs on the basis of a preliminary needs assessment report prepared by the O.O. (Information and secretariat directorate),
- Recommendations for future investment,
- Description of the type and scale of immediate procurement to be covered from current Phare project (technical specifications for tender),
- Development of an institutional upgrading,
- Highlight any aspects of equipment procurement subject to operational influences eg. Technical compatibility, etc.
**Phase 2: Implementation Phase**

Based on clear and operational recommendations from the three needs analysis reports, the bulk of the assistance will be provided.

**Sub-project 1: Assessment of the legal and organisational framework**

On the basis of the identification of any legal/administrative amendment or addition in order to enhance the existing structure and functioning of the O.O. in its tasks of defending the citizens' rights and freedoms in their relation with public authorities, a team of experts will assist Romanian legal experts in drafting proposals for relevant modifications.

The PAA and experts will assist and advice the O.O. in order to enhance the following:

- Assistance in the implementation of recommendations for the improvement of the legal and organisational framework conditions (central and regional level),
- Assistance in the implementation of effective operational liaison procedures and tactical programmes,
- Harmonisation of strategies and related legislation.

**Sub-project 2: Training**

Conduct of training courses for the administrative/IT, the legal staff and for the management of the O.O., using the computerized training tools and allowing for:

**Training courses for effective administrative and IT support service** within the overall context of an enhancement of management practice at all levels. The training will aim for:

- A rise of standards of efficient administrative service and secretariat (using an comprehensive IT system for the administrative processing of all data and information available in the O.O.)
- Improvement in administrative processing of complaints/audiences
- Training of trainers for e-training for the staff of the O.O.
- Development of a Technical Supported Learning structure for the delivery of e-training for the staff of the O.O.
- Building knowledge on EC procedure requirements

**Training courses for legal staff will aim for**:

- Improvement in identifying and handling of complaints/audiences
- Improvement in standards of inquiries and investigations
- Enhancement of analysis, research and output
- Efficiency in the treatment of cases and preparation of recommendations
- Building knowledge on EC legal, harmonisation and procedure requirements
- Task-related use of IT systems

**Training courses for the management will aim for**:
• Modern systems, methods and tools of management (task and result-oriented)
• Project management for Phare programmes
• Building knowledge on EC legal, harmonisation and procedure requirements
• Task-related use of IT systems (computerised data management system as an upper level of the administrative data processing level)

| Sub-project 3: Equipment |

Tender launched, equipment installed and allowing the O.O. to:

• Facilitate the documentation and processing of the considerable legal case loads (complaints and recommendations),
• Speed up the administration of cases.
• Manage the data and information flow (using the intranet and secure internet oriented information system),
• Have access from a regional level into the centralised operational and legal databases. This implies the upgrade and adaptation of all units of the O.O.,
• Ensure access to all European and International legal and human-rights related databases,
• Secure transmission of sensitive case-related information within a comprehensive, integrated and secure information system.

4. Institutional Framework

The project beneficiary will be Ombudsman Office of Romania (OOR). The OOR structure is as follows: The Ombudsman of the Republic of Romania has its Head Quarters in Bucharest. Current staff compliment is made up of a total of 74 staff members. The workload was 1168 complaints in 1997, 2985 in 1998, 4379 in 1999 and 4556 in 2000.

The Ombudsman Office will ensure full guarantee of the project and a management team will be created to handle all aspect of implementation. The CFCU Bucharest will work with the Ombudsman Office to ensure that all tendering procedures follow Phare standard procedure.

