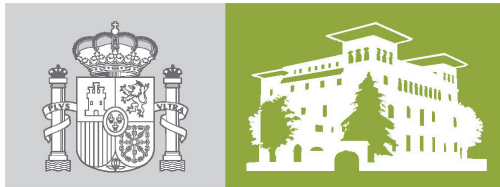




**Summary
of the Report
to Parliament**

2011



The Ombudsman of Spain

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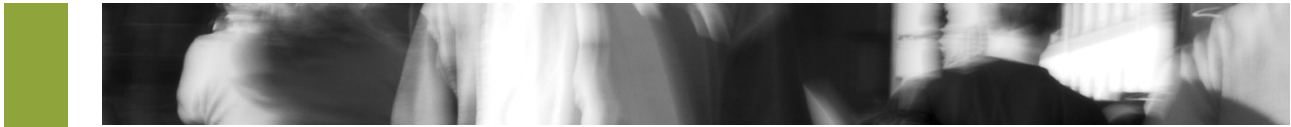
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A privileged vantage point

María Luisa Cava de Llano, Acting Ombudsman

Institutions, like people, need to take a break for a moment from their everyday activities to take stock, to take a quick glance back at the road travelled to then set their sights anew on the road ahead with the insight provided by the greater experience gained. So also is the end of an annual report on the activity which the Ombudsman is presenting, as every year, this volume being a summary aimed at making this Institution's endeavor throughout 2011 more readily comprehensible.

Beyond the mandatory presentation to Spanish Parliament in compliance with the dictates of the Constitution, the Ombudsman's annual reports seek to serve as food for thought for the Institution proper and for all those who would like to familiarize themselves with the issues dealt with over the past year.

There are those who term these reports as being an X-ray of our society -perhaps not to such a degree or perhaps only in part - but what no-one can deny is that at the Ombudsman's Office, we have a privileged vantage point for gaining a broad-ranging view of the conflicts and concerns which have a bearing on the lives of our citizens. This is why our Institution cannot fail to heed the voices raised by our society, the desperate outcries against situations which citizens feel to be unjust and which our office has the constitutional duty of bringing before the different administrations most directly involved in their complaints.

Thus, in our work of conveying our citizen's views, in 2011, we have asked that the possibility of making the squandering of public funds a criminal offense be studied; we having requested exceptional measures for those individuals who cannot make their mortgage payments; we have committed to a common portfolio of health services for all Autonomous Communities; we have asked that payment of unemployment benefits be expedited; we have opened an ex-officio investigation to shed light on the discrimination which women are continuing to suffer today in the working environment; we have called for improvements in the centers for foreign detainees, as well as the appropriate regulation thereof, etc.

This summary of the 2011 annual report deals with all these and many more measures. 2011 is a year which will go down in history as being the year in which we have opened the greatest number of ex-officio investigations ever within one single year, for a total of 506 investigations. We have increased the number of resolutions (recommendations, suggestions and reminders of legal duties), totaling 546 in all, and although the number of complaints has dropped, especially as far as group complaints are concerned, we can be said to still be dealing with very large numbers.

In 2011, in our eagerness to make this Institution a place open to and for all, we have revamped the format of our monographic reports attempting to make them more up-to-date and readily comprehensible in addition to being handier. We have committed to digital editions in order to achieve economic and environmental savings. And although our annual report is still being presented in its customary format, with some minor variations, such as a chapter devoted to the follow-up on the decisions issued by this office, you will indeed find some changes in design and presentation for the ultimate purpose of attracting a larger number of readers with the intention of making the Ombudsman's work better known in order for citizens to be aware of the fact that the Ombudsman's Office it is a real tool truly useful for providing solutions to the conflicts many encounter in their relationship with Spain's government agencies.

In the current crisis situation, the Ombudsman stresses the need of maximizing control over public resource management

This Institution is aware of the limitations imposed by the current situation yet stresses the fact that without a sufficient allocation of resources, the exercise of many citizen rights may be affected. Within this context, the Ombudsman puts forth a reminder of the need of maximizing control over public resource management. Hence, the Acting Ombudsman was to suggest to Congress last June that new measures for making the squandering of public funds a criminal offense be studied.

Spain is still going through a highly complex economic and financial crisis which is further exacerbating many of the problems citizens normally put forth to us in their complaints. This is something which also makes it necessary for the Ombudsman to expand upon all of the supervisory procedures within its reach, including ex-officio investigations, fanning out its own management capabilities to the utmost possible and taking upon itself the concept of achieving more with less as one of its very own objectives.

Due to the effects of this persistent crisis, the government agencies, which are those which this Institution mainly supervises, are experiencing tremendous tensions stemming from the government budget-saving and cutback efforts. Unfortunately, throughout these past few years, this Institution's experience goes to show that when the public sector's weaknesses become greater, it is directly damaging to our citizen's quality of life, and social differences widen yet further. Thus, year after year, in these annual reports and in the written responses issued to many of the complaints investigated, this Institution stresses the need of allocating more resources to the different government services as a key factor for remedying a good part of the shortcomings detected, because failure to provide sufficient resources will have a bearing on the exercise of many citizen rights.

Within this current context, the Ombudsman's Office is under the obligation of carrying out its persuasive endeavor by staunchly upholding its standards when recommending the improvements it deems necessary, although it is bound to always fulfilling the requirement of stating its opinion with the utmost degree of precision by dealing, in a totally matter-of-fact way, with the events as they evolve.

Following the national election, the new Prime Minister set out, in his inauguration speech, what the budgeting trend promoted by the executive branch was going to be: the one single expense item assured of rising being pensions. Given the difficult economic situation, all other budget items are subject to being cut back or frozen, (Congressional Supreme Decree, X Legislature, No. 2, December 19, 2011). When this Institution recommends or suggests more government funds be allocated under each of the budget headings, it does so in the awareness of the limitations imposed by the current situation, but also be-



2011 Annual Report submitted to the President of Congress

cause it continues to be convinced that Spain's economy must be re-launched and that it is going to now be necessary to re-establish sufficient government investment to effectively guarantee the rights of all.

It is within this difficult context that this Institution has put forth the need, in 2011, of maximizing control over the management of public resources. In her speech before the plenary session of Spain's Congress of Deputies in September last, the Acting Ombudsman announced her proposal that a study be made of new measures for penalizing the squandering of government resources. Precisely when every single citizen is being required to make the utmost efforts to combat the effects of the crisis, those responsible for government policy must show particularly irreproachable conduct and cannot afford to in any way manifest taking personal or partisan advantage of the same.

■ Introduction

Number of complaints

In the chapter of this report devoted to statistics, the major new numerical aspects for the 2011 activities are highlighted and may be summarized as follows: a considerable drop in the number of group complaints, confirming the past saw tooth progression (7,522 compared to the 17,449 for 2010); the continuing historically high number of individual complaints filed, more than 16,000 cases (16,353, compared to the 16,579 cases for 2010); and the quite remarkable rise in the number of ex-officio investigations, totaling 506 in number, outnumbering all those recorded under this heading in the past. All of the foregoing adds up to having managed a total of 24,381 complaint cases.

In view of the passage of new governmental or legislative measures, the forming of more or less informal citizen platforms or groups expressing their opposition to these measures together is becoming progressively more of the norm. Not all social initiatives of this type make their way to the Ombudsman, but when they do, their volume usually significantly alters the statistical results. In any event, these phenomenon arising to a more or less customary degree is always a tangible indicator of the social concerns which are mobilizing the citizenry at each given point in time. The group complaint cases for 2011 included several specific initiatives linked to the spontaneous protests which spread nationwide as of May, around what has come to be termed the "15M- Movement".

Other group complaints mentioned as a result of their large numbers which are detailed in the pertinent respective section often put forth what some professional groups would have in defense of their interests. One of the most outstanding aspects in this group is the complaint of the representatives and members of the chambers of commerce (1,646) in view of the partial reform of the regulatory and funding framework of these organizations.

Concerning individual complaints, the data shows no major changes regarding the total number, the relationship with their geographical spread or with the direct or indirect channels through which filed. Special mention may be made of the consolidation, over the past few years, of a number higher than formerly usual, this being a circumstance which may be attributed, in any case, to greater citizen interest in making the best use of the Ombudsman services and the ease with which complaints may now be lodged online.

Regarding this last-mentioned aspect, 2011 has come to confirm the progressive preeminence of online over conventional communications, to the point of two thirds of all complaints having been filed with this Institution by e-mail or by way of the forms provided on our website.

Lastly, regarding the greater number of ex-officio investigations, even taking into account the incidence of the measures carried out by the Institutions as a National Torture Prevention Mechanism (NPM), 2011 can be said to be revealing of a clearly extra effort having been made in this area, a total of 381 ordinary ex-officio proceedings having been opened, in addition to the 125 measures having to do with the NPM protocol activity. This figure is the highest ever reached under this heading and, as been

emphasized in the last reports, is one obvious example of the interest the Ombudsman's Office is taking in becoming more proactively involved upon learning of any anomaly which may entail an infringement of rights.

These 381 ex-officio proceedings deal with circumstances of widely-varying import and encompass all Government sectors under our supervisory: problems in prisons, many times made known through the media; research work in preparation for further monographic reports, such as, for example, those related to the study of human trafficking in Spain; fact-finding measures regarding the degree of progress made concerning several issues at the national and autonomous community levels, particularly in the fields of education, health or social services, etc.

Processing status

More than 53% of the 9,993 complaints processed in 2011 through one Government Agency and another had already been concluded by the end of the year, a total of 4,669 cases as yet remaining to be completed. This is all in addition to the 1,528 cases which were under study or pending receipt of further information on the last day of the year.

To the almost 10,000 complaints processed, one must add another 10,297 proceedings opened in previous years, but which were still under way in 2011, which then provides a more complete picture of the workload undertaken by this Institution. Most of the case proceedings from previous years had been concluded before the end of 2011, a total of only 4,800 still pending at December 31st.

In short, the integral processing volume, in the different phases thereof, entailed this Institution having managed a total of 20,290 complaint cases with the government administrations.

Supervisory effectiveness

From the standpoint of the resolutions, which is that normally taken for assessing the degree of effectiveness of the measures taken by this Institution, the processing of the complaints and ex-officio investigations in 2011 gave rise to 546 of all types - 154 recommendations, 231 suggestions, 156 reminders of legal duties and 5 warnings - having been put forth.

At December 31, 2011, a total of 72 of all of the recommendations put forth to the different Government Agencies had already been answered, over 70% thereof having agreed with the reasons set out by the Ombudsman's Office. Practically the same percentage was answered by the Government prior to the end of the fiscal year. These are undoubtedly positive figures revealing an overall attitude which continues to be not only collaborative but also receptive to the views of this Institution on the part of the government agencies.

■ Noteworthy measures

Justice Administration

There is a widespread sense of Spain's Justice Administration having been experiencing serious organizational and operating

problems for much too long. Year after year, the Ombudsman's reports reflect the outcome of hundreds of investigations resulting from the complaints of citizens in which, apart from the core substance of the issues dealt with in court, the current judicial system shows itself to be incapable of providing a response in due time and form to all the demands placed thereon.

The many cases of undue, excessive delays in court proceedings countermand the constitutional commitment of effective judicial safeguard, case by case, it therefore being necessary to put already widely-discussed measures into practice forthwith making the reorganization of the available resources and the coherence and sustainability of the system possible, including technological and procedural modernization, the creation of new likewise specialized bodies in the most deficient areas or the revamping of staffs in view of the repeatedly growing workloads.

Concerning the subject of domestic violence, meeting the victims' needs, such as organizing the protocols aimed at preventing further offenses from being committed, has been affected by the lesser availability of public resources. The most significant complaints stress the delays in the special court proceedings, the lack of means of the psychosocial teams in the gender violence courts and the different issues related to the care provided at the shelters and, in one case or another, the way in which women staying at these shelters are treated.

As far as free legal aid services are concerned, the complaints studied by this Institution have to do with the quality these services are capable of providing, particularly concerning the thoroughness which may be required of the bar associations when processing the complaints put forth thereto. All of the above, not to mention the difficulties some of these services are having following the unjustifiable problems of default on payment or greatly delayed payment which have arisen over the past few years.

One issue echoed widely in the mass media in 2011 has to do with the judicial investigation concerning the case of what are known as the "stolen children", in which unlawful practices were allegedly carried out over past decades in alleged illegal adoption schemes. This Institution opened an investigation with the State Secretary of Justice and the State District Attorney for the purpose of ascertaining the scope of the procedural processing of all these serious complaints totaling 1,500 in number at the time. In both instances, coordination protocols had already been organized for purposes of full fact-finding and the respective investigative proceedings, the Ombudsman's Office currently awaiting to be informed as to the results of the initiatives adopted.

Prison administration

In 2011, the Ombudsman's Institution visited the following centers: Madrid III (Valdemoro); Castellón I; Seville Women's Prison (Alcalá de Guadaíra); Seville's Mothers' Unit; Albolote (Granada); Figueres (Girona); Melilla; Madrid IV (Navalcarnero); Villanubla (Valladolid); Barcelona Men's Prison; Salto del Negro (Las Palmas, Grand Canary Island); Tenerife and the Alicante Prison Psychiatric Hospital. Several of these visits were made by multidisciplinary teams comprised of this Institution's own advisors and also by external forensic specialists in the fields

of psychiatry, forensic medicine or criminology. A change has taken place in the methodology as to how the visits are made to the prison facilities, such that greater emphasis is now being placed on the interviews with inmates, which rounds out the supervision of the installations comprising the prison facilities.

Complaints were received throughout the year regarding out-of-line behavior within the organizational structure of some prisons, these complaints having been filed in quite a few cases by the prison guards themselves. The pressing need of dealing with this type of complaints much more ambitiously by avoiding the response from being confined to following and complying with the court proceedings to which they often give rise was put forth to the prison authorities through our Institution.

In addition to the special follow-up on the complaints posing problems of abusive treatment or in those in which the circumstances surrounding the cases of death in prison are investigated, this Institution has conducted a review of several outstanding issues in 2011, such as putting into practice the general drug-related intervention plan or the preparation of the strategy plan on prison psychiatric hospitals. The conclusions reached to date in the specific investigation of the prison psychiatric hospitals will be discussed in greater detail in the 2011 NPM Report.

Citizenship and public safety

On the subject of the citizenship, this Institution expresses its satisfaction in this report for the passage of Law 29/2011 of September 22nd on the recognition and comprehensive protection of the victims of terrorism. This rule of law reflects specifically in its preamble the position upheld over the course of time by the Ombudsman consisting of being of the conviction that the victims of terrorism are, above all else, victims of human rights violations and, as such, the dignity of our society must also be gauged by the scope of the support and protection it is capable of providing to these victims. Aspects such as setting up the coordination of all government agencies concerning this matter, the unification of the services provided or the expanded regulation of the indemnification regime are all encompassed within what has been being upheld by the Ombudsman's Office.

Apart from the above, 2011 has been marked by an unusually large number of protests being held throughout our country, having turned into specific open confrontations with the protesters in some cases, as was the case in Barcelona in June. In summer, measures were even put into place for restricting freedom of movement in Madrid's historic quarter for several days. For each one of these cases, this Institution must reiterate to those in charge of public order and the Security and Law Enforcement Agencies the need of guaranteeing, at all times, an expeditious, impartial investigation of the events by resorting, if fitting, to individualized disciplinary procedures and also that in the adoption of police strategies to assure peaceful living conditions, the principle of precaution and proportionality always prevails, by maximizing the care to jointly assure all constitutional rights.

On another order of matters, with regard to the disciplinary proceedings against minors investigated by virtue of the Public Safety Law, this Institution has recommended that the regulation

thereof be individualized in a manner similar to what has been done in the past for the penal process. This Institution agrees that said regulation must be said to apply to the entire administrative penalty procedure as a whole, which thus makes an overall study of this issue necessary, beyond the scope of strictly security. Imposing penalties on minors must be aimed more generally at re-educating the offenders and at social usefulness by placing lesser priority on the monetary and fund-raising aspects. The opportunity has also been pointed out of guaranteeing, as best possible, the rights of defense of all those involved, including the parents or guardians responsible, under civil law, for the penalties imposed upon these minors.

Traffic-related complaints are highly frequent every year, denoting citizen concern in view of the strictness of the penalty proceedings, even though citizens be generally satisfied with the improved safety and reduction in the number of accidents and therefore the lower highway death toll. In the exercise of this authority to impose penalties, the commitment to the principle of proportionality on the part of the responsible authorities must also be staunchly demanded, an issue challenged in many of the complaints filed.

Migrations and alien affairs

In 2011, the Alien Affairs Law was further reformed by way of Organic Law 10/2011, the new regulations further expanding thereon also having been passed by virtue of Royal Decree 557/2011. This rule of law further expanding upon this Law includes some suggestions put forth by this Institution in past years, one of the most outstanding of which is assessing the community ties formed by aliens in irregular situations of paternity regarding Spanish minors in Spain. As regards unaccompanied foreign minors, their right to be heard in the repatriation proceedings is expressly stipulated.

During the year to which this report refers, the monographic study "Minors or Adults? Age-determining procedures" was concluded and presented to Spanish Parliament. This study, now available on our Institution's website, starts off with a scientific analysis of the different instrumental techniques employed for determining age, as well as an analysis of the current situation from an overall standpoint, with the contributions of the different agencies and administrations which have authority of this matter have seen fit to make. The follow-up on the recommendations thereof will be ongoing throughout the years to come.

This Institution's regular activity concerning migration has been focused, as in past years, on the anomalies detected at the different points at which the migratory flow is managed: points of entry into our country; initial shelter or detention facilities; temporary or confinement centers; alien affairs offices and document processing; applicants requesting asylum; providing care for underage foreign minors, etc.

One matter which repeatedly concerns this Institution and in which it is hoped that some progress can be made on a short-range basis has to do with the nature, definition and management of detention centers. It seems advisable to once again put forth a reminder regarding Constitutional Court doctrine on the

strict limits to which they must be subject. In accordance with Ruling 115/1987 of July 15th, the possibility of depriving foreign-born persons of their freedom due to their having committed an administrative violation must always be put to judicial control, which will guarantee all the means for the defense of the offender; is to be of an exceptional nature and the extraordinary reasons related to security or keeping public order must be justified; and these centers shall not be prison-type facilities. These basic characteristics serve as a guideline for this Institution in its ongoing supervision of these centers, the results of which, recorded over the course of time, are not satisfactory. The current management model is based almost exclusively on the notion of police custody for exceedingly long periods of time. The fact that irreversible events, such as the death of inmates, should occur within this context of undue treatment is the most serious of wake-up calls to awareness of the fact that it is necessary to urgently redefine these centers and their objectives from an approach better safeguarding civil liberties than that which is currently in use.

Education

In continuation of the measures taken over previous years, the quality of public school facilities, especially those provided temporarily or in a makeshift fashion has continued being investigated. This is, above all, a matter of problems of adequacy: insufficient capacity or lack of certain spaces, flaws, obsolescence or lack of building maintenance. Attention has been called to a certain tendency toward improvisation in the solutions, with the use of prefabricated classrooms or areas planned for other purposes which are inadequate and outside the bounds of the social environment. Mention must also once again be made, for the students at the early childhood education level, the lack of public schools for children within the 0-3 age range and the major percentages of at which students with specific needs for support at the primary level are concentrated together.

The problem continues to exist of an insufficient number of openings available for certain intermediate-level vocational training cycles and the need for more staffing resources for the enrollment of students with special needs. Once again this year, particular mention must be made of special education, that it has not always been given the attention it deserves, and that the resources allocated to special education are often insufficient and are shared out unequally among the different territorial divisions. Similarly, quite a few complaints are still being filed with us due to the outcomes of student admission procedures and concerning parent dissatisfaction when they are not able to successfully enroll their children at the schools they stated as their first choice, in application of the admission-related decision-making criteria of each educational administration.

In the area of university-level education, the greatest number of complaints have been lodged concerning the evaluation of student academic performance, especially with regard to the calculation of the grade point average on the academic transcripts and the many different approaches employed by the universities for stating and ranking the point scores awarded to students. By way of opening an ex-officio complaint, this Institution

has found that there are indeed different systems in place all at the same time at the university schools, even several different systems within one same university, thus preventing the necessary guarantee of equality from existing due to the wide variety of cases in which the grade point average on an academic transcript is a determining factor. In this regard, the Ministry of Education accepted a recommendation for setting out criteria applicable to all universities in Spain with regard to the grade point average on academic transcripts, the scale(s) to be used and the information which must be included on academic certifications. This would improve equal opportunities in the student mobility processes and in competitive examination processes held. This same suggestion has met with acceptance on the part of the public universities contacted by this Institution for this reason.

Healthcare

The public health system is governed by basic principles including those of solidarity, equity, coordination and cooperation with a view to overcoming the inequalities in healthcare and allowing citizens to avail of a quality health service in terms of true equal access. In this regard, one of the Ombudsman's first actions in the area of health has consisted of answering the growing citizen demand for coordination and cooperation among the health services of the different autonomous communities to be achieved.