Contact persons for the implementation of the project will be:

Mr. Paul Mitroi
Ombudsman
3-5, Iancu de Hunedoara Blvd.
Sector 1
Bucharest, Romania
Tel.: +401 231 5001, Fax: +401 231 5000

Mr. Mircea Moldovan
Deputy Ombudsman
3-5, Iancu de Hunedoara Blvd.
5. Detailed Budget

*(in MEURO)*

<table>
<thead>
<tr>
<th>Contract</th>
<th>Phare Support in MEUR</th>
<th>In MEUR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Investment Support</td>
<td>Institution Building</td>
</tr>
<tr>
<td>Twinning</td>
<td>-</td>
<td>0.8</td>
</tr>
<tr>
<td>Equipment</td>
<td>0.2</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>0.2</td>
<td>0.8</td>
</tr>
</tbody>
</table>
6. Implementation Arrangements

5.1 Implementing Agency

The CFCU in Bucharest is the implementing agency for this project. The CFCU will work closely together with the implementing authority and beneficiary, the Ombudsman Office, in particular the Project Manager and Project Management Team. Technical specifications for equipment and ToRs for the TA sub-projects will be elaborated by the experts of the Office and EU nominated experts. The experts will be expected to participate in any tender evaluation boards.

The project will be implemented through twinning. In the event that no suitable twinning proposal is forthcoming, this component of the project will instead be implemented through conventional technical assistance.

Contact persons for the implementation of the twinning will be:

Mr. Paul Mitroi
Ombudsman
3-5, Iancu de Hunedoara Blvd.
Sector 1
Bucharest, Romania
Tel.: +401 231 5001, Fax: +401 231 5000

Mr. Mircea Moldovan
Deputy Ombudsman
3-5, Iancu de Hunedoara Blvd.
Sector 1
Bucharest, Romania
Tel.: +401 231 5006, Fax: +401 231 5005

The PAA should correspond to the following job description:

*The PAA should be an EU expert experienced in organisation and functioning of the Ombudsman Office. Over a 2-year period, the whole project under the coordination of the PAA will undertake the following:*

- supervise the conduct of the three needs analysis,
- undertake to translate the recommendations into one or more action plans,
- organise upon request of the O.O. the introduction of short-term experts in order to carry out required TA,
- supervise the elaboration of technical specifications for equipment under the investment component,
- assist the O.O. with the tender procedure for investment component,
- assist the O.O in developing the IB strategy,
- assist with the further development of the operations and procedures within the O.O. duties, responsibilities and powers.
In order for the O.O. to discharge all tasks properly, it is envisaged that a group of short-term national experts from more than one MS will assist the enhancement of this project. Requirements will include:

- participating in needs analysis exercise for legal and operational framework, training requirements and equipment requirements,
- assisting in the drafting of legal/administrative provisions,
- running training programmes for operational/IT staff, legal staff and managers. These training programmes will include i.a. the following:
  - Complaints/audiences/cases techniques,
  - Handling and processing of complaints/audience and recommendations,
- case procedures,
- modern administration,
- personnel, resource, systems and change management,
- IT training,
- the elaboration of neutral technical specifications for the equipment tendered under the investment component,
- providing TA for the staff of the O.O.

6.2 Non standard Aspects

The project will be managed under DIS rules and will be implemented through twinning. Short-term assistance will be provided by selected Member States.

6.3 Contracts

Two contracts will be developed under this project: one for twinning (1.2 MEUR) and one for investment (0.8 MEUR).

7. Implementation Schedule

7.1 Start of Tendering: 4\textsuperscript{th} quarter 2002
7.2 Start of Project Activity, including twinning: 1\textsuperscript{st} quarter 2003
7.3 Completion: 1\textsuperscript{st} quarter 2005

8. Equal Opportunities

O.O. is an equal opportunities employer and does not discriminate directly or indirectly against any individual and all employees are judged on fair and equal terms.

9. Environment
10. Rates of Return

N/A

11. Investment Criteria

N/A

12. Conditionally and Sequences

- Steps will be taken by the Romanian Government to ensure that the O.O. will dispose of offices that are appropriate to the exercise of its duties from a representative and functional point of view. The access of the citizens to the institution should be of primary concern.
- Projects to be implemented through twinning require the full commitment and participation of the senior management of the beneficiary institution. In addition to providing the twinning partner with adequate staff and other resources to operate effectively, the senior management must be whole-heartedly involved in the development and implementation of the policies and institutional adaptation required to deliver the project results.