Many of the complaints lodged with this Institution have to do with the problems of being provided with quality care when the patients travel outside of the autonomous community where they normally reside. This Institution therefore opened an ex-officio investigation through the Ministry of Health, Social Policy and Equality requesting that the National Health System Interterritorial Council pass the necessary resolutions to guarantee the right of citizens, in all cases, to their healthcare services, regardless of wherever they may be in Spain. If this general access to the health services is not as yet being provided under conditions of true equality, it is a result of aspects including that of the as yet ineffective development and implementation of the information and communications technologies applied to the National Health System, particularly with regard to the online processing of digital medical records and the consolidation of e-prescriptions shared by all of the health services.

Within the framework of the twofold standpoint of the universality and charge-free aspects of the public health system, the Ombudsman has taken numerous actions in the form of recommendations to the Ministry of Health and the Ministry of the Presidency for assuring that the health services will cover the entire population residing in our country. The provisions of General Public Health Law 33/2011 of October 4th, stipulating the right to public health care as being a right of all Spanish citizens residing in Spain comes to provide a response and solution to this long-standing issue, that is, the inclusion of thousands of people who, for one special reason or another, were still left out of general health care coverage.

Regarding patient safety, the prevention measures currently in place do not seem to have achieved a satisfactory level, especially bearing in mind that, on more than a few accounts, the health care administrations confine themselves to formalizing



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brief decisions without even investigating the concurring circumstances in the health care regarding which the complaint was lodged. Solely part of the complaints of those affected end in agreements for economic compensation for damages or for pecuniary liability, which are filed before the competent health authority, in some cases, through the endeavor of this Institution.

Social policies and employment

A large part of the complaints filed regarding social policies have to do with unemployment and the growing number of persons at risk of social exclusion. The delays in the recognition of social benefits have also been the object of many of the complaints. On the other hand, this Institution has continued focusing constant attention on the problems affecting early childhood, especially the minors who are in an at-risk situation.

Another matter of constant concern to this Institution has to do with the prevention of situations in which minors are at risk or unprotected. Continuing with the investigations of the past few years, the Ombudsman's Office opened an ex-officio investigation in 2011 with all of the Autonomous Communities for the purpose of ascertaining the most current criteria employed by the public juvenile protection agencies in determining the situations of lack of protection; exact information having also been requested on the practical measures carried out in the procedures prior to adopting protective measures.

As far as senior citizens and dependence are concerned, the Ombudsman is aware of the complexity of the system for awarding openings to seniors at senior citizen living facilities and, precisely for this reason, considers it advisable to stress the need for maximizing the guarantees of the right citizens have to the clearest, most transparent information possible concerning those measures which might have a bearing on their lives.

On the subject of dependence, numerous complaints have been lodged in 2011 regarding the enforcement of Law 39/2006 of December 14th on the promotion of personal autonomy and dependent care. Although this Institution has found there to have been an improvement in the length of time for processing the requests for evaluation and the recognition of the citizens affected, unacceptable delays are still as yet occurring in both the evaluation of the interested parties and the notification of the decision as to the degree and level of dependence, and in the subsequent approval of the individual care program. Having found these delays to indeed exist has led this Institution to put forth reminders of legal duties concerning the obligation of providing a response, in due time and form, to the applications filed.

Once again here, the criteria employed varying widely from one autonomous community to another regarding the effective date on which the rights resulting from the situation of dependence are to be recognized must be stressed. In this regard, numerous rulings have already been handed down by the different higher courts in the regard that the economic benefit for citizens must be recognized as of the day immediately following the date on which the applications are filed, in accordance with that which is being upheld by our Institution. Our citizens having to go to take recourse to the court system must be prevented, thus achieving a greater equality, not only among territories, but also among those citizens who do and those who do not go to court to have their right recognized.

The territorial differences related to the services or benefits recognized have not been reduced and are becoming progressively greater, there thus being a pressing need for a set of regulations to be passed governing such matters as setting criteria for determining the participation of the beneficiaries in the cost of the services and benefits, following a resolution passed by the Territorial Council of the System for Personal Autonomy and Dependent Care.

Regarding the retirement pension aspect, numerous complaints have focused on the effects caused by provisions of law such as Royal Legislative Decree 8/2010 of May 20th and Law 27/2011 on updating, adapting and modernizing the Social Security system, due to what the citizens consider to be exceedingly harsh cutbacks on social security benefits. Many have found their expectations regarding the personal income they had generated based on the laws and regulations in force right up to just a few days before they reached retirement age to have been shattered, after having provided proof of a long period of paying contributions into the system throughout their entire working life. On the other hand, this Institution has taken different actions concerning issues related to the requirements for the recognition of pensions, as well as regarding the legal alternatives for opting for early retirement.

In regard to unemployment benefits as a result of the processing of different complaint cases, the Ombudsman's Office has been putting forth different concerns regarding the delays in the processing and notification of the interested parties regarding the proposed extinguishment of unemployment compensation and benefits or undue collection thereof. Delays are still continuing in notifying the decisions concerning undue collection of compensation and benefits which are being issued by the provincial headquarters offices of the National Public Employment Service, which is even more damaging to those collecting

these same, who are not able to repay the amounts owed within the voluntary repayment period. Once again here, the need must be stressed of the process of reviewing the applications for compensation and benefits actually abiding by the principle of efficacy.

The complaints lodged with this Institution, year after year, regarding the employment offices and numerous and are related to both the information provided thereby as well as the management and processing of the benefits through computerized channels. The number of complaints rose due to the transfer of authorities over the active employment policies to the Autonomous Communities. Therefore, the Ombudsman has been promoting the setting up of an effective coordination system. Lastly, Royal Legislative Decree 3/2011 on urgent measures for the improvement of employability and the reform of the active employment policies has introduced an information system common to all of the public employment services.

Revenue service and overall economic activity

Numerous complaints are lodged every year concerning taxes and taxation, given the degree to which tax obligations have a bearing on the entire population as a whole. One of the aspects which the Ombudsman has been stressing in its annual reports is that regarding the deficient or confusing information on this subject, insomuch as citizens often put forth problems which can be found to stem from elementary procedural errors or an insufficient understanding of one of the requirements which must be fulfilled in the dealing with the different tax-related concepts.

In this regard, one issue which has drawn our attention in 2011 is related to the misunderstanding caused among many taxpayers who are tenants due to the notifications they had been receiving in the regard of making their individual rent payments directly to the Revenue Service in order to pay off certain amounts due and payable which their landlords as yet owed. The citizens who received these notifications, in the form of credit garnishment notices, put forth their concern in view of the terms of what was being required of them and their disagreement with being included in a procedure for collection which had nothing to do with them, they themselves being warned of attachment in aid of execution in the event that they should fail to make payment of the amounts due for their rent. This Institution requested the Tax Authorities to make a communication effort to dispel the doubts resulting from these measures with which it should provide these citizens in compliance with its fiscal obligation and which were to bring any subsequent situation of default on rental payments back under the urban leasing regulations.

Apart from the above, this Institution fully shares in the top-priority objective of combating any type of tax fraud, most especially in the current economic situation. However, mention must also be made of our disagreement with certain tax management practices redounding in a dubious reversal of the burden of proof which goes so far as to be damaging to the legitimate interests of small-scale taxpayers. For example, this year's report includes the investigation conducted regarding the application of the deduction, for personal income tax purposes, for rein-

vestment in the regular place of residence. The probative value granted to the certificate of registration on the official record of all municipal residents (“empadronamiento”) for the purposes by the Revenue Service exceeds the rules for weighing the facts, the Tax Authorities usually not recognizing, in first instance, any other means of proof, regardless of how many may be provided standing as proof of the taxpayer in question residing in what is now their permanent place of residence. In short, this is a matter of not exacerbating the principle of suspicion exceedingly characteristic of the Tax Authorities, especially when it has a bearing on small-scale taxpayers.

On the other hand, by the time this annual report is presented, the Ombudsman’s monographic study on “Economic Crisis and Mortgagees” will have already been presented to Spanish Parliament. The background information for this study includes several investigations made in 2011 and prior years with the economic authorities and with the Bank of Spain. Regarding the latter and its insufficient protection of the interests of its customers against credit and financial institutions, this Institution has stated in several reports its rejection of the reasons wielded by the banking authority, based mainly on the priority of the objective of safeguarding the solvency of the institutions above and beyond other considerations. As of the passage of Sustainable Economy Law 2/2001, any expectation of creating a special commissioner for the defense of the financial services has gone by the wayside, leaving the Bank of Spain and its complaint service all alone in protecting the rights of bank consumers.

Another matter dealt with in 2011 which is included in the special study on mortgagees in relation to several aspects is that which has to do with the lack of regulation of personal or family insolvency. Measures have been taken with the central Government this year to see to this situation being specifically legislated, as well as the alternative means of providing a solution for the payment of mortgage loans or credits, including the approach of *datio pro solutio*, that is, handing the keys back to the lender in exchange for full discharge of the debt owed.

In any case, this Institution deems it advisable to suggest a change in the viewpoint of the government officials who have authority over this matter in the sense of not taking for granted the equal footing of the parties to banking agreements when taking up dealing with future regulations. Any regulation must undertake the objective of compensating the weakest party in the negotiation, that is to say, private citizens, for their limited economic capacity and the lesser degree to which they have access to information. Special emphasis is placed on those agreements which entail for these private citizens and their family members jeopardizing the major part of what they own, in other words, in most cases, their regular home and, in other cases, their savings accumulated over a lifetime.

As far as telecommunications are concerned, a large number of complaints are received every year due to the problems involved in the provision of this service. The companies which are the operators of these services are called to fully comply with a well-defined regulatory catalog of obligations, which additionally guarantees the appropriate development of this strategic economic and social sector. Quantitatively, the greatest number of complaints lodged have to do with the anomalies involved in the mobile telephone services. In this regard, the Ombudsman

has conveyed the need to those administratively responsible for taking fast action in solving the new problems which have arisen in view of the rapid technological evolution which often far exceeds the regulatory dispute settlement provisions. Apart from the above, following the lapse of the bill which was being processed during the last legislature, the passage of a law regulating the customer assistance services is likewise currently a pressing need, by virtue of which the company must avail of an effective service for facilitating information, dealing with and providing solutions to user complaints. These regulations will naturally be related to all the utility companies providing basic water, gas and electric power services.

Regarding the subject of intercity transport, complaints have been lodged concerning the users being against the high rates charged for certain services, particularly the high-speed train lines, with road services not being covered along certain routes and there not being a sufficient number of bonuses offered for the passengers travelling most frequently on the different means of transport.

Regarding air transportation, special mention may be made of the action taken by this Institution so as to enable physically challenged individuals to have the benefit of aid, paid for by the Central Government, given the high price of covering the special needs of these individuals, specifically those affected by severe mobility-related problems and tetraplegia. At first, the civil aviation authority agreed to the recommendation of promoting a new system of social subsidies for paying for these needs, however it has unfortunately changed its mind on being of the opinion that the regime of aids established by the general dependency regulations suffice for this purpose.

Apart from the above, this Institution being concerned over the past few years regarding the complaints in relation to the undue functioning of the property census registry review procedures and the problems created by the rise in the property appraisals, decided to prepare a monographic study which, at the point in time at which this report is being presented, has now been turned over to Spanish Parliament. As far as the problem of the municipal applications of values approved at the point in time of the real-estate boom, the Directorate General of the Land Registry has shown no particular interest in promoting the revision thereof, mentioning that it is the municipal government which must be the one to organize any such revision. This Institution is of the understanding that, given the special current circumstances, in which citizens are under the threat, in general, of a greater economic and tax-related effort for sustaining the public services, the Central Government Administration must also take a much more active position rapidly promoting these values being adjusted to the new market circumstances. Many more aspects are dealt with in the aforementioned monographic report.

Lastly, regarding the subject of government contracting, it is inevitable to make mention of the large number of complaints related to the default on payment of many debts in which the different administrations have incurred, particularly the municipal government administrations. This is a problem which has been severely damaging to thousands of individuals and companies for several years now, as is common knowledge. The Ombudsman has taken action regarding several individual cases from time to time, which, in some cases, have served to

expedite the procedures for the payment of the amounts owed by the government administrations. However, there are many more cases in which those in charge at the government level declare themselves incapable of living up to their payment commitments in due time. The most recent announcement of extraordinary budgeting measures being put into practice to alleviate the insolvency of hundreds of municipal governments and others Government bodies is opening a door to hope for the survival of thousands of businesses which, to date, have managed to barely stay afloat. These measures logically come late for many others who have had to close out their business or shut down their professional activity for good.

Environment, urban planning and housing

In the investigation of the complaints lodged by citizens and social organizations concerning the environment, the Ombudsman is still detecting an insufficient degree of acceptance of the principles on which the environmental regulations are inspired, by which the everyday practice of the government administrations is respected. Also regrettable is the fact that several Autonomous communities have continued resorting to approving regional intervention plans and programs in legislative sessions which had previously been declared void or illegal by the courts. This imposing of governmental clout through legislative channels which had been declared, in some cases, damaging to the environment divests citizens' of their ability to access the jurisdiction, also restricting public participation regarding this issue.

Many of the main actions taken in 2011 were, once again this year, for the purpose of dealing with some administrations acting irresponsibly in relation to the prescriptive environmental impact assessments. One of the aspects which this Institution has been repeatedly putting forth is the need of the responsible authorities taking upon themselves to see to a certain intervention (design and construction of new infrastructures, local development projects, etc.) having to be definitively cancelled when the environmental assessment reveals the same to go against the environmental protection regulations, therefore entailing specific damage to the habitat.

From this Institution's viewpoint, it is a major mistake to construe environmental protection as if the environmental regulations were to be simply just another set of documents required or to consider the environmental regulations and institutions to be, in themselves, a stumbling block for social and economic development. These lines of thought are those which this Institution has been repeating once and again over the course of processing the many complaints on this subject: noise and air pollution; infringements of the right to information and public participation; municipal management of classified activities; protection and conservation of natural areas; water resource management; coastal upkeep and maintenance or the prevention and management of urban and industrial waste.

Some of the problems stressed in the section devoted to the environment are common to the complaints processed concerning urban planning. Hence, one part of these complaints reveal the insufficient degree of attention given to environmental

aspects in urban development plans, including the shortcomings regarding sufficient water availability.

The ten-year period leading up to the onset of the real-estate crisis in 2007, which is still continuing and as yet even worsening, was marked by the excesses of a certain urban planning regulation and the resulting mass-scale development of housing, as a result of which, in many areas of our country, one can today see landscapes of empty lots and vacant or uncompleted apartment buildings. Around three and a half million empty or vacant dwellings are calculated to currently exist; whilst there are 30,000-50,000 homeless people, plus the problems of thousands of people who are living in makeshift or sub-standard housing or who are at imminent risk of eviction due to defaulting on the payment of their rent or mortgage obligations.

Within this context, the complaints related to the management of public housing take on special importance. In 2011, for example, several actions have been taken to relieve the problems of housing applicants with special needs, as well as those related to the problems of upkeep for which the managing public institution, municipal enterprises or autonomous community governments or institutes must take responsibility. This Institution is requesting the different bodies to focus greater attention on the needs of these applicants in addition to adopting measures to reactivate the extant resources by reducing for these purpose things such as the number of public protection housing units which are remaining empty or vacant or taking more decided action regarding the unlawful occupation of these dwellings.

Another group of complaints which has been followed up on is that of the anomalies in the processing of the young people's rental payment subsidies. Given the large number of complaints over the last few years, a simplified communications method has now been organized with the central administration, having made it possible to expedite providing responses to beneficiaries who have filed complaints due to delays in the payment of their subsidy, their right to the same having been fully recognized. On another order of matters, an investigation has been made into the problems in the management of the contracts made between private home owners and the Public Rental Company, which had proceeded, in many cases, to unilaterally amend the conditions of the agreements signed, thus leaving the rental payment guarantee according to that which was stipulated null and void.

Civil Servants

The year 2011 has been marked by major restrictions on the public employment offers in addition to the complaints from civil service employees working for the different administrations due to the cutbacks regarding pay, both of these being issues which are most certainly going to continue to be ranked at the top of the list of the actions taken by this Institution in this regard throughout the years to come.

Wherever the calls for applications to fill civil service openings have continued, a much larger number of candidates have filed applications for the openings offered, which usually gives rise to more problem situations throughout the processes. In several cases, this Institution has addressed the administrations responsible for announcing these openings asking that they

maximize their diligence in processing and making decisions regarding the appeals filed by the candidates. The actions mentioned in this annual report have to do with all types of openings in the Security and Law Enforcement bodies, in primary education, in municipal governments, in the Justice Administration, etc.

One issue obviously of great concern is the modification of the civil service pay regimens. The annual National budget regulations and those of the different autonomous communities for

2011 gave rise to a significantly large number of requests for the filing of an appeal claiming the violation of constitutional rights. In accordance with current constitutional doctrine, this Institution decided in the end not to file these appeals requested in relation to several laws of the Autonomous Communities of the Region of Murcia, Castile and Leon, the Canary Islands, the Autonomous Community of Madrid and the Central Government Budgeting Law.



Statistics and Management Report 2011



Ex officio investigations and resolutions put forth to the Administration on the rise while individual complaints remain same

In 2011, the Ombudsman’s Office has opened 506 ex officio investigations, an all-time record. The number of resolutions has risen remarkably – to 545 – nearly one hundred more than in 2010. To the contrary, the number of complaint proceedings has declined due to the drop in the group complaints.

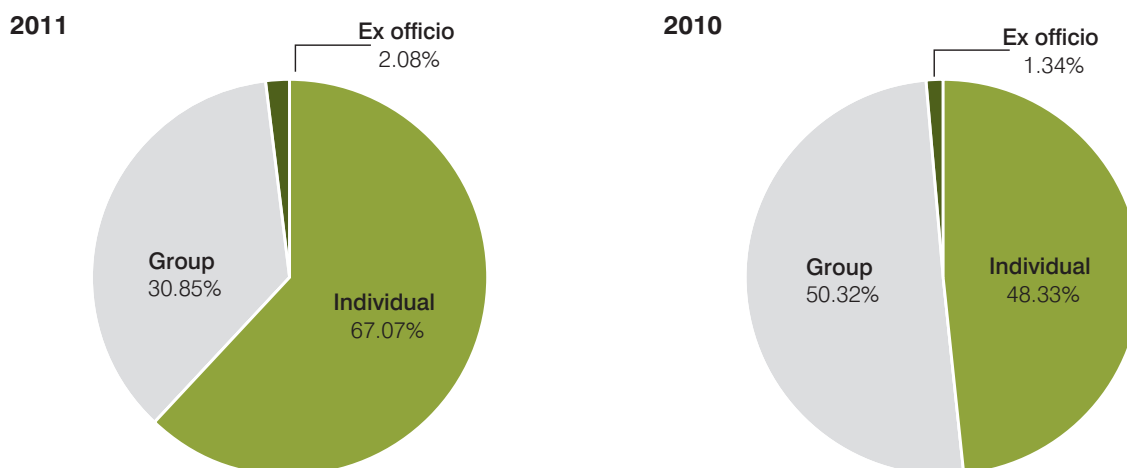
Two of the main characteristics of the 2011 fiscal year, as compared to the immediately preceding year, were, on one hand, the number of individual complaints having remained the same, showing only a very slight decline (-2.42%) and, on the other, the rise recorded in the number of ex officio investigations (+8.58%). The group complaints, which are always subject to a greater degree of variability, determined by the issues which take on importance for numerous groups, dropped by 56.89%.

In all, a total of 24,381 proceedings were recorded last year. A total of 16,353 thereof were individual complaints, 7,522 having been group complaints, and 506 having been ex officio investigations opened. A total of 125 of said investigations were actions taken by this Institution in its facet as a National Preventive Mechanism. The preventive check measures carried out by the NPM are, due to the characteristics proper thereof, always of an ex officio nature.

TABLE 1
Complaint proceedings and ex officio investigations
Years 2011 to 2010

TYPE	2011	2010
Individual	16,353	16,759
Group	7,522	17,449
Ex officio	506	466
Total	24,381	34,674

FIGURE I
Percentage spread of the complaints registered and ex officio investigations opened in 2011 in comparison to 2010



Complaints by geographical location from which filed

A total of 23,433 (98.15%) of the 23,875 complaint cases on record for 2011 came from within Spain, solely 442 (1.85%) having come from abroad.

FIGURE 2

Breakdown of source of complaints by autonomous communities. Year 2011



FIGURE 2

Complaints filed from within Spain, broken down by autonomous communities and provinces. Years 2011 & 2010

AUTONOMOUS COMMUNITIES & PROVINCES	NUMBER		% OF COMMUNITY		% OF TOTAL	
	2011	2010	2011	2010	2011	2010
BASQUE COUNTRY						
Araba	142	106	24.48	15.87	0.61	0.31
Gipúzkoa	143	164	24.66	24.55	0.61	0.48
Bizkaia	295	398	50.86	59.58	1.26	1.18
Total	580	668	100.00	100.00	2.48	1.97
CATALONIA						
Barcelona	1,822	2,806	74.67	80.49	7.78	8.28
Girona	238	240	9.75	6.88	1.02	0.71
Lleida	130	128	5.33	3.67	0.55	0.38
Tarragona	250	312	10.25	8.95	1.07	0.92
Total	2,440	3,486	100.00	100.00	10.41	10.29

FIGURE 2 (CONT.)

Complaints filed from within Spain, broken down by autonomous communities and provinces. Years 2011 & 2010

AUTONOMOUS COMMUNITIES & PROVINCES	NUMBER		% OF COMMUNITY		% OF TOTAL	
	2011	2010	2011	2010	2011	2010
GALICIA						
A Coruña	670	1,025	48,24	45,15	2,86	3,03
Lugo	182	136	13,10	5,99	0,78	0,40
Ourense	113	229	8,14	10,09	0,48	0,68
Pontevedra	424	880	30,53	38,77	1,81	2,60
Total	1,389	2,270	100,00	100,00	5,93	6,70
ANDALUSIA						
Almería	204	398	6,18	6,42	0,87	1,18
Cádiz	396	764	12,00	12,31	1,69	2,26
Córdoba	626	619	18,96	9,98	2,67	1,83
Granada	369	766	11,18	12,35	1,57	2,26
Huelva	149	553	4,51	8,91	0,64	1,63
Jaén	237	456	7,18	7,35	1,01	1,35
Málaga	662	1,203	20,05	19,39	2,83	3,55
Sevilla	658	1,445	19,93	23,29	2,81	4,27
Total	3,301	6,204	100,00	100,00	14,09	18,32
ASTURIAS						
Total	506	1,041	100,00	100,00	2,16	3,07
CANTABRIA						
Total	319	251	100,00	100,00	1,36	0,74
LA RIOJA						
Total	208	182	100,00	100,00	0,89	0,54
REGION OF MURCIA						
Total	634	536	100,00	100,00	2,71	1,58
COMMUNITY OF VALENCIA						
Alicante	1,333	2,690	39,78	56,11	5,69	7,94
Castellón	467	383	13,94	7,99	1,99	1,13
Valencia	1,551	1,721	46,28	35,90	6,62	5,08
Total	3,351	4,794	100,00	100,00	14,30	14,15
ARAGON						
Huesca	110	88	17,27	13,15	0,47	0,26
Teruel	64	83	10,05	12,41	0,27	0,25
Zaragoza	463	498	72,68	74,44	1,98	1,47
Total	637	669	100,00	100,00	2,72	1,98
CASTILE-LA MANCHA						
Albacete	196	99	21,35	9,81	0,84	0,29
Ciudad Real	173	398	18,85	39,44	0,74	1,18
Cuenca	55	51	5,99	5,05	0,23	0,15
Guadalajara	144	166	15,69	16,45	0,61	0,49
Toledo	350	295	38,13	29,24	1,49	0,87
Total	918	1,009	100,00	100,00	3,92	2,98

FIGURE 2 (CONT.)

Complaints filed from within Spain, broken down by autonomous communities and provinces. Years 2011 & 2010

AUTONOMOUS COMMUNITIES & PROVINCES	NUMBER		% OF COMMUNITY		% OF TOTAL	
	2011	2010	2011	2010	2011	2010
CANARY ISLANDS						
Las Palmas	372	1,483	42.71	61.54	1.59	4.38
Santa Cruz de Tenerife	499	927	57.29	38.46	2.13	2.74
Total	871	2,410	100.00	100.00	3.72	7.12
NAVARRRE						
Total	234	215	100.00	100.00	1.00	0.63
EXTREMADURA						
Badajoz	264	230	58.80	56.10	1.13	0.68
Cáceres	185	180	41.20	43.90	0.79	0.53
Total	449	410	100.00	100.00	1.92	1.21
BALEARIC ISLANDS						
Total	428	422	100.00	100.00	1.83	1.25
COMMUNITY OF MADRID						
Total	5,433	7,401	100.00	100.00	23.19	21.85
CASTILE AND LEON						
Ávila	102	82	6.87	5.46	0.44	0.24
Burgos	228	231	15.35	15.38	0.97	0.68
León	335	271	22.56	18.04	1.43	0.80
Palencia	114	96	7.68	6.39	0.49	0.28
Salamanca	171	241	11.52	16.05	0.73	0.71
Segovia	94	90	6.33	5.99	0.40	0.27
Soria	37	59	2.49	3.93	0.16	0.17
Valladolid	328	272	22.09	18.11	1.40	0.80
Zamora	76	160	5.12	10.65	0.32	0.47
Total	1,485	1,502	100.00	100.00	6.34	4.43
CEUTA						
Total	35	247	100.00	100.00	0.15	0.73
MELILLA						
Total	80	57	100.00	100.00	0.34	0.17
NO SPECIFIC TERRITORIAL SOURCE						
Total	135	96	100.00	100.00	0.58	0.28
Total	23,433	33,870	100.00	100.00	100.00	100.00

As usual, it was from the autonomous communities having the largest populations that the largest number of both individual and group complaints were filed. Thus, the autonomous communities from which the largest number of complaints were

lodged with this Institution were those of Madrid (5,433), the Autonomous Community of Valencia (3,351), Andalusia (3,301) and Catalonia (2,440). By provinces, the largest number came from Madrid, Barcelona, Valencia and Alicante.

TABLE 3

Percentage spread and complaint cases by autonomous communities. Years 2011 and 2010

AUTONOMOUS COMMUNITIES	2011		2010		Number	
	Number	% of total	Number	% of total	2011	2010
Autonomous City of Ceuta	35	0.15	247	0.73		
Autonomous City of Melilla	80	0.34	57	0.17		
* No specific territorial source	135	0.58	96	0.28		
Autonomous Community of Rioja	208	0.89	182	0.54		
Autonomous Community of Navarre	234	1.00	215	0.63		
Cantabria	319	1.36	251	0.74		
Autonomous Community of the Balearic Is.	428	1.83	422	1.25		
Autonomous Community of Extremadura	449	1.92	410	1.21		
Principality of Asturias	506	2.16	1,041	3.07		
Autonomous C. of the Basque Country	580	2.48	668	1.97		
Region of Murcia	634	2.71	536	1.58		
Autonomous Community of Aragón	637	2.72	669	1.98		
Autonomous Community of the Canary Is.	871	3.72	2,410	7.12		
Auonomous C. of Castile-La Mancha	918	3.92	1,009	2.98		
Autonomous Community of Galicia	1,389	5.93	2,270	6.70		
Autonomous C. of Castile and Leon	1,485	6.34	1,502	4.43		
Autonomous Community of Catalonia	2,440	10.41	3,486	10.29		
Autonomous Community of Andalusia	3,301	14.09	6,204	18.32		
Autonomous Community of Valencia	3,351	14.30	4,794	14.15		
Community of Madrid	5,433	23.19	7,401	21.85		
Total	23,433	100.00	33,870	100.00		

* Complaints filed by e-mail from undetermined location

■ From outside Spain

In 2011, a total of 442 complaints were received from 58 countries, meaning a 30.76% rise. The main countries issuing complaints were France (35), Switzerland (35), Italy (31) and United Kingdom (25) in Europe; Argentina (31), Cuba (30) and Mexico (19) in Latin America; and Morocco (19) in Africa.

■ Complaint-filing channels

The large majority of either individual or group complaints lodged were filed directly by citizens (88.08%) followed by a much smaller percentage filled by different autonomous com-

munity commissioners (11.84%) and a practically negligible number from different organizations and agencies (0.08%).

TABLE 4

Source of complaint cases by channel through which filed. Year 2011.

CHANNEL	Number	% of total
Direct (individual and group)	21,030	88.08
Autonomous community parliament commissioners	2,827	11.84
Different entities and agencies	18	0.08
Total	23,875	100.00

TABLE 5

Percentage spread and complaints received from Autonomous Community Parliament Commissioners. Years 2011 and 2010

COMPLAINTS FILED FROM	Number		% of total		Number	
	2011	2010	2011	2010	2011	2010
Ararteko (Basque Region)	120	87	4.24	2.09		
Síndic de Greuges (Catalonia)	257	212	9.09	5.10		
Valedor do Pobo (Galicia)	148	437	5.24	10.51		
Defensor del Pueblo Andaluz (Andalusia)	391	377	13.83	9.06		
Procuradora General del Principado de Asturias	28	27	0.99	0.65		
Síndic de Greuges de la Comunitat Valenciana	830	2,170	29.36	52.18		
Justicia de Aragón	211	168	7.46	4.04		
Defensor del Pueblo de Castilla-La Mancha	68	68	2.41	1.64		
Defensora del Pueblo Riojano (La Rioja)	58	64	2.05	1.54		
Diputado del Común (Canary Island)	187	151	6.61	3.63		
Defensor del Pueblo de Navarra	73	87	2.58	2.09		
Defensor del Pueblo de la Región de Murcia	166	102	5.87	2.45		
Procurador del Común de Castilla y León	290	209	10.26	5.03		
Total	2,827	4,159	100.00	100.00		

■ Breakdown of complaint cases by sectors

Table 6 includes the information concerning the subject matter of the complaint cases processed during 2011, divided up among the different processing areas with which this Institution functions. The specific subjects regarding which both the individual and group complaints were lodged, as well as the ex-officio investigations opened are detailed.

Taking into consideration the complaints filed individually by private citizens, the sector of activity to which the greatest number thereof were related is urban planning and housing, those related to alien affairs and immigration, those related to the Jus-

tice Administration and, lastly, those having to do with the area of employment and social security, although there are but only slight differences amongst them all.

Concerning the group complaints, the majority, by number of importance are in the area of citizen and highway safety and in that of industry, energy and commerce, which showed a remarkable rise in comparison to those lodged in these same sectors in 2010.

Regarding the ex officio investigations, the most significant number had to do with the area of education, following by prison administration and issues related to migrations and equal treatment.

TABLE 6

Breakdown by processing areas and by subject matter of complaints on record for 2011

AREAS / Sectors	Groups	Individual	Exofficio	Total
SAFETY & JUSTICE				
Public safety and highway safety	2,143	950	1	3,094
Justice Administration		1,187	7	1,194
Crime victims	601	35	4	640
Interior	240	267	8	515
Prison administration		431	67	498
Under study		21	1	22
Defense		14		14
Notaries public		4		4
Total	2,984	2,909	88	5,981
ECONOMIC ADMINISTRATION				
Industry, energy and commerce	1,985	562	1	2,548
Economic administration		894	4	898
Telecommunications and postal service	63	781	3	847
Revenue and taxes		834	3	837
Infrastructures and transport	201	429	4	634
Under study		15		15
Agriculture, stockbreeding and fishing		11		11
Total	2,249	3,526	15	5,790
HEALTH AND SOCIAL POLICY				
Employment and Social Security	118	1,163	3	1,284
Social policy	297	782	34	1,113
Healthcare	18	573	4	595
Consumer affairs		182		182
Under study		6		6
Total	433	2,706	41	3,180
EDUCATION AND CULTURE				
Right of association, electoral regimen and statistics	388	466	1	855
Education		716	69	785
Organization and legal regimen of the Municipal Administrations	550	232	1	783
Other subjects		261		261
Communications media		153		153
Data protection and intellectual property		144		144
Culture and sports		66		66
Administrative procedure, personal wealth liability and official publications		45		45
University admissions		5		5
Under study		2		2
University degrees		1		1
Total	938	2,091	71	3,100

FIGURE 6 (CONTINUACIÓN)

Breakdown by processing areas and by subject matter of complaints on record for 2011

AREAS / Sectors	Groups	Individual	Exofficio	Total
REGIONAL PLANNING				
Urban development and planning	272	1,394	33	1,699
Environment	56	541	10	607
Under study		13		13
Regional regulation and planning		3		3
Total	328	1,951	43	2,322
MIGRATIONS AND EQUAL TREATMENT				
Alien affairs and immigration		1,201	61	1,262
Registry Offices		513		513
Racism and xenophobia		106		106
Religious freedom		77	2	79
Foreign affairs		60	2	62
Minors and families		19	21	40
Emigration		22		22
Under study		7		7
Equal treatment		3		3
Total		2,008	86	2,094
CIVIL SERVICE & PUBLIC EMPLOYMENT				
Civil servants, hired and statutory staff of the General Administration, Social Security System, Autonomous Communities and Municipal Administration	29	831	36	896
Armed Forces and Security and Law Enforcement Personnel	496	240	1	737
Judges and Magistrates, Attorneys and personnel employed by the Justice Department and Prison Institutions	65	91		156
Total	590	1,162	37	1,789
NPM MECHANISM				
National Police			28	28
Juvenile Centers			25	25
Municipal detainee holding centers			19	19
Civil Guard			16	16
Under study			16	16
Prison Institutions			12	12
Autonomous Community Police			7	7
Armed Forces			2	2
Total			125	125
Total	7,522	16,353	506	24,381

Complaint processing status at the end of 2011

The data included in Table 7 shows the status of the complaint proceedings and ex officio investigations at December 31, 2011.

TABLE 7

Status of the complaint proceedings and ex officio investigations at December 31, 2011.

STATUS	Group		Individual		Ex officio		Total	
	No.	%	No.	%	No.	%	No.	%
ACCEPTED FOR PROCESSING								
In process	1,536	20.42	2,702	16.52	431	85.18	4,669	19.15
Concluded	2,682	35.66	2,593	15.86	45	8.89	5,320	21.82
Suspended			1	0.01	3	0.59	4	0.02
Total	4,218	56.08	5,296	32.39	479	94.66	9,993	40.99
NOT ACCEPTED FOR PROCESSING								
Not accepted	3,304	43.92	9,556	58.44			12,860	52.75
Total	3,304	43.92	9,556	58.44			12,860	52.75
PENDING								
Pending study			194	1.19	21	4.15	215	0.88
Pending processing			740	4.53	6	1.19	746	3.06
Pending data			567	3.47			567	2.33
Total			1,501	9.18	27	5.34	1,528	6.27
Total	7,522	100.00	16,353	100.00	506	100.00	24,381	100.00

Regarding the complaints not accepted for processing, it must be said that all of these complaints are studied in detail, such that solely when the reasons for not accepting complaints set forth expressly under Organic Law 3/1981 concerning the Office of the Ombudsman of April 6th concur are they considered unacceptable. However, the citizens in question are always informed as to the circumstances which have led to such a decision, furnishing them with further information and, wherever applicable, providing them with guidance so that they may attempt to channel the remedying of the problem posed through other possible channels available to them for taking action, if feasible.

TABLE 8

Reasons for not accepting individual complaints. Year 2011

REASONS FOR NON-ACCEPTANCE	Number
No indications of administrative irregularity	2,968
Multiple concurring reasons for non-acceptance	1,437
No prior administrative measure	1,413
Other reasons for which the Ombudsmen does not having authority over the same	831
Judicial action	765
Request for further details unanswered	545
Private dispute unrelated to the Government	274
No grounds for filing an appeal	205
Final, non-appealable judgment	180
Solely information is requested	172
Solely information is provided	158
Remedied without involvement of the Ombudsman	147
No action on the part of the public powers	118
No legal grounds	85

REASONS FOR NON-ACCEPTANCE	Number
Autonomous Parliament Commissioner's intervention	83
Do not meet the requirements for appeal to be accepted	31
No legitimate interest	30
No claim	28
Abandonment	25
Time frame longer than one year	21
Administrative authority in matters under province thereof	19
No reply to remediable flaw	12
Impossible to contact interested party	6
Third-party damages	2
Mala fides (bad faith)	1
Total	9,556

7,522 group complaints

The main complaints lodged by a significant number of citizens and the summarized subject matter are included in following:

- 550 citizens requested that the government agencies having authority over this subject regulate the functioning of the centers for collecting and keeping pets.
- 297 citizens affected by the closing of the Magerit, Fray Bernadino and Arganda occupational centers in Madrid requested that these centers be re-opened.
- 201 interested parties expressed being against the halting of the improvements on the N-332 highway by-pass through Benissa (Alicante) on the part of the Planning and Infrastructures Department.
- 360 citizens of Barcelona lodged their complaint for the actions of the Autonomous Community police force at Catalonia Square when breaking up an M-15 Movement rally.
- 285 affected individuals lodged their complaint regarding the regulation adopted by the Energy Department regarding photovoltaic energy.
- 601 citizens lodged their complaint concerning the action taken by the Autonomous Community of Madrid's Family and Social Affairs Department by which an infant as yet breast-feeding was taken away from her mother living in a residence under her ownership.
- 388 citizens proposed the reform of the General Electoral System Act for the purpose of implementing a purely proportional system and open lists of candidates.
- 63 interested parties lodged their complaint for the lack of further expansion upon regulations of General Audiovisual Communications Law 7/2010 of March 31st concerning non-profit community communications services.
- 54 people lodged their complaint regarding the arrest of three Spanish citizens who were protesting in Nice (France) at the time when the G-20 Summit was being held in that city.
- 186 people expressed their disagreement with the actions of the National Police Force officers on the occasion of the M-15 Movement protests.
- 45 affected individuals expressed their disagreement with the regulation passed by the Directorate General of Traffic concerning Class A2 driver's permits.
- 114 affected individuals put forth their disagreement with different occupations in the maritime fishing sector being included in the catalog of hard-to-cover job positions on the part of the National Public Employment Service.
- 254 affected individuals lodged their complaint for the delay in paying the basic emancipation rent for young people on the part of the Housing Ministry and for no response whatsoever having been given regarding the application for the social rate for electric power supply.
- 54 people requested an appeal for violation of constitutional rights against Royal Legislative Decree 14/2010 of December 23rd, setting forth urgent measures for correcting the electric power sector's rate deficit.
- 496 members of the Spanish Civil Guard requested the filing of an appeal for violation of constitutional rights against Organic Law 11/2011 of August 1st for the application to the Civil Guard of Article 13.1 of Organic Law 9/2011 of July 27th governing the rights and duties of the members of the Armed Forces.
- 1,646 people requested an appeal be filed against Article 4 of Royal Legislative Decree 13/2010 of December 3rd on the measures of a tax, labor and liberalizing-related nature for encouraging investment and creating jobs.
- 975 citizens lodged their complaint regarding the resolution to demolish a building on the part of the Town Council of San Javier (Murcia).
- 1,551 members of the "Nueva Prada de la Sierra" Association put forth the problems for recouping the status of a small-scale municipality on the part of the town of Prada de la Sierra in the municipal district of Santa Colomba de So-moza (Leon).
- 113 persons affected requested the homologation, on the part of the National Air Safety Agency of the training taken in air mechanics and avionics at private centers to that issued by the Civil Aeronautics Studies Company.
- 6,178 citizens lodged their complaint regarding the alleged errors in diagnosis and treatment on the part of the professionals at the Torrevieja Hospital (Alicante) which could have determined the death of some minors.
- 569,726 citizens, headed by the President of the Spanish Hotel keeping Federation, expressed their disagreement with that for which provision is made under Law 42/2010 of December 30th, amending Law 28/2005 of November 26th governing health measures concerning the smoking habit and regulating the sale, supply, purchase and advertising of tobacco.
- 1,115 civil servants assigned to the alien affairs offices lodged their complaint regarding their being excluded from competitive applications for transfers announced by different ministerial departments.
- 1,630 citizens expressed their disagreement with the sentencing of two individuals for an offense of noise contamination and requested that they be pardoned.
- 105 people questioned the constitutional appropriateness of Articles 13 and 169 of the Organic Law governing the General Electoral Regimen.
- 482 people affected lodged their complaint regarding the regulations governing access to the profession of attorney.
- 346 citizens expressed their disagreement with the reform of the minimum insertion income adopted by the Autonomous Community of Catalonia Government.

TABLE 9

Reasons for non-acceptance of group complaints.
Year 2011

REASONS FOR NON-ACCEPTANCE	Number
No grounds for filing an appeal	1,664
No indications of government irregularities	1,073
Other reasons why not under Ombudsman's authority	454
Several concurrent reasons for non-admission	113
Total	3,304

506 ex officio investigations

In 2011, the Ombudsman's office opened 506 ex officio investigations, meaning a 8.58% rise over 2010.

This type of measures are carried out under the protection of that which is set forth under Article 12.1 of the Organic Law 3/1981 concerning the Office of the Ombudsman of April 6th and are detailed in the following Table, specifying the status thereof at December 31, 2011 and the Government Administration through which they have been processed.

TABLE 10

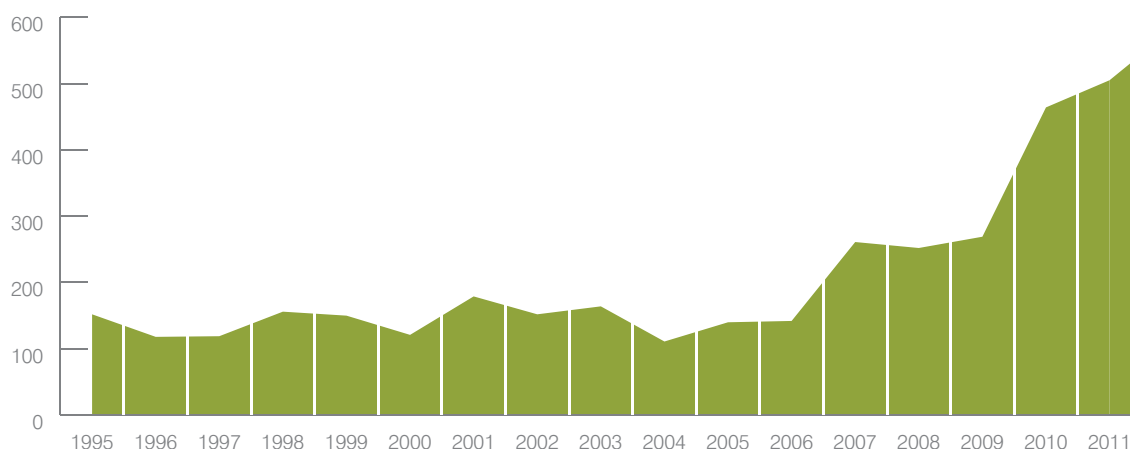
Ex officio investigations processed with the different government administrations. Year 2011

ADMINISTRATIONS	In process	Completed	Suspended	Total
General State Administration	202	21	2	225
Autonomous Community Administration	171	19		190
Local Administration	25	4		29
Attorney General's Office	3			3
Other Public Organizations	2	1		3
Miscellaneous Administrations	28		1	29
Total	431	45	3	479

The 27 investigations which were in the preparatory stage on the aforesaid date are not included on this Table

FIGURE 3

Past trend of ex officio investigations



A summary is provided in following of the main ex officio investigations undertaken by this Institution in 2011.