The PAA and his team in a first phase will carry out a triple analysis (legal/organisational, training and equipment) submitted to the following conditions:

- The tender for the equipment will be prepared by Member States experts under the guidance of the PAA together with the beneficiary. In order to secure the neutral character of the technical specifications, it is preferable that two experts of two different nationalities are appointed for this job.
- The O.O. will make sure that all necessary Office equipment (including computers, printers, telephone, fax, photocopy machines etc. are available for the PAA, his team and the people from the O.O. with whom he has to work with. This should be provided via the budget of the O.O. (co-financing).
- The O.O. will make available full time staff, fluent in English and with sufficiently developed managerial and coordination skills, including a project leader, in order to ensure the successful implementation of the project together with the staff seconded by EU Member States under the twinning.
Annex 1: Logframe Matrix for project: RO0106.05

**** Missing ****
Annex 2 - Detailed implementation chart for project: RO0106.05

**** Missing ****
ANNEX 3: CUMULATIVE CONTRACTING AND DISBURSEMENT SCHEDULE

All figures in million Euro

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract 1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Twinning</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contracted</td>
<td>1.2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Disbursed</td>
<td>0.1</td>
<td>0.2</td>
<td>0.3</td>
<td>0.4</td>
<td>0.5</td>
<td>0.6</td>
<td>0.7</td>
<td>0.8</td>
<td>0.9</td>
<td>1.0</td>
<td>1.1</td>
<td>1.2</td>
</tr>
<tr>
<td>Contract 2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Investment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contracted</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Disbursed</td>
<td>0.5</td>
<td>0.55</td>
<td>0.6</td>
<td>0.65</td>
<td>0.7</td>
<td>0.75</td>
<td>0.8</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Indicative: Will depend on the results achieved from twinning activities*
ANNEX 4: THE ROMANIAN OMBUDSMAN (PEOPLE’S ADVOCATE) OFFICE: ITS ORGANISATIONAL PRINCIPLES, FUNCTIONS AND DUTIES

The 1991 Romanian Constitution has introduced a new institution, the People’s Advocate, formally inspired by the Ombudsman tradition in other countries.

The adoption of the constitutional text on December 8th, 1991 enshrined the basic principles of the People’s Advocate, his role, the procedure of appointment, his powers and relationship with the public authorities and Parliament. The Constitution has laid down the organisation and functioning of the People’s Advocate Institution under an organic law (loi organique) which entered into force in March 1997.

The first Romanian incumbent – Mr. Paul Mitroi, formerly a Judge with the Supreme Court - was elected by the Senate and on June 18th 1997, he was sworn in before the Speakers of the two Parliament Houses and entered office. In December 1997, the Ombudsman appointed his two deputies and the Standing Rules of the People’s Advocate Institution were published.

The People’s Advocate is appointed by a majority vote in the Senate. The term of office is four years, and the incumbent may be once re-elected. Party groups in both Parliament Houses may put forward recommendations for a candidate, while the Senate Standing Bureau will formally nominate the candidates to be presented.

In discharging his duties, the People’s Advocate is assisted by two deputies whom he appoints after taking an opinion from the Senate Committee on Legal Affairs. Both deputies stand in office for the entire duration of his term.

The People’s Advocate takes up complaints lodged with him by persons whose civil rights and freedoms have been aggrieved by the public administration authorities, to further assign and decide thereupon. Once his work of examination is concluded and the complaint is found well-grounded, he makes recommendations to the authorities concerned, requesting them to take steps as quickly as possible in order to put an end to their illegal action, to redress for the damages caused and reinstate the aggrieved person to his/her former situation. The result of his work is also communicated directly to petitioner in question. However, the People’s Advocate cannot reverse administrative decisions himself. He also follows up the resolution of cases taken up, in accordance with his recommendations and - where the authority concerned failed to comply within the specified deadline - he approaches the higher administrative body or notifies the Government about such failure.

The Ombudsman submits the matter to Parliament, where the Government has withheld legal measures. He represents the People’s Advocate Institution before any other authority or person, as well as in international relations, reports on the Institution activity before Parliament, on a yearly basis or when so requested.

Where he has found, while carrying out investigations, serious cases of corruption or violation of the Country’s laws, the Ombudsman presents a report on his findings to the Speakers of Parliament Houses or, as the case may be, to the Prime Minister.
Finally, the Ombudsman issues recommendations on proposed amendments to existing legislation or on other steps as may be deemed necessary for the protection of human rights, and includes such recommendations in his reports to Parliament.

Complaints lodged with the People’s Advocate may come from any individual affected by an illegal action or abusive conduct on behalf of the public administration authorities. Anonymous complaints or those dealing with events dating back more than one year cannot be taken under examination.

Acts of Parliament, or acts or actions by individual MPs and senators, the President of Romania, the Government, the Constitutional Court, the Legislative Council, as well as the judicial authority are outside scrutiny by the People’s Advocate. Apart from complaints received from the general public, the People’s Advocate may also take up cases on his own initiative (ex officio).
ANNEX 5: THE STRUCTURE OF THE OMBUDSMAN OFFICE

The institution staff (according to the 2001 budget: 80 posts) is structured as shown in the attached outline and approved by the Organising and Functioning Regulation of the Institution, published in the Official Monitor no. 393/19.08.1999.

1. The entire activity of the institution is being co-ordinated by the Ombudsman who is the credits’ co-ordinator, hires the staff, and who exercises the right of disciplinary authority over the employers.

   The institution is composed of the specialised departments and the general secretariat.

2. In the exercise of his powers and obligations, two deputies assist the Advocate of the People in the following tasks:

   - Co-ordination and control over the departments activity by establishing the obligations of staff from the departments, by verifying the summaries and the final form of the papers, and by putting into evidence the main aspects that reflect the need of taking new measures in order to change the legislation so that we can better protect the citizens’ rights and freedoms;
   - Guidance and control of the general secretariat’s activity;
   - Exercise the powers of the Advocate of the People in case of temporary impossibility of running the office;

3. In the institution, there is a Consultant Body, which is being convened at the request of the Advocate of the People. This body is composed of the Advocate of the People, the deputies and their counsellors, the general secretary and the chiefs of the departments.

4. In the exercise of its powers, the Ombudsman is being helped by:

   **One Legal Councillor** who:
   - examines and proposes solutions for the organisation and functioning of the institution;
   - makes or participates to the realisation of studies, evaluations or papers concerning the fields of activity of the institution;
   - co-operates with the specialised departments and with the IT Direction and Secretariat to co-ordinate the preliminary reports activity and to centralise in time the processed cases;
   - informs the leading body over the social aspects that can be subject to an office intimation;
   - co-operates with the Communication Department in elaborating answers to the problems settled by the Mass-Media regarding the institutions activities;

   **One Expert for the internal auditor** who exercises his powers according to the auditors laws.
The activity of the specialised departments is being sustained by the staff from the General Secretariat.