■ Justice

The material and human means, as well as the functioning of the justice system along general lines gave rise to different ex officio investigations having been opened. Thus, investigations were conducted of the malfunctioning of the new judicial office set up in Getxo; the existence of 32 complaints adjudged by one same individual without the pertinent judgment having been issued at Corporate Court No. 1 of Santa Cruz de Tenerife, and the alleged irregularities on the part of several presiding judges of different Commercial Courts, mainly in the Autonomous Communities of Andalusia and Valencia.

Other Justice-related investigations were the one opened with the Ministry of Justice for the squandering of public money; that opened with the Attorney General's Office for ascertaining how this agency deals with sexual abuse of minors, and that opened with the Directorate General of Relations with the Justice Department and the Office of the Secretary General of Prison Institutions in order to gather relevant information with a view to conducting a study on sentences alternative to imprisonment in Spain. Similarly, an ex officio complaint investigation was opened with the Autonomous Community of Madrid Agency for the Re-education and Reinsertion of Juvenile Offenders as the result of the death of a young man at the "Teresa de Calcutta" Juvenile Detention Center in Brea de Tajo (Madrid).

Concerning gender violence, the Ombudsman's Office opens an ex officio investigation whenever the death of a woman who had a protective order occurs. In 2011, two investigations were opened, one with the Public Prosecution Service and with the Directorate General of the Police and Civil Guard and another with the Basque Department of the Interior due to the deaths of two women at the hands of their partners.

■ Prisons

Whenever deaths of inmates occur anywhere under deprivation of freedom, the Ombudsman's Office opens an ex officio investigation. In 2011, a total of 18 investigations were opened for this reason.

An investigation was also conducted of the hunger strike by an inmate at the Zaragoza Prison Facility; a broken hip injury sustained by an inmate who jumped out of a window at the Villanubla Prison Facility; the fights among inmates at the Albolote Prison Facility; and the filming of two videos uploaded onto YouTube at the Topas Prison Facility.

Other ex officio investigations opened with the Prison Institution Department had to do with illicit behavior on the part of prison guards. In the case of the investigation opened due to the sentencing of a prison guard at the Madrid I Prison Facility for sexually abusing a female inmate in mid-2006; due to a prison guard at the Tahiche Prison Facility having been accused of torture; due to news having been received of the employees at the

Ceuta Prison Facility having allegedly agreed to supply cell phones, alcohol and drugs to inmates in exchange for sexual favors; due to an inmate having been assaulted by a prison guard at the Acebuche Prison Facility; and due to several prison guards possibly being involved in organized crime.

Apart from the above, the assaults of prison guards at the Teizeiro Prison Facility and the Grand Canary Prison Facility were investigated. And an investigation was opened concerning the death of an immigrant at the Manresa Hospital while under the custody of the Autonomous Community police force officers.

Similarly, the possible lack of means at the Morón de la Frontera Prison Facility and at the Social Insertion Facility in Valencia was also investigated.

Imprisonment facilities for the deprivation of freedom as well as the living conditions of the inmates gave rise to different ex officio investigations being opened with the Prison Institution Department. Worthy of special mention is the investigation opened due to the reported deficiencies in the enlargement of a maximum security module at the Picassent prison; the overcrowding at the Ibiza Prison Facility; due to there being no police escort when transferring prisoners to hospitals at the Seville I, Morón de la Frontera and Alcalá de Guadaíra prison facilities.

Several fires or deficiencies detected in the alarm systems were also investigated. This is the case of the fires which occurred at the Picassent, Albolote and Villanubla prison facilities; the faults in the fire alarms and metal detectors at the Picassent prison; and the burns which one inmate sustained in the fire in an isolation cell in Badajoz.

Several ex officio complaint investigations were also opened as a result of different pests: cats at the Acebuche Prison Facility; rodents at the Tenerife II Prison Facility; and rats, bedbugs and cockroaches at the Picassent Prison Facility.

■ Citizenship and public safety

Three ex officio investigations were opened under this heading. The first, opened with the Directorate General of the Police and Civil Guard and the Office of the Assistant Government Delegate in Madrid as a result of the incidents in the area surrounding the Puerta del Sol and at other locations throughout the city due to the clearing of the M-15 "outraged" protestors; a second investigation with the City Government of Madrid and the Autonomous Community of Madrid Health Ministry regarding the "street-drinking" penalty proceedings; and a third investigation opened with the City Government of Getafe as a result of the chase of some alleged delinquents from Getafe to Madrid and the shoot-out which occurred.

■ Migrations and equal treatment

This institution is preparing a monographic report on human trafficking in Spain which will be presented in 2012. However, several ex officio complaint investigations were opened in 2011 with a view to preparing this report aimed at ascertaining what

measures are being taken by the different administrations in regard to the victims of trafficking for purposes of sexual and work-related exploitation. Thus, proceedings were opened with all of the Autonomous Community Ministries and Departments involved in the 17 Autonomous Communities and the cities of Ceuta and Melilla; with the Directorate General of the Labor Inspectorate and Social Security System of the Ministry of Labor and Immigration; with the General Office of the Commissioner of Alien Affairs and Borders of the Ministry of the Interior; with the Directorate General of the Police and Civil Guard of the Ministry of the Interior; with the Civil Guard Coordination Division of the Ministry of the Interior; with the Directorate General of the Police of the Autonomous Community Government of Catalonia; with the Directorate General of the Basque Police Force; with the Directorate General of the Navarre Police Force; and with the Headquarters of the Autonomous Community of the Canary Island Police Force. For this same purpose, visits were made to the SICAR CAR-Adoratrices of Catalonia facilities and as well as an investigation having been opened with the Attorney General's Office.

Numerous ex officio proceedings were also opened after learning of the disbanding of several criminal networks involved in exploiting persons sexually or for work-related purposes. Within this context, of particular concern is the situation in which trafficking victims are left when rescued in police raids. Thus, an ex officio investigation was conducted of the protection granted to several female citizens of Nigerian nationality who were victims of a trafficking network for purposes of sexual exploitation in Seville. The situation of the victims of Romanian nationality following the dismantling of a network in Girona reported by a minor who stated having been deceived and brought to Spain to work as a prostitute; or the situation in which several Romanian citizens found themselves in Palma de Mallorca when they were used by a trafficking network for purposes of exploitation as beggars. An investigation was also conducted of a judgment having been published for granting a period of time for a trafficking victim to re-establish herself and rethink her situation, said publication having included all of the victim's personal details as well as the circumstances having led up to said period having been granted.

Lastly, concerning human trafficking, ex officio investigations have been opened in view of the possibility of many women and babies who are smuggled into Spain by sea possibly being victims of trafficking. Thus, several ex officio complaints have been lodged in this regard with the General Commissioner of Alien Affairs and Borders of the Ministry of the Interior and with the Office of the Deputy Government Delegate in Granada. In this regard, worthy of special note is an investigation opened with the General Commissioner of Alien Affairs and Borders of the Ministry of the Interior after having learned that a FRONTEX operation called Indalo was being carried out along the coasts of Motril for carrying out a follow-up on the measures taken concerning human trafficking.

Apart from the above, for the purpose of suitably processing the recommendations made in the monographic report on procedures used for determining the age of those aliens doubted as being under age, ex officio investigations were opened with the Ministry of Justice and with all of the Autonomous Community Ministries and Departments involved; with the Ministry of

Labor and Immigration, with the Attorney General's Office, with the General Council of Medical Associations; with the Directorate General of the Police and Civil Guard of the Ministry of the Interior; and with the Department of Immigration and Emigration of the Ministry of Labor and Immigration.

Similarly, an ex officio investigation was also opened with the Attorney General's Office after having learned of the report from a citizen of Bolivia who stated having been subjected to abusive treatment on the occasion of a repatriation flight from Barajas to Santa Cruz de la Sierra (Bolivia).

■ Economic administration

One of the most outstanding ex officio investigations conducted related to economic issues was the investigation opened with the Bank of Spain and the Directorate General of Insurance and Pension Funds after having detected the inoperability of the life and unemployment insurance which some banking institutions have demanded as a basic prerequisite for granting a mortgage loan, this being insurance which additionally had to be engaged with underwriters pertaining to the same banking group.

Another outstanding action was the investigation opened with the Directorate General of Registries and the Notariat after this Institution having received a large number of complaints in which citizens stated their being against the way in which notaries were proceeding. These complaints stated that the notaries are not providing the proper information when proceeding to the signing of mortgage loans, confining themselves to glossing over the reading of the respective deed without clarifying specific terms thereof, despite, in most cases, the appearing parties not precisely understanding the terms of the deeds due to the complexity thereof.

Several investigations were also opened with the Bank of Spain and with the Department of Economy regarding the development and dissemination of new products for assuring the risks of interest rates linked to engaging mortgage loans; and for clarifying certain aspects and problems detected in the Order EHA/2899/2011 of October 28th on the transparency of banking services.

In turn, the Directorate General of the National Tax Administration Agency was also the center of an ex officio investigation, on this Institution having learned of a letter sent out by the Revenue Service to more than 90,000 tenants instructing them to cease making their rent payments to their landlords and commence depositing their rent monthly into Public Treasury accounts up to the point of covering the full amount which their landlords owed the Government.

On another order of matters, the Ombudsman's Office has also investigated what are referred to as "Premium messages", a type of messages which are not previously engaged or requested on the part of the users and which give rise to billing abuses. Thus, investigations were opened with both the Department of Telecommunications and for the Information Society and the Surcharge Services Supervisory Commission concerning this type of SMSs.

Other matters investigated were the lack of personnel and material means of the different provincial foreclosure panels; the situation occurring at the Tortosa train station, where the users walk directly across the track instead of crossing by using the passageway provided for this purpose; and aspects related to the control of in-flight medical emergencies.

An ex officio procedure was also opened concerning the practices of some travel agencies, which send out plane tickets online apparently violating the provisions of the Information Society and E-Commerce Services Law 34/2002 of July 11th in regard to EC Regulation 1008/2008 of September 24th which sets forth common standards for the operating of air services within the European Community.

■ Education administration

In 2011, an ex officio investigation was opened at the nationwide level with 48 public universities, and a recommendation was made to the Ministry of Education for the criteria which all of Spain's universities are to employ when calculating the grade point average of the university student transcripts as well as the information their academic certifications must include be set out with utmost clarity.

Also within the realm of university-level education, ex officio proceedings were opened with the Complutense University of Madrid Chancellor's Office after learning that a pressing need existed for the criteria for furnishing proof of the disabilities or handicaps of students to be regulated in order for the eligibility of this students for being awarded academic diplomas allowing them to exercise the profession of primary or childhood education teachers will be guaranteed.

As far as elementary and secondary school-level education is concerned, at the beginning of the 2011-2012 academic year, there were different days of public education sector strikes, especially at secondary and compulsory school-leaving schools. The Ombudsman's Office stated its concern regarding the conflictiveness at the start of the school year, especially due to the negative bearing on the educational process of the students. One of the most obvious negative effects was the loss of classroom time affecting particularly the secondary and school-leaving certificate students, for which reason this Institution opened an ex officio procedure for ascertaining what measures the Autonomous Community of Madrid Ministry of Education has adopted or plans to adopt for the purpose of making it possible to make up for the classroom time missed by this Community's students.

In 2011, different ex officio measures were also taken with the Ministry of Education and the competent agencies having authority over Education in all of the Autonomous Communities on learning that fathers and mothers who are separated or divorced and who do not have the guardianship or custody of their children have problems concerning obtaining information on their children's academic progress and other aspects of their school life.

■ Healthcare

In 2011, an ex officio investigation was opened with the Office of the Undersecretary of Health, Social Policy and Equality for the purpose of guaranteeing continuing, quality health care for those patients who are located outside of the different autonomous communities where they normally reside. Similarly, an ex officio investigation was opened with this Undersecretary's Office for the purpose of guaranteeing the providing of health care to the population located along the borderlines between Autonomous Communities.

An ex officio procedure was additionally opened with the Autonomous Community of Madrid Ministry of Health due to the excessive delay in the transfer by ambulance of several individuals from the Ramón y Cajal hospital emergency room to their homes.

Lastly, the death of an infant at the Torrevieja Hospital after having been provided with care by a professional whose medical degree was not homologated in Spain gave rise to an ex officio complaint being opened with the Autonomous Community of Valencia Ministry of Health.

■ Social policies and employment

In 2011, an ex officio procedure was opened with the agencies which have authority over the subject of Welfare and Social Matters of all the Autonomous Communities, as well as of the cities of Ceuta and Melilla in order to ascertain what criteria are being employed by the public juvenile protection agencies for determining situations of abandonment and what the practical measures are which taken in the procedures prior to taking protective measures.

Other ex officio cases investigated were the situation of a young boy with a 40% mental disability who was under the guardianship of the Canary Island Government and who, on reaching legal age, had to abandon the center where he had been residing despite not having the minimum personal autonomy nor any family members who could take him in; the situation in which a single mother with two children found herself, she having started a hunger strike at her home to try to recover the guardianship and custody of her daughter; and the report of a Moroccan mother who reported her two-year-old daughter having been taken from her and placed in a shelter on the director of the shelter considering it not proper for this infant to be breast-fed "on demand".

An ex officio investigation was also opened with the Autonomous Community of Castile and Leon Government's Ministry of Family and Equal Opportunities after having learned of the death of three disabled minors who were in a shelter managed by "Messengers for Peace", said deaths allegedly having been attributed to one of the monitors of said shelter.

The death of a three-year-old girl at the hands of her mother when the mother learned of the news that she was going to lose guardianship over the child was also investigated with the Autonomous Community of Valencia Government's Ministry of Justice and Welfare.

An ex officio procedure was also opened with the Corunna Municipal Government regarding the death of three homeless persons in that city within a two-week period.

Regarding employment, one investigation worthy of special mention is that opened with the Employment Department of the Ministry of Labor and Immigration due to the discrimination of females in the working world.

An investigation was also opened with the Directorate General of the Labor Inspectorate and Social Security System due to the citizen complaints reporting delays in different procedures of different regional headquarters of the Social Security System and Labor Inspectorate.

The incidents in the process of requesting an appointment in advance at the employment offices reported by several citizens were also investigated.

■ Environment

Regarding the environment, worthy of special mention is the investigation opened concerning the assessment of the repercussions on Nature 2000 of the measures in Castile and Leon entailed in Decree 6/2011 of February 10th as a result of including rules possibly contrary to national legislation and European Law on the conservation of wild fowl, natural habitats and wild fauna and flora.

Also related to the Natura 2000 Network, an ex officio investigation was opened with the Municipal Government of Las Navas del Marqués, with the Tagus River Basin Authority and with the Autonomous Community of Castile and Leon Government's Ministry of Public Works concerning the municipal permit for the installation of an adventure park in a stand of pines located in the areas of a stream near the Ciudad Ducal dam, on lands zoned as not for development with natural, landscape and forest protection and pertaining to the Natura 2000 Network.

Apart from the above, an investigation was conducted of the pollution of a riverbank beach in Mondariz; the irregular dumping of hydrocarbons into the Arroyo de los Gallegos stream in the Puente Mayorga district of San Roque; and the existence, on a reservoir measuring more than 6 hectares, of a tank for toxic products in the close vicinity of the Regional Southeast Park of Madrid, in the municipal district of Arganda del Rey.

Another matter investigated was that of the Town Council of Nijar planning to build a housing development or a golf course adjacent to the Cabo de Gata-Nijar Nature Park.

An ex officio procedure was also opened with the Directorate General of Coast and Sea Sustainability of the Ministry of Environment and Rural and Marine Affairs concerning the recovery of Spanish beaches by adding sand.

■ Urban planning and housing

The existence of vacant public protection housing led to an ex officio investigation being opened with the agencies having au-

thority over housing in all of the Autonomous Communities and in the cities of Ceuta and Melilla.

Also concerning housing, an ex officio investigation was opened with the Directorate General and Architecture and Housing Policy of the Ministry of Public Works as a result of the problems encountered in the processing of the rental aid and the basic emancipation rent for young people.

A procedure was also opened with the Public Rental Company as a result of the unilateral amendment of brokerage contracts signed with owners of homes for rent which is dubious.

An investigation was opened with the Municipal Government of Madrid as a result of the housing with some type of public protection being given up by those awarded the same in the award processes as a result of their not being able to gain access to qualified loans.

And the subsidies for the installation of elevators by apartment owners' associations in the Autonomous Community of Madrid were also investigated with the Community of Madrid's Ministry of Environment, Housing and Regional Planning.

Regarding urban planning, worthy of special note are the problems entering the development of El Aalón in Paracuellos de Jarama which gave rise to an investigation with the Autonomous Community of Madrid's Ministry of Environment and Regional Planning. A procedure was also opened due to the poor condition of the roadway into the facilities of the Madrid II Prison Facility in Alcalá de Henares; and another due to the damage caused to buildings in San Fernando de Henares due to the expansion of the Number 7 Metro Line.

Other ex officio investigations were that opened due to the risk of housing collapsing involved in the landslide caused by rains in Barranco de Caraita in the municipal district of Benillup; and the investigation opened with the Ministry of Public Works in view of the exceedingly long delay in the approval by the Government of basic conditions of accessibility and non-discrimination for accessing and using goods and services at the disposal of the public.

■ Civil servants

This Institution opened ex officio investigations in 2011 with both the Office of the Undersecretary of the Ministry of Education and with the agencies having authority in all of the Autonomous Communities and in the cities of Ceuta and Melilla over the procedures for managing the contract teachers' exchange.

Ex officio investigations were also opened with the agencies having authority over the subject of Health and Welfare for all of the Autonomous Communities and with the National Health Management Institute concerning professionals who are rendering services temporarily as general practitioners without the required family and community medical specialist degree as well as whatever plans may exist for remedying this staff management-related situation.

Lastly, the conditions under which the officers assigned to the Civil Guard quarters in Milladoiro in Corunna are doing their work were also investigated.

Other aspects

This Institution learned, through the mass media, of the problems generated by the systematic delays in the documentation necessary for Spanish citizens residing abroad exercising their right to vote by mail in the general elections of November 20, 2011 having been sent to these citizens. For this reason, an ex officio procedure was opened with the Directorate General of Interior Policy of the Ministry of the Interior and with the Subdi-

rectorate General of the Electoral Census Office of the Ministry of Economy and Finance in order to ascertain the lines of action of both of these agencies for the end purpose of providing a solution to the extant problem.

Similarly, an ex officio investigation was opened with the Municipal Government of Madrid due to the lack of safety measuring for the Madrid River project so as to prevent waterfalls.

546 resolutions to the Public Administration

A total of 546 resolutions were set out addressing the different public administrations as a result of the processing of the individual and group complaint procedures and ex officio investigations during 2011, compared to the 448 resolutions made in 2010, meaning a 22% increase.

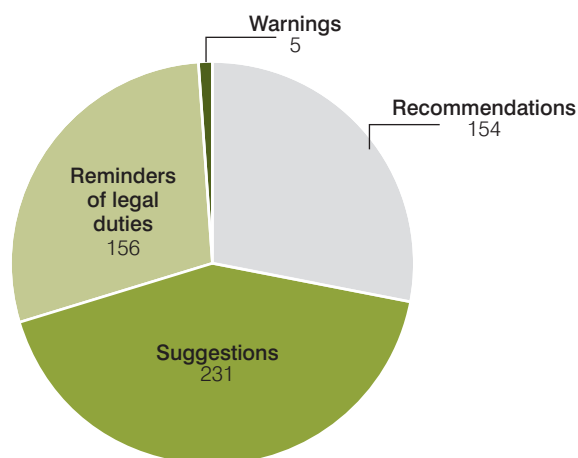
This data on the resolutions made in 2011 showed 70.83% acceptance of the recommendations and 69.53% acceptance of the suggestions at December 31, 2011, without taking into account those as yet pending reply at the time.

TABLE 11

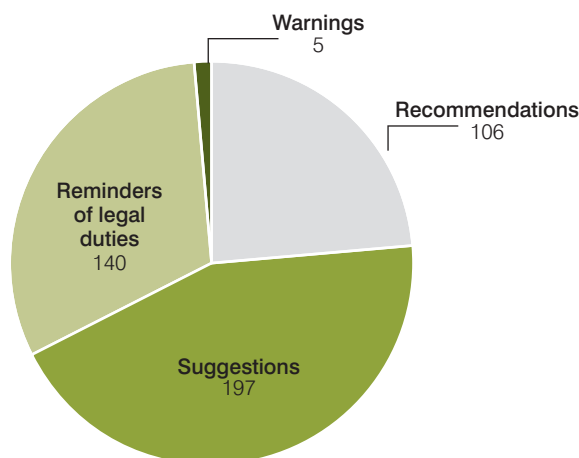
Resolutions set out in 2011

RESOLUTIONS	Approved	Rejected	Pending	Total
Recommendations	51	21	82	154
Suggestions	89	39	103	231
Reminders of legal duties				156
Warnings				5
Total	140	60	185	546

2011



2010



The following Tables provide further details as to the Administrations addressed by the Ombudsman concerning the different resolutions, by type of resolution and Administration addressed.

TABLE 12

Recommendations and suggestions by Administrations addressed. Status at December 31, 2011.

ADMINISTRATIONS	Accepted	Rejected	Pending	Total
RECOMMENDATIONS				
General State Administration	20	10	27	57
Autonomous Community Administration	19	8	39	66
Municipal Administration	12	3	14	29
Attorney General			1	1
Other public organizations			1	1
Total	51	21	82	154
SUGGESTIONS				
General State Administration	41	20	37	98
Autonomous Community Administration	15	11	23	49
Municipal Administration	33	6	41	80
Other public organizations		2	2	4
Total	89	39	103	231

TABLE 13

Reminders given of legal duties in 2011.
By Administration addressed

ADMINISTRATIONS	Total
General State Administration	41
Autonomous Community Administration	55
Municipal Administration	58
Other public organizations	2
Total	156

TABLE 14

Warnings given in 2011.
By Administration warned

ADMINISTRATIONS	Total
General State Administration	3
Municipal Administration	2
Total	5

The monitoring, over the course of time, of the way in which the different administrations have dealt with the Ombudsman's resolutions affords a clearer picture of their degree of efficacy. An analysis is provided in the following Tables as to the actual evolution of the acceptance or rejection of the recommendations and suggestions issued within the two years immediately prior to the year to which this report is related.

TABLE 15

Recommendations and suggestions years 2010 and 2009. Data at December 31, 2011

	2010		2009	
	No.	%	No.	%
RECOMMENDATIONS				
Accepted	76	71.70	124	71.68
Rejected	24	22.64	45	26.01
Pending	6	5.66	4	2.31
Total	106	100.00	173	100.00
SUGGESTIONS				
Accepted	114	57.87	133	60.73
Rejected	73	37.06	65	29.68
Pending	10	5.08	21	9.59
Total	197	100.00	219	100.00

154 recommendations and 231 suggestions

In 2011, the Ombudsman's Office made a total of 154 recommendations and 231 suggestions to the Government Agencies. At the closing of this Annual Report, a total of 51 recommendations and 89 suggestions had been accepted (Tables 11 and 12).

List of recommendations accepted

General State Administration

MINISTRY OF THE ECONOMY AND FINANCE

To the **Central Tax Administration Authorities** regarding the modification of criteria for granting social action program aid.

MINISTRY OF EDUCATION

To the **Directorate General of College Student, Care, Participation and Employability** regarding measures being adopted so that delays will not occur in processing the applications for scholarships from the Ministry of Education which are not filed by way of the online website.

Concerning maintaining the point score achieved on the 2010 entrance examinations for the modality subjects affected by the change in ascription.

MINISTRY OF PUBLIC WORKS

To **AENA – Spain's Public Airport and Air Navigation Operator (AENA)**, regarding consideration in asset liability proceed-

ings of that which is certified by the agency having authority for weather checks for declaring exemption due to force majeure.

MINISTRY OF THE INTERIOR

To the **Directorate General of the Police and Civil Guard**, concerning assurance of the physical integrity of the victims of violence against women and regarding the adopting of measures for training officers specialized in dealing with gender and domestic violence pertaining to the Security and Police Forces.

To the **Directorate General of the Police and Civil Guard** concerning the way in which arrests are made.

To the **Directorate General of the Police and Civil Guard** regarding provision of job positions.

MINISTRY OF JUSTICE

Concerning the creation of penal courts so that the creation of the necessary penal courts will be studied and approved in terms of the data from the General Commissioner's Office of the Judicial Police inspection service, taking those cataloged as necessary into particular consideration.

To the **Office of the Secretary of Justice**, for the staff of the Manacor Civil Registry to be suited to the actual workload with which this Registry is dealing by staffing it with the necessary

number of civil service employees and, if necessary, with the necessary material and technological means.

To the **Office of the Secretary of Justice** concerning the fitting measures being taken so that in the resolutions issued by the Consulate General of Spain in Bogota (Colombia) refusing the registry of marriage, the reasons for the refusal will be explained individually, avoiding the use of forms and the lack of reference to the individual circumstances of each case in particular.

To the **Office of the Secretary of Justice** for the necessary work be done to modify the regulations governing citizenship for the purpose of including the right to citizenship of origin of the grandchildren of Spanish women who lost their Spanish citizenship at marriage due to the discriminatory legislation which was in force in Spain until Law 74/1975 entered into effect, instructions being issued as soon as said modification is made for the right to Spanish citizenship to be recognized for the grandchildren of Spanish grandmothers who lost their citizenship by way of marriage and who were subsequently exiled.

MINISTRY OF ENVIRONMENT AND RURAL AND MARINE AFFAIRS

To the **Miño-Sil River Basin Authority** concerning the investigating body having found a legitimate interest and intent to exist regarding being party to the procedure for penalizing the complainant if it follows from the complaint that the events allegedly constituting a violation affect the interests of the complainant and are being reported precisely for that reason.

To the **Segura River Basin Authority** regarding the upkeep and maintenance of a section of what is known as the CV-A13 "Puente de Hijar" Road.

MINISTRY OF TERRITORIAL POLICY AND PUBLIC ADMINISTRATION

To the **Government Delegate's Office in the Autonomous Community of Catalonia** concerning the placement of the Spanish flag on the city hall building.

To the **Deputy Government Delegate's Office in Girona** concerning adopting precise initiatives for assuring actual compliance with the regulations in force concerning flags and standards on the part of municipal governments.

To the **Deputy Government Delegate's Office in Málaga** for the pertinent instructions to be issued to the Malaga Alien Affairs Office for the purpose of accepting other legal means of proof than the current certificate of marriage for providing proof as to the marriage continuing to exist in the processing of the permanent residence of the spouses of European Union citizens.

VARIOUS MINISTERIAL DEPARTMENTS

To the **Office of the Undersecretary of the Ministry of Territorial Policy and Public Administration** and to the **Office of the Secretary of Immigration and Emigration of the Ministry of Labor and Immigration** concerning the pressing need for sufficient staffing of the Alien Affairs Office in Barcelona.

Autonomous Community Administration

PRINCIPALITY OF ASTURIAS

To the **Department of Health and Healthcare Services** concerning further expansion upon regulations and mobility of statutory personnel.

AUTONOMOUS COMMUNITY OF THE CANARY ISLANDS

To the **Department of Health** concerning the advisability of the measures set forth in regard to the right of privacy being respected to the utmost at the centers involved in providing care to seropositive patients.

AUTONOMOUS COMMUNITY OF CASTILE AND LEON

For Castile and Leon Noise Law 5/2009 of June 4th to be adapted to that for which provision is made under Weather Law 3/1985 of March 18th.

To the **Department of Health** concerning the advisability of measures being taken for the implementation and operation of specific units specialized in the rehabilitation of acquired brain damage in Castile and Leon.

AUTONOMOUS COMMUNITY OF CATALONIA

To the **Catalonian Health Service** concerning compliance with the precepts which regulate the use of the official languages of Spain on its websites.

AUTONOMOUS COMMUNITY OF GALICIA

To the **Department of Finance** concerning compliance with the regulations governing the use of the co-official language.

AUTONOMOUS COMMUNITY OF THE BALEARIC ISLANDS

Concerning the need of creating a special appeals procedure regarding the subject of contracting.

COMMUNITY OF MADRID

To the **Madrid Housing Institute (IVIMA)** for effective measures to be adopted for the purpose of achieving the recovery of possessing of housing irregularly occupied.

To the **Complutense University of Madrid** for the University to warn students as to their university enrollment being cancelled due to non-payment.

REGION OF MURCIA

To the **Department of Health and Social Policy** regarding the adopting of measures for occupational health protection.

AUTONOMOUS COMMUNITY OF VALENCIA

To the **Department of Government** concerning the advertising of the announcements of public employment openings on the part of the municipal governments.

OTHER AUTONOMOUS COMMUNITIES

To the **Department for Equality and Welfare of the Autonomous Community of Andalusia; Department of Family and Equal Opportunities of the Autonomous Community of Castile and Leon; Department of Social Affairs of the Community of Madrid; Department of Health and Social Policy of the Region of Murcia; Department of Social Policy, Equality, Sport and Youth of the Autonomous Community of Navarre; Department of Health and Welfare of the Autonomous City of Melilla** so that, for the purpose of fully complying with that

which is set forth under Article 35.3 of Organic Law 4/2000 of January 11th governing rights and freedoms of aliens in Spain and the social integration thereof, that resources be allocated for providing suitable shelter for the interested party during the process of substantiating the age determination process.

Municipal Administration

CITY HALL OF ALCALÁ DE HENARES (MADRID)

Concerning the criterion for authorizing handicapped parking within the city.

CITY HALL OF CALLOSA D'ENSARRIÀ (ALICANTE)

Concerning limiting traffic speed within the municipality.

CITY HALL OF CANALS (VALENCIA)

Concerning the inactivity of the Administration.

CITY HALL OF GUAREÑA (BADAJOZ)

Regarding access to public employment

CITY HALL OF LAS ROZAS DE MADRID (MADRID)

Concerning delays in urban planning inspection and the authority to impose penalties.

CITY HALL OF LUGO

Concerning measures being taken for fully complying with regulations Concerning the translation into Castilian Spanish of the documents addressed to the interested parties who so request.

CITY HALL OF MADRID

Concerning the delay in the requirement of permit application correction and improvement.

To the **Municipal Housing and Land Company** concerning the effective processing of the recovery of possession of the dwellings under people's ownership which have been occupied by persons without sufficient title.

CITY HALL OF SANTIAGO DE COMPOSTELA (CORUNNA)

For full compliance to be rendered with a municipal ordinance.

CITY HALL OF TORRELODONES (MADRID)

Regarding the use of utility rooms as housing in this municipality.

CITY HALL OF VALENCIA

Concerning initiatives being adopted for outfitting a certain public school in this city with new facilities.

Recommendation concerning the failure to take action on the part of the Administration.

Other Administrations

SECRETARY OF JUSTICE OF THE MINISTRY OF JUSTICE AND DEPARTMENT OF THE INTERIOR OF THE AUTONOMOUS COMMUNITY OF CATALONIA

In order for the staffing of the Civil Registry of Terrassa to be adapted to the actual workload with which this Registry deals by staffing it with the necessary number of civil servants and, if necessary, with the material and technological means allowing it to offer effective services within a reasonable time frame.

MINISTRY OF JUSTICE AND DEPARTMENT OF JUSTICE AND WELFARE OF THE AUTONOMOUS COMMUNITY OF VALENCIA

Concerning a specialized age-estimating service being set up which will be in condition to conduct the necessary tests and examinations expeditiously in a centralized manner on the basis of common protocols.

■ Suggestions accepted

General State Administration

MINISTRY OF FOREIGN AFFAIRS AND COOPERATION

To the **Directorate General of Migratory and Consular Affairs** in order for a temporary residence visa to be granted to the interested party, the mother of a Spanish minor and duly-proven partner of a Spanish citizen.

To the **Directorate General of Migratory and Consular Affairs** in order for the visa case of the son of the appearing party to be reviewed and the documents which must be provided for issuing the visa to be requested.

To the **Directorate General of Migratory and Consular Affairs** to proceed to revoke the refusal of the family regrouping visa for which application was made by the interested party, save convincing evidence of the existence of a simulated marriage.

To the **Directorate General of Migratory and Consular Affairs** concerning consular assistance to Spanish prisoners in Rio de Janeiro.

To the **Directorate General of Migratory and Consular Affairs** to revoke the resolution issued by the Consulate General of Spain in Santo Domingo refusing the family regrouping visa of the spouse of a regrouping party and that a new decision be issued granting the visa for which application has been made.

To the **Directorate General and Consular and Migratory Affairs** for facilitating the issuing of a visa to the interested party, the mother of a Spanish minor and duly-proven partner of a Spanish citizen.

To the **Directorate General of Migratory and Consular Affairs** in order for the fitting instructions to be issued for the purpose of revoking the decision refusing a visa issued by the Consulate General of Spain in Santo Domingo.

MINISTRY OF ECONOMY AND FINANCE

To the **Directorate General of Personnel Costs and Public Pensions** concerning express decision stating reasoning regarding the applications filed by the interested party.

To the **Territorial Land Registry Administration of Barcelona** concerning the inapplicability of Article 18.1 of Royal Decree 1/2004 of Marcy 5th by virtue of which the revised text of the Property Registry Law was passed regarding the effects of the decisions of cases of discrepancy corrections.

MINISTRY OF PUBLIC WORKS

To the **National Highway Demarcation in Western Castile and Leon** concerning property liability for damage caused to a rural property as a result of the channeling of rainwater from the A-66 La Plata highway. Section: Béjar-Cáceres province boundary line.

MINISTRY OF THE INTERIOR

To the **Office of the Secretary General of Prison Institutions** concerning improvement of the entranceways to the prison facilities located in Alcalá de Henares.

To the **Subdirector General of Asylum** in order for the fitting instructions to be given for the purpose of individualizing the request for international protection of the interested minor, which has been processed jointly with that of her companion of legal age.

To the **Directorate General of the Police and Civil Guard** concerning the cleanliness of the Local National Police Station jails in La Laguna.

To the **Directorate General of the Police and Civil Guard** concerning the decision regarding data being stricken from the record in the SIDENPOL (Comprehensive Police Development System) file.

To the **Directorate General of Police and Civil Guard** on the investigation of assaults and acts of vandalism in one specific case.

To the **General Commissioner's Office of Alien Affairs and Borders** so that, in view of the exceptional reasons of a humanitarian nature concurring in the case in question, permission to enter the mainland be granted to the interested party (female) of Moroccan nationality who began taking step for the processing of the marriage with a Spanish citizen.

To the **National Police Station in Mostoles** to proceed to the filing of the penalty proceedings against the interest party who filed his application for renewal of a long-term residence permit on an improper form.

MINISTRY OF JUSTICE

To the **Office of the Secretary of Justice** in order for the Directorate General of Registries and the Notariat to adopt the necessary measures for the purpose of settling the marriage-related case of the interested party in the exercise of the authorities vested therein for the supervision of civil registries.

MINISTRY OF ENVIRONMENT AND RURAL AND MARINE AFFAIRS

To the **Directorate General of Coast and Sea Sustainability** concerning a possible new setting of boundary lines for the maritime-land public domain.

To the **Provincial Coastal Service of Alicante** in order for the maritime-land public domain line to be redrawn immediately in the place in question at the request of the interested party.

To the **Miño-Sil River Basin Authority** in order for the status as an interested party in the penalty proceedings to be recognized for the person whose rights may be affected by the final decision thereof and that the same therefore be notified of such status and of their rights in this regard.

MINISTRY OF REGIONAL POLICY AND PUBLIC ADMINISTRATION

To the **Office of the Government Delegate to the Autonomous Community of Madrid** for the decision issued to expel the interested party from the country be revoked for the purpose of allowing her to put her papers into proper legal order, taking into account her status as mother of three minors who are citizens of Spain.

To the **Office of the Government Delegate to the Autonomous Community of Madrid** for an assessment to be made as to the befittingness under law of revoking the decisions to close the process for applications for renewal of residence and work permits filed by the interested parties after having paid the pertinent fees be revoked.

To the **Office of the Government Delegate to the Autonomous Community of Madrid** to approve the request for revocation of the decision to expel the interested party from the country, he being the father of a son who is a citizen of Spain and of a daughter born in Spain who are under his care.

To the **Office of the Government Delegate to the Autonomous Community of Madrid** for the proceedings for extinguishment of the residence permit issued to the interested party be closed on being based exclusively on reaching legal age.

To the **Office of the Government Delegate to the Autonomous Community of Madrid** for the ex officio revocation of the penalty of being expelled from the country and of the refund adjudged to the name of the interested party, the holder of the visa as a result of having formalized his common law relationship with a Spanish woman, provided that no public order-related reasons so preventing were to exist.

To the **Office of the Government Delegate to the Autonomous Community of Cantabria** to proceed to the revocation of the penalty of the interested party being prohibited from entering Spanish territory and the removal of the annotation on all police records so that he may apply for the respective visa and enter the country to continue the steps for processing the permit granted.

To the **Office of the Deputy Government Delegate to Albacete** so that, provided that no reasons of a public order or public safety-related nature so preventing were to exist, the ex officio revocation be made of the decision for to expel the person in question from the country, to whom an appointment was given for holding a marriage ceremony to wed a Spanish citizen, the appeal filed against the rejection of his application for residence being currently pending.

To the **Office of the Deputy Government Delegation in Alicante** so that, provided that no reasons of a public order or public safety-related nature so preventing were to exist, the ex officio revocation be made of the decision for to expel the person in question from the country, to whom an appointment was given for holding a marriage ceremony to wed a Spanish citizen, the appeal filed against the rejection of his application for residence being currently pending

To the **Office of the Deputy Government Delegation in Araba** for the interested party to be granted a residence permit retroactive to the point in time at which he was placed at the disposal of the Juvenile Protection Service of the Provincial Council of Araba.

To the **Office of the Deputy Government Delegation in Barcelona** in order for the necessary measures to be taken for granting a residence permit to the interested party, whose spouse and child have refugee status.

To the **Office of the Deputy Government Delegation in Cádiz** for the revocation of the decision to expel the interested party from the country, who was charged in court proceedings, having later been found not guilty, by substituting the ten-year period of prohibition against entry for the minimum length of time for which provision is made under law.

To the **Office of the Deputy Government Delegation in Granada** for the penalty of being expelled from the country imposed be revoked and substituted, if the case may be, for a fine for the purpose of allowing the interested party, who was under the guardianship of several juvenile centers, to be able to put his situation into proper legal order.

Office of the **Deputy Government Delegation in Las Palmas** so that, in accordance with the regulations in force concerning the subject of alien affairs, the mandatory legal aid be provided to the three stowaways having arrived at the port of Las Palmas on Grand Canary Island on August 12, 2011 so that they the respective process of questioning them may be carried out in the presence of an attorney and they may be provided with due legal counsel.

To the **Office of the Deputy Government Delegation in Málaga** to proceed to the revocation of the decision issued against the interested party, notifying the Police Station in Ronda as to the decision made so that she may be released and urgently given another appointment for the purpose of being able to apply for a residence permit based on being established in her community.

To the Office of the **Deputy Government Delegation in Toledo** for an ex officio revocation of the economic fine charged to the interested party, once proof has been provided of full compliance with the material requirements necessary in order for his application for a long-term residence permit to be meet with success.

Autonomous Community Administration

AUTONOMOUS COMMUNITY OF CASTILE-LA MANCHA

To the **Department of Regional Planning and Housing** in order for this Ministry to expressly reply to the letter which the interested party addressed to the same informing it regarding that which was requested thereby regarding obtaining subsidies or benefits which the same were to have coming to them due to the purchase of a dwelling.

AUTONOMOUS COMMUNITY OF CASTILE AND LEON

To the **Department of Public Works and Environment** concerning the deficient information provided, given that the Ministry did not furnish information as to the state aid directly for the down payments being eliminated prior to an application for a visa and financing agreed for a dwelling having been filed.

To the **Department of Health** so that, in terms of the criteria maintained by the medical specialist of the Segovia Hospital Complex neurology service, the interested party be furnished with rehabilitation treatment at a center specifically for acquired brain damage care and that the feasibility be evaluated of issuing the fitting instructions on the order of the Regional Health Service of Castile and Leon directly undertaking the payment of the cost of said treatment.

AUTONOMOUS COMMUNITY OF EXTREMADURA

To the **Department of Public Works** for the revocation of the resolution by virtue of which the loss of the right to the award of the public promotion dwelling which of which the interested party had been having enjoyment was agreed, given that this decision was issued when the proceedings had lapsed, and the proof on which the charges were based were not furnished in due form, in addition to other procedural irregularities.

AUTONOMOUS COMMUNITY OF GALICIA

To the **Department of Finance** concerning the right to be treated with due deference by the Tax Authorities.

COMMUNITY OF MADRID

To the **Department of Health** in order for whatever damaging situations which were to result from the Autonomous Community of Madrid Council of Health ceasing to exist to be eliminated.

To the **Deputy Secretary of Health Care** concerning the possibly asset liability of the Administration in regard to the health care provided for an underage girl by the Gregorio Marañón emergency service.

To the **Directorate General of Housing and Rehabilitation** to expressly provide a reply to a claim concerning the Autonomous Community of Madrid "Rental Plan".

To the **Directorate General of Housing and Rehabilitation** in order for a reply to be expressly provided to the application of a returning Spanish emigrant who was ruled out of the process due to not having been registered for 10 years with the municipal census of residents ("empadronamiento").

To the **Directorate General of Housing and Rehabilitation** in order for a public promotion to be awarded to a mother in special need with seven children who is living in a shack in the country and is currently threatened with eviction.