**The General Secretariat** has the following structure:

1. **IT Department and Secretary Office**, lead by a director who has the following structure:

<table>
<thead>
<tr>
<th>Name of the Structure</th>
<th>Staff Structure</th>
<th>Staff with medium education</th>
<th>Chiefs of the Cabinets</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registration, Archives, Secretary Office</td>
<td>Referent IA</td>
<td>Referent IV</td>
<td>Archives Worker I</td>
<td>Superior Education</td>
</tr>
<tr>
<td>IT Department</td>
<td>Medium Education</td>
<td>Superior Education</td>
<td>Total</td>
<td>4</td>
</tr>
<tr>
<td>Total Number</td>
<td>9</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
1. 2. THE HUMAN RESOURCES AND ORGANIZATION BUREAU

1.1. Leading staff

<table>
<thead>
<tr>
<th></th>
<th>Superior Education</th>
<th>Medium Education</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 expert-chief of the bureau economist</td>
<td>1 expert economist</td>
<td>1 referent</td>
<td>3</td>
</tr>
</tbody>
</table>

3. Economic and financial Direction lead by 1 director and which has the following structure:

<table>
<thead>
<tr>
<th></th>
<th>Superior Education</th>
<th>Medium Education</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial accounting and preventive control service</td>
<td>1 economist</td>
<td>2 referents</td>
<td>3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Superior education</th>
<th>Medium Education staff</th>
<th>Referent IA</th>
<th>Driver IA</th>
<th>Driver II</th>
<th>Service Person</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration, acquisition, transportation and administrative Bureau</td>
<td>1 expert IA-engineer chief of the bureau</td>
<td>1</td>
<td>4</td>
<td>4</td>
<td>1</td>
<td>11</td>
<td></td>
</tr>
</tbody>
</table>
ANNEX 6: THE REGISTRATION SERVICE AT THE OMBUDSMAN’S OFFICE

A) The documents circuit in the Ombudsman’s office is the following:

The registered correspondence consists of petitions, answers from authorities and other
general correspondence. All these are being registered at the Registration Office, where they
receive a regular number from the General Book.

The petitions also receive a number from the Petitions book. All correspondence, except the
petitions and authorities answers, is delivered to the staff they are addressed to.

The petitions are handed over to the deputy Ombudsman, who decides which specialised
department will administer the petitions and gives them to the lawyer in charge through the
computer. Physically, the petitions and authorities’ answers are collected by the Archives
Service that distributes them to the specialised departments.

The chief of the department distributes them to the case-handler, who analyses the
documentation and proposes a solution through the information system by sending the
petition with the proposed solution to the chief of department for an approval.

In case of refusal, it comes back to the case-handler who changes the proposal and sends it
back to the chief of the department.

When the chief of the department assents to the proposed solution, these along with the
petition are sent to the deputy Ombudsman, who can take the same attitude (assent or
refusal). In case of refusal, the circuit is used once again towards the case-handler and back
to the deputy.

When the deputy gives his assent, all the documentation arrives to the Ombudsman in order
to be approved. If he refuses the solution proposed by the case-handler, it follows the same
procedure (back circuit).

When the Ombudsman approves the documentation, these go to the Archives Service. If the
case is admissible a file is opened, and it receives a number from the File Book.

All the answers (to the petitioner, authority, non-admissible), are posted, one copy remaining
at the Archives. The non-admissible are being archived and the files go back to the case-
handler and are being put back on the circuit at the moment the Ombudsman receives an
answer from the authority that was contacted or the petitioner has a “coming-up”.

This cumbersome circuit of the documents and the fact that the number of the petitions is
increasing drives towards delays in the office because all the answers, even if they are non-
admissible, must be personally approved by the Ombudsman.
The registers of the Ombudsman’s Office are the following:

a) the general Register for input-output correspondence;
b) the complaints Register, where the received complaints are registered and numbered;
c) the files Register, where are registered all the papers regarding the solution of the complaints the Ombudsman is competent to solve;
d) the Ombudsman's orders Register, where orders are registered and chronologically numbered;
e) the special private and confidential correspondence Register, where such documents are registered;
f) the Archives Register.

1) The complaints Register includes the following headings:
   - the petition registration number;
   - the registration number in the general register for input-output correspondence;
   - the date when the petition was received;
   - petitioner’s name;
   - petitioner’s address;
   - the date when the answer was communicated to the petitioner.

2) The files Register includes the following headings:
   - the number of the file;
   - the registration number in the complaints Register;
   - the date when the file was open;
   - petitioner’s name;
   - the object of the petition;
   - the specialised department to which the petition was distributed and the name of the person entitled to deal with it;
   - the noticed public authority;
   - the date when the competent authority was noticed, namely the date when the Ombudsman noticed it;
   - the date when the noticed authority received the answer;
   - the date when the petitioner was informed on the results of his/her complaint.

All the documents subsequently filed or the correspondence related to the petition in question are registered under the same file number.

On the basis of the nature of the work, the Secretary General determines and proposes the headings of the general, orders and private correspondence registers; then, the Ombudsman shall approve the said headings.
The archives register includes the date when the complaint arrived in the archives, the nature of the work, the number of pages, the department which delivered the complaint as well as the signatures of the persons who deliver and receive the complaint.

3) In order to register the complaints received and fulfilled by the specialised departments, there is drawn up a register containing the complaints examined by said departments, which include the following headings:

- the petition registration number, the entry date and the petitioner’s name;
- the date when the department received the work;
- the deadline of the work;
- the name of the person entitled to the work;
- the date when the final project is submitted;
- the number of the file, in case that the complaint forms the subject of a file.

The specialised departments provide, in alphabetical order, in co-operation with the secretariat and informatics Unit, the name of the petitioners and the situation of the files open and register the delays and the deadlines of the answers to be received from the noticed authorities, regarding the legal solution of the complaints submitted to them.

The registers are numbered and stamped and, at the end of every year, closing minutes are drawn up countersigned by the secretary general.

The registered information is also done on a written tape.

4) The files which include the complaints sent by the persons whose rights and freedoms were violated may be consulted by the interested persons, with the approval of the competent head of the department, except the situations when, by a decision signed by the Ombudsman, they are considered to be confidential.

On the cover of each file there is mentioned: the name of the institution, the number of the file, the petitioner’s name and other identification information of the complaint, the confidentiality of the complaint, as the case may be, as well as the nature and the date of the work done.

It is forbidden to take files out of the institution, except the cases when the Ombudsman or his/her representative makes on sight investigations or in other cases requiring it.

The filed documents are numbered, sewed, laced and stamped before delivering them at the archives unit. The files are kept in their numerical order.

At the archives there are also delivered the other papers of the institution, which are kept according to the law.
ANNEX 7: THE I.T. AND COMPUTER SYSTEM

In order to properly administrate the volume of data, it was decided to implement a “client-server” application of the documents and workflow.

The application evolved on the Lotus Notes-Domino V4.6 platform the objective of which is the continuing, processing and following of all the documents within the office.

In order to achieve this objective, the application is used for the following duties:

- To register the entering petitions;
- To attach more classifying criteria for each petition, notably for statistical and reporting purposes;
- To write and print the answers to be attached to a petition;
- To realise the following procedure of the documents during the stages they pass through;
- To know, at any moment, the stage of analysis of each petition;
- To be able to follow the terms established by law for the answers and to launch signals towards the project-responsible persons;
- To be able to make objections and remarks to the draft answers by the authorised persons;
- To circulate the documents inside the organisation;
- To obtain up-dated statistics and reports;
- To insure the highest standards of security and confidentiality;
- To obtain user-friendly interface.

FUNCTIONING PRINCIPLES

With the new version of the evolving platform meaning Notes/Domino version 5 of April 1999 the office has been working at this new version and has optimised it. From the application perspective this means:

- The use of a better memory and disks;
- Answering time increased with 75%;
- More users on the server;
- Data-bases of bigger dimensions (16 GB);
- Daily counting of transactions made;
- A new structure of the data-bases on the disk (ODS);
- Quicker refresh of the Views.