To the **Directorate General of Housing and Rehabilitation** in order for an express reply to be provided to the appeals for review filed by the interested party against the rejection of the request for housing-check aid in the Autonomous Community of Madrid.

AUTONOMOUS COMMUNITY OF VALENCIA

To the **Department of Infrastructures, Territory and Environment** in order for the request for indemnification for asset liability filed by the interested party to be processed provided that it meet the requirements.

To the **Department of Infrastructures and Transport** in order for providing a solution to the penalizing procedures as yet under way regarding buildings on the coast.

Municipal Administration

CITY HALL OF ARCHENA (MURCIA)

Concerning the obligation of processing and approving individual amendment number 12 of the Subsidiary Standards of Archena, Boundary Line US, 17, Avda. Ciudad de México.

CITY HALL OF ARGANDA DEL REY (MADRID)

Concerning certain measures regarding traffic and adjustments of sidewalks and pavements.

CITY HALL OF BENICÀSSIM (CASTELLÓN)

Concerning the obligation of providing an express response to the request for information made by the interested party.

CITY HALL OF CANALS (VALENCIA)

Concerning the need of opening the respective penalty proceedings.

CITY HALL OF CANET D'EN BERENGUER (VALENCIA)

Concerning the obligation of issuing a clear, comprehensible certification standing as proof of an electric power transformer functioning according to law and there being no technical reasons making it advisable for the transformer in question to be moved elsewhere.

CITY HALL OF COLMENAR VIEJO (MADRID)

Concerning the advisability of the suitability of regulating the conditions which the garages of single-family dwellings must fulfill being assessed and the completed works inspected.

CITY HALL OF EL BOALO (MADRID)

Concerning the obligation of adopting the necessary measures to prevent traffic from being obstructed on a street of the municipality.

CITY HALL OF JUMILLA (MURCIA).

On express decisions regarding requests/applications.

CITY HALL OF LA PUEBLA DE ALMORADIEL (TOLEDO)

Concerning subsidiary measures being taken for keeping a parcel in conditions of safety, healthfulness and publicly presentable and decent.

CITY HALL OF LEÓN

Concerning the obligation of conducting technical inspections, adopting corrective measures and, wherever applicable, opening the respective penalty proceedings.

CITY HALL OF LOECHES (MADRID)

Concerning the obligation of taking the fitting corrective measures and preventing irregular uses in construction.

CITY HALL OF MADRID

Concerning putting the municipal concession of a parking lot into proper order.

Concerning the obligation of the municipal government taking action in view of the annoying activity of an establishment.

Concerning the obligation of the municipal administration taking action in view of an annoying, noisy activity.

Concerning the obligation of Madrid's Municipal Housing and Land Company of repairing the damp areas on a building façade.

Concerning the obligation of Madrid's Municipal Housing and Land Company of completely repairing the structural flaws found in a dwelling.

Concerning the collection in payment of settlements of the Vehicle Towing Tax not being befitting under law on the part of two Municipal Administrations, that of Madrid and that of Almeria, after the taxpayer notifying the Directorate General of Traffic as to the change in address.

Concerning the advisability of urging the Ministry of Public Works to place noise barrier screens along the M-40 highway due to the annoyances caused to the homes affected by the road traffic.

Concerning the obligation of providing a response to a request for demand of liability resulting from the theft of a car parked in a garage owned by the Madrid Municipal Housing and Land Company.

CITY HALL OF MONCADA (VALENCIA)

Concerning the obligation of providing an express response to the two requested for information placed by the interested party.

CITY HALL OF ORIHUELA (ALICANTE)

Concerning the express decision regarding a case of restoring legality.

CITY HALL OF OVIEDO

Concerning the ex officio revocation of a traffic fine.

CITY HALL OF PLASENCIA (CÁCERES)

Concerning the precautionary sealing of a source of noise.

CITY HALL OF PUEBLA DE LA CALZADA (BADAJOZ)

Concerning the obligation of granting a business permit once the operating parameters thereof are verified as fully complying with the requirements of the laws and regulations.

CITY HALL OF SANTANDER

Concerning the ex officio revocation of traffic-related penalties.

CITY HALL OF SANTOVENIA DE PISUERGA (VALLADOLID)

Concerning the obligation of adopting measures imposing penalties and restoring the urban planning legality violated.

CITY HALL OF TORRELODONES (MADRID)

Concerning the obligation of provide adequate legal coverage for the privative occupancy of lands under public ownership.

Concerning the use of utility rooms as housing in the building of the interested party.

CITY HALL OF VALENCIA

Concerning failure to comply with a demolition order without the Administration having adopted any measure for seeking foreclosure and non-filing for a fine for a facility not covered by a municipal permit.

CITY HALL OF VALVERDE DEL FRESNO (CÁCERES)

Concerning the need of conducting a works construction inspection visit in order to verify the measures taken as well as the operations and activities which might be in violation of the urban planning and environmental laws and regulations applicable thereof.

CITY HALL OF ZARAGOZA

Concerning the advisability of adopting an agreement regarding the authorities over the maintenance and upkeep of the street lighting along the section located between kilometric points 20 and 30 of the Z-40 Zaragoza Beltway.

Other Administrations

DIRECTORATE GENERAL OF THE POLICE AND CIVIL GUAR AND CITY HALL OF EL PRAT DE LLOBREGAT (BARCELONA)

Suggestions concerning the police records being stricken from the record due to a mistaken identity and the notification to other agencies as to the same having been stricken.

DIRECTORATE GENERAL OF TRAFFIC OF THE MINISTRY OF THE INTERIOR AND PROVINCIAL COUNCIL IN JAEN

Suggestions concerning the measures necessary for adapting the actual physical and legal status to that of the registry with regard to vehicle ownership.

■ Reminders of legal duties

In 2011, the Ombudsman issues 156 reminders of legal duties, 41 to the General State Administration, 55 to the Autonomous Community Administrations and 60 to the Municipal Administrations and other Agencies.

General State Administration

MINISTRY OF FOREIGN AFFAIRS AND COOPERATION

To the **Directorate General of Migratory and Consular Affairs** concerning the legal duty falling to the Consulate General of Spain in La Paz of issuing an express decision of abandonment in the terms required under Article 71 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure.

MINISTRY OF DEFENSE

To the **Office of the Undersecretary of Defense** concerning the legal duty falling to the competent authorities of responding, in any case by stating the reasoning, to the suggestions which the direct commanders of the military or civil personnel make concerning bonuses being collected by their subordinates for services out of the ordinary, thus preventing situations of non-defense arising for those administered on not knowing the reasons or causes of the exercise of their authorities by the public powers.

MINISTRY OF ECONOMY AND FINANCE

To the **Office of the Secretary of Finance and Budgeting** concerning the legal duty falling thereof of bringing before Spanish Parliament a bill for the reform of the legislation governing the procedures for the amendment of the capacity to act, for the adaptation thereof to the provisions of the International Convention on the Rights of Persons with Disabilities within the time period for which provision is made under final provision one of Law 1/2009 on the reform of the law of June 8, 1957 governing the Civil Registry, concerning the subject of incapacitations, guardianships and administrators of protected assets, and Law 41/2003 on the protection of the assets of persons with disabilities and amendment of the Civil Code, of the Law of Civil Procedure of the tax regulations for this purpose.

To the **Directorate General of Personnel Costs and Public Pensions** concerning the legal duty falling thereto of providing a decision, in due time and form, regarding the claims and requests lodged with the same, being under the obligation of providing a response to all those questions which are posed thereto in accordance with that which is set forth with regard thereto under Law 30/1992 of Legal Regimen of the Public Administrations and the Common Administrative Procedure.

To the **Central Government Tax Administration** concerning the legal duty falling thereto of collaborating preferentially and urgently with the Ombudsman in the measures thereof in accordance with that which is set forth under Article 19 of Organic Law 3/1981 concerning the Office of the Ombudsman, this being a collaboration the prime manifestation of which is none other than that of providing a full response to the requests for reports received from this Institution.

Concerning the legal duty of providing an express decision regarding all those requests, claims and appeals which are lodged with the same by citizens.

To the **Central Economic-Administrative Court (TEAC)** concerning the legal duty of expressly remedying, in due time and form, the economic-administrative claims filed in accordance with Articles 103 and 240 of General Tax Law 58/2003.

To the **Regional Economic-Administrative Court of Andalusia** concerning the legal duty of remedying, in due time and form, the economic-administrative claims filed in accordance with Articles 103 and 240 of General Tax Law 58/2003.

To the **Economic-Administrative Court of Castile-La Mancha** concerning the legal duty of remedying, in due time and form, the economic-administrative claims filed in accordance with Articles 103 and 240 of General Tax Law 58/2003.

To the **Regional Economic-Administrative Court of Catalonia** concerning the legal duty of remedying, in due time and form, the economic-administrative claims filed in accordance with Articles 103 and 240 of General Tax Law 58/2003.

Concerning the legal duty of expressly remedying that which is set forth under Article 103 of General Tax Law 58/2003, as well as the time period for the completion of the economic-administrative claim procedures under Articles 240 and 247 of the same law.

To the **Regional Economic-Administrative Court of Madrid** concerning the legal duty falling thereto of expressly remedying the economic-administrative claim filed in accordance with Articles 103 and 240 of General Tax Law 58/2003.

Concerning the legal duty of remedying, in due time and form, the economic-administrative claims filed in accordance with Articles 103 and 240 of General Tax Law 58/2003.

To the **Regional Economic-Administrative Court of Murcia** concerning the legal duty of remedying, in due time and form, the economic-administrative claims filed in accordance with Articles 103 and 240 of General Tax Law 58/2003.

To the **Regional Economic-Administrative Court of Valencia** concerning the legal duty of remedying, in due time and form, the economic-administrative claims filed in accordance with Articles 103 and 240 of General Tax Law 58/2003.

To the **Regional Canary Island Land Registry Administration** concerning the legal duty of furnishing notices to the address provided by the interested party for this purpose in accordance with that which is set forth under Article 103.1 of General Tax Law 58/2003 and under Article 59 of Law 30/1992 governing the Legal Regimen of the Public Administrations and the Common Administrative Procedure.

MINISTRY OF PUBLIC WORKS

To the **General Technical Secretariat** concerning the legal duty falling thereto of issuing a decision concerning the administrative appeal to a higher court filed by the interested party within the three-month period commencing as of the filing thereof in accordance with that which is set forth under Articles 2.1, 9.1 and 103.1 of Spain's Constitution and Articles 42.2 and 115.2 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure.

MINISTRY OF INDUSTRY, TOURISM AND TRADE

To the **Directorate General of Energy Policy and Mining** concerning the legal duty falling thereof of remedying, in due time and form, the petitions and appeals filed with the same and of providing access to the environmental information of which it is in possession.

MINISTRY OF THE INTERIOR

To the **Directorate General of the Police and Civil Guard** concerning the legal duty of obtaining express permission from the court to proceed to expel aliens charged in criminal proceedings, in the terms required under Article 57.7 of Organic Law 4/2000 governing rights and freedoms of aliens in Spain and the social integration thereof.

Concerning the legal duty of fully abiding by the asylum procedure without any interference therein and refraining from subjecting those requesting asylum to questioning without the presence of an attorney, even when the purpose thereof be other than the aforementioned procedure.

Concerning the legal duty of issuing an express decision concerning all those requests and appeals filed by the interested parties for which provision is made under Article 42.1 of Law 30/1992 governing Legal Regimen of the Public Administrations

and the Common Administrative Procedure, as well as respecting the one-month time limit for the notification and decision of the administrative appeals for review set forth under Article 117.2 of said law.

Concerning the legal duty of taking into account fully abiding by the SIDENPOL file data protection legislation with a view to the exercise of the right of access, rectification or cancellation by other citizens.

To the **Office of the General Commissioner of Alien Affairs and Borders** concerning the legal duty of issuing instructions as to reasons why the requests for asylum are not being approved being entered onto the police records generally by incorporating modifications, if necessary, in the computer applications and reminding the recording officers as to the need of investing the utmost care in recording all of the circumstances of those requesting asylum for the purpose of guaranteeing the protection thereof and in the interest of the coordination of measures.

Concerning the legal duty of notifying the Attorney General's Office as to the presence of undocumented foreign minors whose status as being under age cannot be determined in all certainty so that the Attorney General's Office may exercise its exclusive authority for ordering the determining of the age thereof in the terms set forth under the alien affairs laws and regulations in force; as well as to the obligation of the National Police Force officers of boarding a ship with foreign stowaways accompanied by an interpreter if the stowaways in question do not understand or do not speak the Spanish language.

MINISTRY OF JUSTICE

To the **Office of the Secretary of Justice** concerning the legal duty of collaborating preferentially and urgently with the Ombudsman in the measures thereof in accordance with that which is set forth under Article 19 of Organic Law 3/1981 concerning the Office of the Ombudsman, this being a collaboration the prime manifestation of which is none other than that of providing a full response to the requests for reports from this Institution.

MINISTRY OF ENVIRONMENT AND RURAL AND MARINE AFFAIRS

To the **Office of the Secretary of Climate Change** concerning the legal duty of providing a solution to the requests for access to environmental information, provided that it be in possession thereof either directly or through other individuals who possess the same in the name thereof, independently of whether or not the public responsibilities, duties or authorities fall substantively thereto regarding the specific object of the information requested in accordance with article 10.1 of Law 27/2006 governing the rights of access to information, public participation and access to justice concerning environment-related matters.

To the **Duero River Basin Authority** concerning the legal duty of providing a solution, in due time and form, to whatever requests have been made thereof by citizens in accordance with Article 42 of Law 30/1992 governing the Legal Regimen of the Public Administrations and the Common Administrative Procedure and, wherever applicable, with Law 27/2006 governing the rights of access to information, public participation and access to justice concerning environment-related matters.

To the **Guadalquivir River Basin Authority** concerning the legal duty of issuing an express opinion regarding all those re-

quests lodged with the same by the interested parties, thus complying with that which is set forth under Article 42.1 of Law 30/1992 governing the Legal Regimen of the Public Administrations and the Common Administrative Procedure.

MINISTRY OF TERRITORIAL POLICY AND PUBLIC ADMINISTRATION

To the **Office of the Secretary for Territorial Cooperation** concerning the legal duty of providing a solution to the requests for access to environmental information in accordance with Law 27/2006 governing the rights of access to information, public participation and access to justice concerning environment related matters and, in the event that the information requested not be in the possession thereof, to forward the request, save a duly justified impossibility to do so, to the public authority or authorities in possession thereof, informing the requesting party of having done so.

To the **Office of the Government Delegate in the Autonomous Community of Madrid**. Concerning the legal duty of duly setting out the reasons for the decisions rejecting applications for renewal of residence permits in which the circumstances dealt with under Article 31.7 of the Alien Affairs Law concur in the terms required in Circular DGI/SGRJ/02/2010, expressly including in the decision the assessment of the circumstances concurring in each case determining the decision made; as well as regarding the obligation of holding hearing proceedings in those cases when it be required by law in accordance with that which is set forth under Article 84 of Law 30/1992.

To the **Office of the Government Delegate in the Autonomous Community of the Basque Country** concerning the legal duty of assuring actual compliance with the regulations in force regarding flags and standards on the part of the Municipal Government of San Sebastian, adopting for this purpose the initiatives necessary within the administrative and jurisdictional realm.

To the **Office of the Deputy Government Delegation in Málaga** concerning the legal duty of heeding the principle of proportionality and that of the motivation of administrative acts in the process of imposing penalties set forth under Organic Law 4/2000 governing rights and liberties of aliens in Spain and the social integration thereof in the terms required under Articles 55 and 57 of said law with the scope established under the Supreme Court jurisprudence on the subject.

MINISTRY OF HEALTH, SOCIAL POLICY AND EQUALITY

To the **National Consumer Affairs Institute** concerning the legal obligation falling thereto in accordance with Articles 41 and 42 of Law 30/1992 governing Legal Regime of the Public Administrations and the Common Administrative Procedure, of expressly providing a decision within the established time periods to all those requests, complaints and appeals lodged with the same by citizens, as well as removing the obstacles preventing, hindering or delaying the exercise of the rights of the interested parties or the respect of their legitimate interests, by ordering that which is necessary to prevent and eliminate any anomaly in the processing of proceedings.

MINISTRY OF LABOR AND IMMIGRATION

To the **Office of the Undersecretary** concerning the legal duty of access to public employment be fully guaranteed in all the

bases which are to govern the screening processes by means of a process which respects the constitutional principles of equality, merit, capability and openness to the public.

To the **General Social Security System Treasury** Concerning the legal duty of providing a decision regarding the requests for special agreement within the time period set forth under Article 4.1 of Order TASS/2865/2003, by virtue of which the Special Agreement is governed in the Social Security System.

Autonomous Community Administration

AUTONOMOUS COMMUNITY OF ANDALUSIA

To the **Department of Employment** concerning the legal duty falling thereto in accordance with Articles 41 and 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure, of issuing a decision expressly within the time periods established to all those requests, claims and appeals which are lodged with the same by citizens, as well as removing the obstacles which prevent, hinder or delay the exercise of the rights of the interested parties or the respect for their legitimate interests by ordering that which is necessary to prevent and eliminate any anomaly in the processing of proceedings. Similarly, a reminder was put forth as to the legal duty fall thereto of acting in accordance with the principle of efficacy recognized under Article 103 of Spain's Constitution.

To the **Department of Environment** concerning the constitutional duty of seeing to the rational use of the natural resources and of the resulting legal duties. Similarly, a reminder was put forth of following and seeing to the compliance with the environmental impact statement; of making public the decision as to the approval of a project; and of penalizing the commencement of the building if the development fails to submit the same to assessment.

AUTONOMOUS COMMUNITY OF ARAGÓN

To the **Directorate General of Urban Planning** concerning the legal duty of exercising the municipal authorities, by substitution, regarding the cases of inactivity of the municipal governments after being requested to take action upon the lapse of a ten-days period on the order of adopting temporary measures and correcting deficiencies within the shortest possible length of time.

AUTONOMOUS COMMUNITY OF THE CANARY ISLANDS

To the **Department of Culture, Sports, Social Policies and Housing** concerning the legal duty falling thereto in accordance with Articles 41 and 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure, of issuing a decision expressly within the time periods established to all those requests, claims and appeals which are lodged with the same by citizens, as well as removing the obstacles which prevent, hinder or delay the exercise of the rights of the interested parties or the respect for their legitimate interests by ordering that which is necessary to prevent and eliminate any anomaly in the processing of proceedings. Similarly, a reminder was put forth as to the legal duty fall thereto of acting in accordance with the principle of efficacy recognized under Article 103 of Spain's Constitution.

Concerning the legal duty falling thereto of providing a solution, in due time and form, to the complaints and requests which have been lodged with the same.

Reminders in both regards were put forth to the former Department of Welfare, Youth and Housing concerning the legal duty falling thereto in accordance with Articles 41 and 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure, of issuing a decision expressly within the time periods established to all those requests, claims and appeals which are lodged with the same by citizens, as well as removing the obstacles which prevent, hinder or delay the exercise of the rights of the interested parties or the respect for their legitimate interests by ordering that which is necessary to prevent and eliminate any anomaly in the processing of proceedings. Similarly, a reminder was put forth as to the legal duty fall thereto of acting in accordance with the principle of efficacy recognized under Article 103 of Spain's Constitution.

AUTONOMOUS COMMUNITY OF CANTABRIA

To the **Department of Industry and Technological Development** concerning the legal duty of providing a decision, in due time and form, regarding the complaints and requests lodged with the same.

AUTONOMOUS COMMUNITY OF CASTILE-LA MANCHA

To the **Office of the Vice-President and Department of Economy and Finance** concerning the legal duty of collaborating, preferentially and urgently, with the Ombudsman in the measures taken thereby in accordance with that for which provision is made under Article 19 of Organic Law 3/1981 concerning the Office of the Ombudsman, this being a collaboration the prime manifestation of which was none other than fully responding to the requests to report to this Institution.

To the **Department of Health and Welfare** concerning the legal duty falling thereto in accordance with Articles 41 and 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure, of issuing a decision expressly within the time periods established to all those requests, claims and appeals which are lodged with the same by citizens, as well as removing the obstacles which prevent, hinder or delay the exercise of the rights of the interested parties or the respect for their legitimate interests by ordering that which is necessary to prevent and eliminate any anomaly in the processing of proceedings. Similarly, a reminder was put forth as to the legal duty fall thereto of acting in accordance with the principle of efficacy recognized under Article 103 of Spain's Constitution.

AUTONOMOUS COMMUNITY OF CASTILE AND LEON

To the **Department of Family and Equal Opportunities** concerning the legal duty of not ceasing in the guardianship of minors for reasons other than those for which provision is made under Article 276 of the Civil Code and concerning it being mandatory to proceed to the processing of the pertinent residence permit for the alien minors under guardianship under the term and time periods stipulated under Article 35 of Organic Law 4/2000 and the regulations further expanding thereupon.

To the **Department of Environment** concerning the legal duty of warranting and leaving warranted the proceedings, whether or not the effects of the respective project processed therein will be noticeable on the locations of community interest (LCIs) and the special bird protection areas (SBPAs) for the purpose of including or excluding the same coming under the regulated

environmental assessment procedures. A reminder was also put forth concerning the legal duty of providing express replies to the letters and request for environmental information received thereby. All of the foregoing in accordance with that for which provision is made under the regulations in force.