The cost of implementing this application (10 675 USD) was sponsored by the Open Society Foundation (Soros Foundation) – Centre for Legal Resources, based on the Contract ML30-1649-22.12.98.
The upgrade of the application is also sponsored by the Open Society Foundation based on the contract D – CRJ 00 88. The price will be around 10,000 USD. A software company is on the way to finalise the project of upgrading the application.

WEB SERVICES AND E-MAIL

The Ombudsman Office has implemented these two systems with the help of a server based on the operational system Linux and bought the domain “avp.ro” on the internet that gives the possibility to have a site, a web page and also an e-mail server.

The web page presents the structure of the institution, the way of functioning and the addressing possibilities.

The e-mail service, which is only partially implemented like the Internet access in the local server, gives the possibility to have safe and quick communication with anyone who has also this service.

Both services were implemented with the help of a link to an ISP (Internet Service Provider) which assures a good quality to the links on WWW (World Wide Web).

The computers system and the hardware and software equipment

The institution is equipped with the following computer system:

- 70 computers compatible to IBM-PC:
  - 21 DTK: CPU Pentium 166 MMX
  - RAM 32 Mb;
  - HDD 2.4 Gb;
  - 3 DTK: CPU Pentium II 266 MHz
  - RAM 32 Mb
  - HDD 3.2 Gb
  - 1 IBM-PC: CPU Pentium II 450 MHz
  - RAM 64 Mb
  - HDD 4.2 Gb (SCSI)
  - 45 COMRACE:
  - CPU Pentium II 333 MHz
  - HDD 3.2 Gb
  - RAM 32 Mb
- 3 DTK notebooks:
  - CPU Pentium 166 MMX
  - RAM 16 Mb
  - HDD 2.1 Gb
- 2 servers compatible to IBM-PC:
  - Compaq Proliant 1600: CPU Pentium II 226 MHz
  - RAM 128 Mb
  - 2x HDD 9.1 Gb
- IBM Netfinity 5100: CPU Pentium III 933 MHz
- RAM 512 Mb
- 3xHDD 18.2 Gb (RAID 5)

- 2 printers of the system HP (5SiMX and Laser jet 2100 TN);
- 8 printers of the office HP (DeskJet 670C);
- 2 printers of the office more progressive HT type Deskjet 1120C;
- one printer with scanner HP OfficeJet;
- 1 scanner UMAX.

The Office is using a “client-server” application type, with a star type system of computers, and hubs through which there are linked 2 servers Windows NT 4.0, a Linux server (for the link to the internet and e-mail), and 64 de workstations.

All the workstations use the Windows 98 (licensed) as the operating system.
In order to help the whole population to benefit from the services provided by the Ombudsman, the office decided to experimentally open in the year 2000 a regional office in the city of Oradea, the capital of the Bihor County, because in the previous years the Ombudsman received only a few petitions from that area. In the first 6 month of year 2000 the Ombudsman office received 29 complaints from the Bihor county, out of which 18 were not receivable, 10 were examined by the Ombudsman’s staff and 1 was a so called “coming up”.

The office was opened in June 2000 and worked for 6 month, twice per week (Monday morning and Thursday afternoon), 4 hours per day. One lawyer was responsible for the activity of the office.

The efficiency of this project was evident. In its period of activity (6 month) the number of complaints increased to 120 (400 %), in comparison with 29 in the first 6 month of the year. Out of these, 66 were not receivable, 42 were subjects for inquiries and 12 were “coming up” petitions.

In the same period in the Bihor County office there were more than 200 audiences regarding different problems faced by the citizens.

In the light of this experience it should be considered whether it is relevant, feasible and sustainable to open some other field offices, for instance in every County capital, in order to get as close as possible to the citizens and to provide them information and assistance.
ANNEX 9: RECOMMENDATIONS REGARDING THE MODIFICATION OF LAW

no. 35 of 13 March 1997 on the Organization and Functioning of the Advocate of the People Institution (the Ombudsman Act) made by the Ombudsman, in accordance with Article 57 of the Constitution.