To the **Regional Industry, Trade and Tourism Service in León** concerning the legal duty stemming from Article 42.1 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure, of issuing an express decision regarding all those requests and appeals lodged with the same by the interested parties.

To the **University of Valladolid** concerning the legal duty falling to the Chancellor, in his capacity as the highest academic authority, of assuring strict compliance with the regulatory precepts by which the University is under the obligation of abiding in the activity it carries out as a public legal entity with its own legal status.

AUTONOMOUS COMMUNITY OF GALICIA

To the **Office of the President of the Autonomous Community Government and to the Department of Economy and Industry** concerning the legal duty which falls to the Autonomous Community of Galicia of halting the activities and facilities of the Monte Ciudad quarry located within the confines of the Corruedo natural dunes and Carregal and Vixán lagoons park in enforcement of Article 3.5, Paragraph p) of Decree 139/1992 approving the natural park, and Article 4.1 of the Natural Resources Ordinance Plan (NROP) passed by Decree 148/1992, according to which these are activities and facilities prohibited inside the nature park.

To the **Department of Presidency, Public Administrations and Justice** concerning the legal duty of treating citizens with respect and deference, facilitating the exercise of their rights and the fulfillment of their obligations in accordance with that which is set forth under Article 35.i) of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure.

AUTONOMOUS COMMUNITY OF THE BALEARIC ISLANDS

To the **Department of Environment and Mobility** concerning the legal duty of expressly providing a decision regarding all those complaints and appeals which are lodged with the same by the interested parties and to notify the same, regardless of the manner in which initially filed, by complying with that which is set forth under Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure.

To the **Department of Health, Family and Welfare** concerning the legal duty of providing a decision, in due time and for, to the complaints and requests lodged with the same in accordance with that which is set forth under Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure.

A reminder was put forth to the former Department of Health and Consumer Affairs concerning the legal duty stemming from Article 103.1 of Spain's Constitution and Article 3.1 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure as to administrative measures having to abide fully by the Constitution, the law and Law, on not having acted with the necessary diligence in defense of the rights to information of the passengers of the inter-island urban transport system.

COMMUNITY OF MADRID

To the **Department of Social Affairs** concerning the legal duty falling thereto in accordance with Articles 41 and 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure, of issuing a decision expressly within the time periods established to all those requests, claims and appeals which are lodged with the same by citizens, as well as removing the obstacles which prevent, hinder or delay the exercise of the rights of the interested parties or the respect for their legitimate interests by ordering that which is necessary to prevent and eliminate any anomaly in the processing of proceedings.

Concerning the legal duty, in accordance with that for which provision is made under Article 35.i) of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure, of citizens being treated with respect and deference by the authorities and civil servants, facilitating the exercise of their rights and the fulfillment of their obligations.

Concerning the legal duty of providing a decision, in due time and form, regarding the complaints and requests lodged with the same.

Concerning the legal duty of expressly providing a decision regarding all those complaints and appeals which are lodged with the same by the interested parties by complying with that which is set forth under Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure.

A reminder was put forth to the former Department of Family and Social Affairs concerning the legal duty of informing the district prosecutor as to the supplementary age-related tests conducted for the purpose of said authority issuing the respective decree establishing the age of the interested party and, in the event that the interested party were to be decreed of legal age, to immediately inform the Asylum and Refuge Office so that said office might adopt the pertinent measures for granting the interested party the rights falling thereto as an adult requesting asylum.

Reminders in both regards were put forth to the former Department of Family and Social Affairs concerning the legal duty falling thereto in accordance with Articles 41 and 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure, of issuing a decision expressly within the time periods established to all those requests, claims and appeals which are lodged with the same by citizens, as well as removing the obstacles which prevent, hinder or delay the exercise of the rights of the interested parties or the respect for their legitimate interests by ordering that which is necessary to prevent and eliminate any anomaly in the processing of proceedings. Similarly, a reminder was put forth as to the legal duty fall thereto of acting in accordance with the principle of efficacy recognized under Article 103 of Spain's Constitution.

To the **Madrid Juvenile and Family Affairs Institute** concerning the legal duty of requesting the minor's permission, in accordance with that which is set forth under Article 35, Paragraph 7 of Organic Law 4/2000, in its status as the body having guardianship over the minor, and under Royal Decree 557/2011, which sets forth, under Article 196, Paragraph 1 thereof, that the residence permit to which references is made under the Article of the aforesaid law shall then be granted after the impossibility of repatriating the minor has been determined and, in any case, following the lapse of the nine-month period

commencing as of the minor having been placed at the disposal of the competent juvenile protection services.

To the **Department of Economy and Finance** concerning the legal duty of the measures taken thereby abiding by the principles of efficacy and efficiency set forth under Article 3.1 and Article 3.2 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure, in accordance with Article 103.1 of Spain's Constitution with regard to the time periods for processing the proceedings regarding complaints reported by citizens.

To the **Department of Education and Employment** concerning the legal duty falling thereto in accordance with Articles 41 and 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure, of issuing a decision expressly within the time periods established to all those requests, claims and appeals which are lodged with the same by citizens, as well as removing the obstacles which prevent, hinder or delay the exercise of the rights of the interested parties or the respect for their legitimate interests by ordering that which is necessary to prevent and eliminate any anomaly in the processing of proceedings. Similarly, a reminder was put forth as to the legal duty fall thereto of acting in accordance with the principle of efficacy recognized under Article 103 of Spain's Constitution.

To the **Department of Environment, Housing and Regional Planning** concerning the legal duty of providing access to the environmental information of which it is in possession to whomever so requests without any obligation of furnishing proof of his/her status of being an interested party and regardless of whether or not the information comprises part of case proceedings, in compliance with that for which provision is made under Law 27/2006 governing the rights of access to information, public participation and access to justice regarding environment-related matters.

To the **Department of Transport and Infrastructures** concerning the legal duty of expressly providing a decision regarding the appeal for review filed by a citizen in accordance with that which is set forth under Article 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure.

To the **"Canal de Isabel II" Madrid Water Company** concerning the legal duty of issuing an express decision regarding all those requests and appeals which are lodged with the same by the interested parties.

To the **Complutense University of Madrid** concerning the legal duty of assuring strict compliance with applicable rules such that the time periods stipulated under thereunder for proceeding to the review and challenging of the point scores earned by students will be heeded and respected hereafter.

AUTONOMOUS COMMUNITY OF LA RIOJA

To the **Department of Finance** concerning the legal duty of providing an express solution to all issues posed thereto in the procedures of charging rates and taxes, as well as notifying said express decision in accordance with that which is set forth under Article 103 of General Tax Law 58/2003.

AUTONOMOUS COMMUNITY OF VALENCIA

To the **Department of Welfare** concerning the legal duty of providing a decision, in due time and form, to the complaints and requests lodged with the same.

Reminders in both regards were put forth to the former Ministry of Family and Social Affairs concerning the legal duty falling thereto in accordance with Articles 41 and 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure, of issuing a decision expressly within the time periods established to all those requests, claims and appeals which are lodged with the same by citizens, as well as removing the obstacles which prevent, hinder or delay the exercise of the rights of the interested parties or the respect for their legitimate interests by ordering that which is necessary to prevent and eliminate any anomaly in the processing of proceedings. Similarly, a reminder was put forth as to the legal duty fall thereto of acting in accordance with the principle of efficacy recognized under Article 103 of Spain's Constitution

Concerning the legal duty to provide a decision, in due time and form, regarding the complaints and requests lodged with the same. As well as the duty of acting in accordance with the principle of efficacy recognized under Article 103 of Spain's Constitution.

To the **Department of Justice and Welfare** concerning the legal duty to provide a decision, in due time and form, regarding the complaints and requests lodged with the same.

Reminders in both regards were put forth to the former Ministry of Family and Social Affairs concerning the legal duty falling thereto in accordance with Articles 41 and 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure, of issuing a decision expressly within the time periods established to all those requests, claims and appeals which are lodged with the same by citizens, as well as removing the obstacles which prevent, hinder or delay the exercise of the rights of the interested parties or the respect for their legitimate interests by ordering that which is necessary to prevent and eliminate any anomaly in the processing of proceedings. Similarly, a reminder was put forth as to the legal duty fall thereto of acting in accordance with the principle of efficacy recognized under Article 103 of Spain's Constitution

Municipal Administration

CITY HALL OF ALCALÁ DE HENARES (MADRID)

Concerning the legal duty of guaranteeing access to public employment by way of a screening procedure guaranteeing the constitutional principles of equality, merit, capability and openness to the public.

CITY HALL OF ARCHENA (MURCIA)

Concerning the legal duty of acting in accordance with the principles of efficacy, economy and expeditiousness set forth under Article 103 of Spain' Constitution and under Article 3 of Law 30/1992 governing Legal Regimen of the Public Administrations and of the Common Administrative Procedure.

CITY HALL OF BARCELONA

Concerning the legal duty stemming from that for which provision is made under Article 36 of Law 30/1992 governing Legal Regimen of the Public Administrations and of the Common Administrative Procedure as worded by Law 4/1999, according to which the documents, proceedings or parts thereof which are to be valid outside of the territory of the Autonomous Community must be translated into Castilian Spanish.

CITY HALL OF BENICASIM (CASTELLÓN)

Concerning the legal duty imposed thereupon by the legal system of issuing and notifying, in due time and form, an express decision stating the reasons thereof in regard to the requests placed with the same by the interested parties, thus complying with that which is set forth under Article 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and of the Common Administrative Procedure

CITY HALL OF CÁCERES

Concerning the legal duty of issuing an express decision regarding to all those requests placed with the same by the interested parties, thus complying with that which is set forth under Article 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and of the Common Administrative Procedure

Concerning the legal duty of suitably setting out the reasons for the decisions regarding traffic-related penalties and of issuing an express decision to the appeals filed by the interested parties in the administrative proceedings by which they are affected.

CITY HALL OF CEUTA

Concerning the legal duty of adapting the actions of the Local Police, when it is befitting to verify the residence of those applying for registry in the municipal census ("empadronamiento") to the constitutional principle of efficacy by which the measures taken by all Public Administrations must abide.

CITY HALL OF CHINCHÓN (MADRID)

Concerning the legal duty stemming from Article 42.1 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure of issuing a an express decision regarding all those requests and appeals lodged with the same by the interested parties.

CITY HALL OF CIUTADELLA DE MENORCA (BALEARIC ISLANDS)

Concerning the legal duty of acknowledging receipt of the complaints filed by citizens and of providing the urban planning information requested, in writing, within a reasonable time period.

Concerning the legal duty stemming from that for which provision is made under Article 36 of Law 30/1992 governing Legal Regimen of the Public Administrations and of the Common Administrative Procedure as worded by Law 4/1999, according to which the documents, proceedings or parts thereof which are to be valid outside of the territory of the Autonomous Community must be translated into Castilian Spanish.

CITY HALL OF COLLADO VILLALBA (MADRID)

Concerning the legal duty stemming from Article 42.1 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure of issuing an express decision regarding all those requests and appeals lodged by the interested parties.

CITY HALL OF COLMENAR VIEJO (MADRID)

Concerning the legal duty of issuing an express decision in all procedures and of notifying the same, regardless of the manner in which initially filed, in accordance with that which is set forth under Article 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure.

CITY HALL OF EL VELLÓN (MADRID)

Concerning the legal duty of issuing an express decision in all procedures, stating the reasons for the same, and of notifying

the decision in due time and form, regardless of the manner in which initially filed, in accordance with that which is set forth under Article 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure.

CITY HALL OF HERRERA DEL DUQUE (BADAJOZ)

Concerning the legal duty of guaranteeing full compliance with the obligation which the owners of all types of lands and structures have of keeping the same in conditions of safety, healthiness and publicly presentable and decent under the protection of Article 163 of Extremadura's Land and Regional Planning Law 15/2001.

CITY HALL OF JUMILLA (MURCIA)

All notifications of a decision issued thereby being under the obligation of including the fitting appeal-related end note in which an indication is provided as to the possible actions which may be taken against the same, the competent body for taking cognizance thereof and the time periods in order for it to be contested, it being necessary for the interested party to be notified once again in this specific case as to the decision made including an indication as to all of the foregoing.

CITY HALL OF LORCA (MURCIA)

Concerning the legal duty stemming from Article 42.1 of Law 30/1992 governing Legal Regime of the Public Administrations and the Common Administrative Procedure, of issuing an express decision regarding all those requests and appeals lodged with the same by the interested parties.

CITY HALL OF MADRID

Concerning the legal duty of issuing an express response regarding to all those requests and letters addressed the same by citizens, thus complying with that which is set forth under Article 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and of the Common Administrative Procedure

Concerning the legal duty of conducting a follow-up on the permits granted thereby and, in the event that the stipulated time period for commencing or completing the works has not been met, declare the lapse thereof after first holding an audience with the interested parties in accordance with that for which provision is made under Article 158 of Autonomous Community of Madrid Land Law 9/2001.

Concerning the legal duty of the measures taken by the municipal government abiding by the principles of efficacy, economy and expeditiousness in accordance with Articles 103 of Spain's Constitution and Article 3 of Concerning the legal duty of issuing an express decision regarding to all those requests placed with the same by the interested parties, thus complying with that which is set forth under Article 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and of the Common Administrative Procedure.

Concerning the legal duty of the municipal police officers of Madrid complying, in their relations with the community, with the basic principles of action for which provision is made under Article 5 of Security and Law Enforcement Bodies Organic Act 2/1986.

CITY HALL OF MONCADA (VALENCIA)

Processing the requests for access to urban planning and environment-related information in accordance with the laws and regulations in force, particularly providing a response to the requests for information which are placed with the same

within the established time periods, accommodating the response to the contents of the request.

CITY HALL OF MORCÍN (ASTURIAS)

Concerning the legal duty of urgently and preferentially aiding the Ombudsman in the investigations being conducted thereby in accordance with that which is set forth under Organic Law 3/1981 governing this Institution. Similarly, concerning the legal duty of guaranteeing that, hereafter, the civil servants will diligently perform the duties assigned thereto with dedication, seeing to the general interest, abiding by and complying with the Constitution and all other aspects of the legal system; in this case, with regard to the regulations concerning the incompatibilities of the personnel employed by the Administration in accordance with that which is set forth under Article 103.1 of Spain's Constitution and Law 7/2007 of the Basic Civil Service Statute. Lastly, a reminder was put forth concerning the legal duty of hereafter guaranteeing access to public employment by means of a screening procedure respecting the constitutional principles of equality, merit, capability and openness to the public in accordance with Articles 14 and 23.2 with regard to Article 103.1 of Spain's Constitution.

CITY HALL OF MOTRIL (GRANADA)

Acknowledging receipt of the petitions received at this City Hall, of processing and providing a response thereto appropriately in the terms set forth under Articles 6, 7, 9 and 11 of Right of Petition Organic Law 4/2001.

CITY HALL OF NAVACERRADA (MADRID)

Concerning the legal duty of expressly providing a solution to all those complaints and appeals which are lodged with the same by the interested parties, thus complying with Article 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure.

CITY HALL OF OCAÑA (TOLEDO)

Concerning the legal duty stemming from Article 42.1 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure, as under the Regulations for the organization, functioning and legal regimen of Municipal Entities (Article 146 and those in following), of issuing an express decision regarding all those requests and appeals lodged with the same by the interested parties.

CITY HALL OF ORIHUELA (ALICANTE)

Concerning the legal duty of the measures taken by the municipal government abiding by the principles of efficacy, economy and expeditiousness in accordance with Article 103 of Spain's Constitution and Article 3 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure.

CITY HALL OF PADRÓN (A CORUÑA)

Concerning the legal duty of expressly providing a solution to all those petitions, complaints and appeals which are lodged with the same by the interested parties, thus complying with Article 42 of Law 30/1992, revised by Law/1999, governing Legal Regimen of the Public Administrations and the Common Administrative Procedure.

CITY HALL OF PÁJARA (LAS PALMAS)

Concerning the legal duty falling to the municipal governments of complying with the wastewater treatment regulations.

CITY HALL OF PÁLMACES DE JADRAQUE (GUADALAJARA)

Concerning the legal duty stemming from Article 42.1 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure of issuing an express decision regarding all those requests and appeals lodged with the same by the interested parties.

CITY HALL OF PESQUERA (CANTABRIA)

Concerning the legal duty of opening penal proceedings in view of the failure to comply with an executive order; of issuing and notifying express decisions as to the procedures thereof and of adopting the measures necessary for preventing undue delays, eliminating any anomaly in the processing procedures. All of the foregoing in accordance with Articles 41, 42 and 127 of Law 30/1992 on Legal Regimen of the Public Administrations and the Common Administrative Procedure.

CITY HALL OF POIO (PONTEVEDRA)

Concerning the legal duty of abiding by Article 36 of Law 30/1992 on Legal Regimen of the Public Administrations and the Common Administrative Procedure with regard to the languages to be used in the different administrative procedures.

CITY HALL OF SAN FERNANDO DE HENARES (MADRID)

Concerning the legal duty stemming from Article 42.1 of Law 30/1992 on Legal Regimen of the Public Administrations and the Common Administrative Procedure of issuing an express decision regarding all those requests and appeals lodged by the interested parties.

CITY HALL OF SAN PEDRO DEL PINATAR (MURCIA)

Concerning the legal duty of the measures taken by the municipal government abiding by the principles of efficacy, economy and expeditiousness in accordance with Article 103 of Spain's Constitution and Article 3 of Law 30/1992 on Legal Regimen of the Public Administrations and the Common Administrative Procedure.

CITY HALL OF SANTA CRUZ DE MUDELA (CIUDAD REAL)

Concerning the legal duty, in accordance with Article 103 of General Tax Law 58/2003 and, in addition thereto, Article 42.1 of Law 30/1992 on Legal Regimen of the Public Administrations and the Common Administrative Procedure, of expressly issuing a decision, in due time and form, regarding the complaints and requests lodged with the same.

CITY HALL OF SANTA CRUZ DE TENERIFE

concerning the legal duty of collaborating, preferentially and urgently, with the Ombudsman in the measures taken thereby in accordance with that for which provision is made under Article 19 of Organic Law 3/1981 concerning the Office of the Ombudsman, this being a collaboration the prime manifestation of which was none other than that of fully responding to the requests to report to this Institution.

CITY HALL OF SANTA MARÍA DE LOS LLANOS (CUENCA)

Concerning the legal duty of opening the respective penal proceedings and exercising the penalizing power in view of events which might possibly constitute an urban planning violation.

CITY HALL OF SAUCEDILLA (CÁCERES)

Concerning the legal duty of adopting precautionary measures and opening the fitting penal proceedings when learning of behaviors or events constituting urban planning law violations and, during the processing thereof, taking the necessary measures to assure the efficacy of whatever judgment might be handed down.

CITY HALL OF TALAMANCA DE JARAMA (MADRID)

Concerning the legal duty of demanding full compliance with the duty of preserving and assuring legality in urban planning law-related issues.

CITY HALL OF TARRAGONA

Concerning the legal duty of assuring the enforcement of the legal regulations in force regarding the languages in the administrative procedures and the right of the interested parties therein to have an option as to language, most particularly in those cases in which the interested parties expressly so request.

CITY HALL OF TEULADA (ALICANTE)

Concerning the legal duty of acknowledging receipt of the complaints lodged by citizens and of providing the urban planning information requests, in writing within a reasonable time period.

CITY HALL OF TORENO (LEÓN)

Concerning the legal duty of sufficiently stating the reasons for the acts thereof, making reference not only to the legal standards as the grounds thereof but also the reasons due to which these standards impose the decision adopted.

CITY HALL OF TORRELODONES (MADRID)

Concerning the legal duty of acting in accordance with the principles of efficacy, economy and expeditiousness set forth under Article 103 of Spain's Constitution and Article 3 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure

CITY HALL OF TORREVIEJA (ALICANTE)

Concerning the legal duty of estimating the ex officio statute of limitations and of refunding that which has been unduly collected, plus interest, in accordance with Articles 66 and 69 of General Tax Law 58/2003.

Concerning the legal duty falling thereto in accordance with Article 41 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure, which sets forth that those heading the administrative divisions and the personnel employed by the public administrations who are in charge of providing solutions to or dispatching matters, shall be directly responsible for the processing thereof and shall adopt the fitting measures to remove the obstacles which prevent, hinder or delay the exercise of the rights of the interested parties or the respect for their legitimate interests by ordering that which is necessary to prevent and eliminate any anomaly

in the processing of proceedings. Similarly, a reminder was put forth as to the legal duty fall thereto of acting in accordance with the principle of efficacy, economy and expeditiousness recognized under Article 103 of Spain's Constitution.

Concerning the legal duty of adopting the measures necessary to prevent the urban planning law violations detected from taking a foothold due to the mere lapse of time and of thus rendering full compliance with the legal mandate of inspecting, preserving and recovering the urban planning order violated, of acting with due diligence and preventing those committing the violations from benefitting from the delays in administrative action being taken, jeopardizing the general interest of all and the individual interest of other citizens.