<table>
<thead>
<tr>
<th>Present Wording</th>
<th>Proposed Amendments and/or Additions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Article 4:</strong></td>
<td><strong>Article 4:</strong></td>
</tr>
</tbody>
</table>
| Public authorities must communicate or, as the case may be, make available to the Advocate of the People, under the terms of the law, any information, documents or papers they have in their possession as may be linked with the complaints lodged with the Advocate of the People, while giving him support for the exercise of his powers. | (1) (…)
|                  | (2) The refusal of a public authority to communicate, within the legal term, the information documents and papers he owns, required by the Ombudsman, is sanctioned by a 10% fine from the minimum net wages for each day of unjustified delay. The moneys turn into state budget revenue. |
|                  | (3) The sanction stipulated at the above-mentioned paragraph is applied by the Ombudsman, by virtue of an individual and justified order. |
|                  | (4) The order issued by the Ombudsman may be contested under the terms and conditions stipulated by the administrative Act. |

<table>
<thead>
<tr>
<th>Present Wording</th>
<th>Proposed Amendments and/or Additions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Article 15 paragraph 2:</strong></td>
<td><strong>Article 15 paragraph 2:</strong></td>
</tr>
<tr>
<td>Anonymous complaints or those directed against violations of civic rights, concerning events which are more then one year old than the date when the person concerned has had knowledge of the facts upon which such complaint is grounded shall not be taken under consideration.</td>
<td>Anonymous complaints and complaints against the violations of civic rights and freedoms, by acts or facts of the public administration authorities, are addressed to the Ombudsman no later than a year from the date when these violation happened or from the date when the individual in question has had knowledge of them.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Article 18:</strong></th>
<th><strong>Article 18:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the Advocate of the People finds that the resolution of a complaint lodged with him is under the Public Ministry jurisdiction,</td>
<td>Where the Advocate of the People finds that the resolution of a complaint lodged with him is under the judicial authority</td>
</tr>
</tbody>
</table>
or is on the cause-list of a court of law, or deals with some miscarriage of justice, he will refer that matter to the Prosecutor General or to the Superior Council of the Magistracy, in accordance with their respective jurisdiction, and must be duly informed by the latter of the conclusions reached and measures taken in that case.

<table>
<thead>
<tr>
<th>Present Wording</th>
<th>Proposed Amendments and/or Additions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Chapter FOUR</strong></td>
<td><strong>Chapter FOUR</strong></td>
</tr>
<tr>
<td><strong>The Advocate of the People Powers</strong></td>
<td><strong>The Advocate of the People Powers</strong></td>
</tr>
<tr>
<td></td>
<td><em>To add a new Article:</em></td>
</tr>
<tr>
<td></td>
<td><strong>Article 26</strong></td>
</tr>
<tr>
<td></td>
<td>The Ombudsman can be consulted by the empowered institutions about the bills and ordinances which refer to citizens’ rights and freedoms, stipulated by the Romanian Constitution, the international conventions and treaties regarding citizens’ rights and freedoms, which are integral part of the internal right.</td>
</tr>
</tbody>
</table>

**Other recommendations for amendments:**

- the possibility of the Romanian Ombudsman to intervene, together with the complaint, when the Constitutional Court judges the unconstitutionality exception of some laws and ordinances (Article 144 paragraph c of the Romanian Constitution), in which case it should be summoned,
- both the criminal procedure Code (Article 147, Title V of the General Part, after Chapter I) and the civil procedure Code (Article 56, Book II, Title I, Chapter III) could be amended by provisions which should institute “the Intervention of the Romanian Ombudsman”, either near the accused, in a criminal trial, or any of the parties in a civil trial, when the Ombudsman appreciates that such intervention is fully justified for the protection of citizens’ rights and freedoms, by invoking the unconstitutionality exception.
- the possibility to set up a limited number of regional offices (5 or 6).