Concerning the legal duty of guaranteeing full compliance with the obligation which the owners of all types of lands and structures have of keeping the same in conditions of safety, healthiness and publicly presentable and decent and of verifying full compliance with the orders for work to be done for the repair, conservation and rehabilitation of deteriorated buildings by conducting the fitting inspection. Similarly, a reminder was also put forth as to the legal duty of taking action in accordance with the principles of efficacy, economy and expeditiousness for which provision is made under Article 103 of Spain's Constitution and Article 3 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure

CITY HALL OF VALDEMORO (MADRID)

Concerning the legal duty stemming from Article 42.1 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure of issuing an express decision regarding all those requests and appeals which are lodged by the interested parties.

CITY HALL OF VALMOJADO (TOLEDO)

Concerning the legal duty of issuing a decision regarding the permit applications which are filed in accordance with the laws and regulations in force.

CITY HALL OF VEGACERVERA (LEÓN)

Concerning the legal duty stemming from the obligations established regarding the processing of requests and claims filed by those administered under both Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure and the Regulations governing organization, functioning and legal regimen of the municipal entities (Articles 146 and those in following), without detriment to the obligations of abstaining when issuing a decision regarding the cases if any of the causes set forth for the purpose under Article 28 of Law 30/1992 proper were to concur.

CITY HALL OF VENTA DE BAÑOS (PALENCIA)

Concerning the legal duty of furnishing the Ombudsman with specific, detailed information of the actual updated employment-related situation of the interested party which will afford the possibility of ascertaining the outcome of the last risk assessment of her job position; the findings thereof, what the recommendations, if any, have meant and whether the Administration in question has adopted or has planned to adopt any possible measure for either the prevention or protection of the occupational hazard and the contents thereof

CITY HALL OF VENTURADA (MADRID)

Concerning the legal duty of issuing a decision, in due time and form, to all those petitions, complaints and appeals which are lodged by the interested party, regardless of the manner in which initially lodged, thus complying with that which is set forth under Article 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure.

CITY HALL OF VIGO (PONTEVEDRA)

Concerning the legal duty of rendering full compliance with the authorities recognized as falling thereto under Articles 25 and 26 of Law 7/1985 governing the bases of the Municipal Regimen and the general and local environmental regulations, in particular that for which provision is made under articles 33.a) and 40 of Galician Environmental Protection Law 1/1995 and ordering the immediate halting of an activity due to the same lacking sufficient administrative title to carrying out said activity and due to under annoyances damaging to the residents in the vicinity being causes.

Municipal Consumer Information Office

Concerning the legal duty of issuing an express decision regarding all those requests and appeals lodged by citizens, thus complying with that which is set forth under Article 42.1 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure

CITY HALL OF VILCHES (JAÉN)

Concerning the legal duty of issuing an express decision regarding all those complaints and appeals which are lodged by the interested parties. Similarly, a reminder was put forth as to the legal duty falling thereto of fully complying with that which is set forth under Article 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure. Similarly, a reminder was also put forth as to the legal duty of taking action in accordance with the principles of efficacy, economy and expeditiousness for which provision is made under Article 103 of Spain's constitution.

FORMENTERA ISLAND CONSELL

Concerning the legal duty of furnishing citizens with information which is not misleading or confusing to them, in other words, information per se, which requires a minimum degree of clarity, which is not that which civil servants and technical personnel require, but which citizens and regular local residents required, thus fully complying with that for which provision is made under Articles 3.1 and 35.g) and k) of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure.

Other Administrations

MINISTRY OF AGRICULTURE, STOCKBREEDING, FISHERIES AND ENVIRONMENT OF THE AUTONOMOUS COMMUNITY OF THE CANARY ISLANDS; LANZAROTE ISLAND GOVERNMENT AND CITY HALL OF ARRECIFE (LAS PALMAS)

Reminders were put forth to both concerning the legal duty falling thereto of objectively working for the common good, tak-

ing an interest in how the problems are progressing and their solutions.

DIRECTORATE GENERAL OF URBAN PLANNING AND REGIONAL STRATEGY OF THE COMMUNITY OF MADRID AND THE CITY HALL OF TALAMANCA DE JARAMA (MADRID)

Reminders were put forth to both concerning the legal duty of collaborating with the Ombudsman by means of furnishing preferential reports and summaries affording the same with the possibility of clearing up the problem posed and carrying out its constitutional function of supervising the administrative measures in order to defend fundamental rights in accordance with that which is set forth Under Articles 18 and 19 of Ombudsman Organic Act 3/1981. Similarly, concerning the legal duty falling to the municipal and autonomous community Administrations of coordinating with one another for the purpose of duly exercising their urban planning authorities.

Others

MADRID BAR ASSOCIATION

Concerning the legal duty of providing a response to the requests placed by citizens.

OFFICIAL ASSOCIATION OF DENTISTRY AND ORAL MEDICINE OF CATALONIA

Concerning the legal duty, in accordance with Articles 41 and 42 of Law 30/1992 governing Legal Regimen of the Public Administrations and the Common Administrative Procedure, of issuing an express decision within the established time periods regarding all those requests, complaints and appeals which are lodged with the same by citizens, as well as removing the obstacles with prevent, hinder or delay the exercise of the rights of the interested parties to the respect of their legitimate interests by providing that which is necessary to prevent and eliminate any anomaly in the processing of claims and appeals lodged with the same by the interested parties, as well as to remove the obstacles which prevent, hinder or delay the exercise of the rights of the interested parties or the respect for the legitimate interest thereof by ordering that which is necessary to prevent and eliminate any anomaly in the processing of proceeding A reminder was also put forth as to the legal duty falling thereto of taking action in accordance with the principle of efficacy recognized under Article 103 of Spain's Constitution.

■ Warnings

General State Administration

MINISTRY OF PUBLIC WORKS

To the **Office of the Secretary of Planning and Infrastructures** concerning the effects of failure to comply with constitutional and legal duties of coordinating, cooperation and collaboration among bodies of one same Public Administration due to an environmental impact statement not processed.

MINISTRY OF ENVIRONMENT AND RURAL AND MARINE AFFAIRS

To the **Directorate General of Environmental Quality** and Assessment concerning the effects of failure to comply with constitutional and legal duties of coordinating, cooperation and collaboration among bodies of one same Public Administration due to an environmental impact statement not processed.

To the **Júcar River Basin Authority** concerning the obligation of responding preferentially, adequately, directly and summarily to the requests for information from the Ombudsman and, in the event of failing to do so, the possibility of considering said River Basin Authority as an Administration obstructing the exercise of the functions set forth as being those of this Institution under the Constitution.

Municipal Administration

CITY HALL OF O PORRIÑO (PONTEVEDRA)

Warning was given as to the possibility of incurring in liability due to failure to comply with that which is set forth under Articles 18 and 19 of Organic Law 3/1981 concerning the Office of the Ombudsman of the obligation thereof of preferentially and urgently furnishing a written report within a two-week period regarding the investigation being conducted.

CITY HALL OF XIRIVELLA (VALENCIA)

Warning was given as to the obligation of responding preferentially, appropriately, directly and summarily to the requests for information from the Ombudsman and, in the event of failing to do so, as to the possibility of considering the Municipal Government in question as being an obstructing.

■ Appeals regarding violations of Constitutional law

The Ombudsman is vested with the authority to file appeals regarding violations of Constitutional law and appeals for relief in accordance with that which is set forth under the Organic Law of the Constitutional Court. In 2011, appeals were requested to be filed regarding 34 provisions of law.

Following up on the resolutions

For the first time, in this 2011 annual report, the Ombudsman's Office is devoting a chapter to the process of following up on the recommendations put forth by this Institution once they have been accepted by the different administrations. This section is in response to the suggestion made by different members of Parliament during the presentation of the 2009 report to the Joint Commission for Relations with the Ombudsman.

In the full version of this chapter, an account is given of the most outstanding achievements made throughout the history of this Institution in defense of the rights of those groups which are the most vulnerable.

For example, regarding the subject of minors, an account is given of different recommendations concerning the mistreatment, abuse and trafficking of minors which resulted in the amendment of the Penal Code of 1995 as included in the setting out of reasons expressly mentioning this Institution (Law 11/1999 of April 30th).

Concerning the subject of gender violence, it is recalled that many of the recommendations issued by this Institutions, which presented a monographic report on this subject in 1998, were set out in Organic Law 1/2004 of December 28th governing Comprehensive Measures for Protection Against Gender Violence. Reference are also made to a recommendations which meant the amendment of the General Social Security Law granting the widow's pension to abused women who had waived their right to alimony.

Concerning the subject of persons with disabilities, this Institution has stressed the need of new scales being approved for assessing disabilities in accordance with the international classification of functioning, disability and health. This had to do with assessing, for example, the mobility-related problems for using public transportation. Lastly, this has been included under Royal Decree 174/2011 of February 11th passed in approval of the scale for assessing the situation of dependency set forth under Law 39/2006 of December 14th governing Promotion of Personal Autonomy and Care of persons in a situation of dependency.

Regarding migrations, several legal reforms and some major changes have been made in administrative procedures in 2011 which, in many cases, include recommendations put forth by the Ombudsman. For example, the reform made in the Alien Affairs Law by Organic Law 10/2011 includes one of the recommendations made by this Institution that any foreign citizen in an irregular situation who is a victim of gender violence can go to the police to file a report without fearing that proceedings may be filed against them for expelling them from the country. Apart from the foregoing, the need for the right to be heard by unaccompanied underage foreigners to be properly set out in the repatriation procedure has also been expressly included in the new alien affairs regulations, thus including a recommendation put forth by the Ombudsman in 2005.

Administrations which have failed to comply or which have notably delayed their response to requests from the Ombudsman

A list is provided in following of different government agency bodies and divisions which have not provided an adequate response to the Ombudsman's requests or calls for action, therefore failing to fulfill the public powers' obligation of collaborating with this Institution 'urgently and preferentially' as ordered under Article 19 of Organic Law 3/1981 governing the same. In these cases, Article 18.2 of the aforesaid Organic Law empowers the Ombudsman to declare the administrative division or body in question as 'hostile or hindering its functions' and also make the same known to Spanish Parliament.

Uncooperative Administrations

TOLEDO BAR ASSOCIATION

The existence of three cases which have gone as far as the third unanswered request is revealing of a wish to ignore the supervisory activity of the Ombudsman which is worthy of being termed obstructing. These cases are: one related to the ap-

pointment of a public defender and solicitor to file a suit for separation; another related to free legal aid for appealing the charging of a traffic fine; and the third regarding the appointment of an attorney assigned to the public defender service.

Administrations which have not replied in 2011 following the third request

GENERAL STATE ADMINISTRATION MINISTRY OF PUBLIC WORKS

To the **Directorate General of Highways** regarding the noise caused by the road traffic on driving over ruts in the locality of Altamira, Cambre (A Coruña).

To the **"Sociedad Pública de Alquiler, S. A"**, concerning the breach of contraction the part of this company.

Concerning the failure to comply with the housing rental program and failure to notify the interested party.

Concerning the failure to refund the rental deposition the part of said corporation.

MINISTRY OF ENVIRONMENT AND RURAL AND MARINE AFFAIRS

To the **Tagus River Basin Authority** concerning protesting of the supply infrastructures due to the impact on the ecological flow rate of a stream in the Monfragüe Nature Reserve.

Autonomous Community Administration

AUTONOMOUS COMMUNITY OF ANDALUSIA

To the **Department of Economy, Innovation and Science** due to the possible irregularities in which the electric power supply companies were incurring in the electric power rates for the months of December 2008 and January 2009, regarding which a complaint was lodged with the Ministry of Industry and the National Energy Commission.

Concerning the replacement of the light meters in a private home on the part of the electric power company without having provided any advance notice.

AUTONOMOUS COMMUNITY OF ARAGÓN

To the **Department of Education, Culture and Sport** concerning the lack of direct attention on the part of the staff of the "Jose Antonio Labordeta" Public School located in the Actur District of Zaragoza regarding hygiene-related needs which students starting the second cycle of elementary-level studies may need.

Concerning the repeated, persistent manner in which the different educational administrations have been improvising solutions to meeting the rising demand for places at public schools and to obtain details regarding the incidence of these practices.

To the **Department of Agriculture, Stockbreeding and Environment** regarding the rejection of an application for a hunting license on the part of the Hunters' Society which manages the municipal hunting grounds in Torrellas (Zaragoza).

Concerning the lack of further regulations expanding upon the Hunting Law in Aragon

AUTONOMOUS COMMUNITY OF THE CANARY ISLANDS

To the **Department of Welfare, Youth and Housing** concerning a case of assessment of the dependency law and decision regarding the Individual Care Program.

Concerning the requests placed by citizens whilst also requesting information regarding the case of assessment of dependency and decision regarding the Individual Care Program having commenced in 2007.

To the **Department of Public Works, Transport and Regional Policy** concerning a request for information on antennas.

To the **Directorate General of Juvenile Protection and Family** concerning the legal duty falling to this Administration of documenting unaccompanied foreign minors in accordance with that which is set forth under the laws and regulations in force.

Concerning the complaint against the actions of a psychologist

of the early childhood and family program of the Municipal Government of the San Bartolomé de Tirajana (Las Palmas).

COMMUNITY OF MADRID

To the **Directorate General of Housing and Rehabilitation** concerning the subsidy for which application was filed with the Madrid Land and Housing Company for the purchase of public promotion housing not having been received.

Regarding the delay in the processing of lease agreements for public promotion housing, incurring in fraud.

AUTONOMOUS COMMUNITY OF VALENCIA

To the **Department of Infrastructures and Transport** concerning the North Ring Road to Benimamet being affected by the "Northern Valencia Ring Road –Section Benimamet-Ciutat Fallera" Project.

Municipal Administration

□ **City Hall of Águilas (Murcia)** concerning the noise caused by open-air bar/restaurants installed in a residential complex.

□ **City Hall of Almaraz (Cáceres)** concerning the annoyances caused by an animal waste product incinerating plant.

Concerning the refund of a sum required by the City Hall and the processing institution for a stay at a living facility.

□ **City Hall of Alzira (Valencia)** concerning a complaint lodged against a washing tunnel which causes annoyances due to noise.

□ **City Hall of Arona (Santa Cruz de Tenerife)** concerning no response having been provided to an application for public promotion housing.

□ **City Hall of Barbate (Cádiz)** concerning the installation of mailboxes to be used by several different addresses.

□ **City Hall of Binissalem (Balearic Islands)** concerning the annoyances caused by noise and garbage from a Youth Club installed underneath a dwelling.

□ **City Hall of Blanca (Murcia)** concerning wastewater effluents.

□ **City Hall of Borja (Zaragoza)** concerning the disagreement with a screening process, on not taking into account the bases thereof, delaying the holding of the screening beyond the schedules stipulated for this purpose.

□ **City Hall of Bormujos (Seville)** concerning no response having been provided to the requests for information regarding the Municipal Government criteria for raising the municipal taxes.

Concerning the signals/signposting on Bormujos road being adapted to adequate parameters.

□ **City Hall of Burgos** concerning the alleged violation of freedom of expression of the person filing the complaint on not including her magazine at the civic centers.

□ **City Hall of Cabrerizos (Salamanca)** concerning the blockage of a collection box drain caused by municipal works.

- **City Hall of Camargo (Cantabria)** concerning drainage works being done.
- **City Hall of Camariñas (A Coruña)** concerning no response having been provided to an application for permission filed by the person filing the complaint for recording town council meetings.
- **City Hall of Carabaña (Madrid)** concerning the petition for a road sign to be installed.
- **City Hall of Cartaya (Huelva)** concerning the permitted business hours not being heeded regarding an open-air bar/restaurant.
- **City Hall of Castalla (Alicante)** concerning the annoyances caused by a discotheque located in this town.
Concerning a first occupancy permit being granted to dwellings without any utilities.
- **City Hall of Cervera del Río Alhama (La Rioja)** concerning no action having been taken on the part of the Town Council regarding alleged violations of the town ordinance governing the keeping and possession of pets.
- **City Hall of Cieza (Murcia)** concerning the building of utility rooms/sheds which are not in keeping with the permit.
- **City Hall of Cudillero (Asturias)** concerning the delay in the subsidiary execution of a demolition order.
- **City Hall of Curiel de Duero (Valladolid)** concerning unanswered requests for information.
- **City Hall of El Astillero (Cantabria)** concerning the annoyances caused by an unlicensed stockbreeding operation in Guarnizo (Cantabria).
- **City Hall of Estepona (Málaga)** concerning the existence of subsidies in the municipality on which Real-Estate Tax is charged differently depending on whether one is a resident or non-resident.
- **City Hall of Fuentenovilla (Guadalajara)** concerning wastewater effluents and irregularities in the design planned for a treatment plant.
- **City Hall of Guadalajara** concerning the installation of two television antennas by an owners' association without a municipal permit.
- **City Hall of Ibi (Alicante)** concerning no response having been provided to the request for information regarding reserving a permanent staff employee position at the Town Hall.
- **City Hall of Leganés (Madrid)** concerning the refund of the full amount charged as a deposit for the loan of musical instruments on the part of the Pablo Casals School of Music.
- **City Hall of Llanes (Asturias)** concerning the noise from bars and open-air bar/retaurants located on a square.
Concerning the installation of a gas control and metering station in an area surrounded by housing.
- **City Hall of Lluçmajor (Balearic Islands)** concerning no running water being supplied apparently due to problems in a water pump.
- **City Hall of Logroño** concerning the noise caused by the traffic on the beltway.
- **City Hall of Lorca (Murcia)** concerning the urban development plan scheduled for the Cabo de Cope Nature Reserve.
- **City Hall of Mijas (Málaga)** concerning the bad odors caused by a recycling plant.
- **City Hall of Motril (Granada)** concerning the demolition of a home to build a roadway.
- **City Hall of Oropesa (Toledo)** conceding the illegal municipal wastewater effluents onto parcels.
- **City Hall of Otura (Granada)** concerning the Municipal Administration failing to refund the full amount of a deposit.
- **City Hall of Pilar de la Horadada (Alicante)** concerning the annoyances caused by the location of the open-air bar/restaurant at the entrance to the beach.
- **City Hall of San Bartolomé de Tirajana (Las Palmas)** concerning the duty of issuing an express decision in general and in particular regarding the case put forth by the person filing the complaint.
- **City Hall of San Fernando de Henares (Madrid)** concerning no decision having been issued regarding an asset liability-related complaint resulting from the damage caused to a property owned by the person filing the complaint on the part of a garbage truck.
- **City Hall of San Martín de la Vega (Madrid)**, concerning annoyances cause by a bar in this locality.
- **City Hall of Sant Antoni de Portmany (Balearic Islands)** concerning the annoyances caused by noise and bad odors from the aquarium, bar and pier located at Cap Blanc.
- **City Hall of Santas Martas (León)** concerning no remedy having been provided to the appeals filed.
- **City Hall of Solana del Pino (Ciudad Real)** concerning the noise caused by a bus stop located in front of a dwelling.
- **City Hall of Teguique (Las Palmas)** concerning no remedy having been provided to an appeal for review.
- **City Hall of Torrejón el Rubio (Cáceres)** concerning the annoyances caused by the noise and closing time of an establishment.
- **City Hall of Valle de Olló (Navarra)** concerning no water being supplied to a dwelling which has a certificate of occupancy.
- **City Hall of Vilar de Barrio (Ourense)** concerning water treatment in Vilariño de Lama Má.
- **City Hall of Villalarbo (Zamora)** as a result of no reply having been provided to the claims filed with the Municipal Administration for the refund of the amount paid for the service connection for the water supply to a property due to its having been paid twice.
- **City Hall of Villarrubia de los Ojos (Ciudad Real)** concerning the bad condition of a section of street due to its having been left unasphalted.

- **City Hall of Villena (Alicante)** concerning the annoyances caused by a garage ventilation system.
- **City Hall of Xirivella (Valencia)** concerning the construction of the planned channeling of a ravine.

PROVINCIAL COUNCIL IN BURGOS

To **The Solid Waste Treatment Consortium** concerning the irregular Administration of Quintamanvirgo (Burgos) of the Real-

Estate Tax on a dwelling which is recorded on the Property Register under two different registry entries.

OTHERS

Irrigation Community of Las Vegas del Alamar (Salamanca) concerning there being no individual meters in place for gauging the water consumption for each individual parcel. The administrations who replied at the third request on the part of the Ombudsman may be found in the full report.

Sixty percent of all complaints were lodged online in 2011

Once again in 2011, top priority has continued being placed on helping our citizens, strict economic and budgeting management, commitment to the new technologies, as well as carrying out activities linked to expanding international presence and communications.

Economic and Budget Management

Finance Law 39/2010 of December 22nd for the year 2011 includes the expense Budget for the 2011 fiscal year for the Ombudsman, totaling the amount of 15,175,800 €, divided between two headings: the Section I "Personnel Expenses" heading totaling 12,469,400 € and the Section II "Current Goods and Services Expenses" totaling 2,706,400 €, respectively totaling 82.17% and 17.83% of the budget.

These sums entail an overall 4.47% reduction compared to the 2010 Budget. By headings, Section I totaled a 3.73% reduction and Section II, a 7.74% reduction.

Assisting the public

Once again this year, the trend in the rise in the number of complaints lodged online is worthy of special mention, this figure having risen by more than 15 percentage points over last year. In parallel to this rise, a noticeable drop has been noted in the number of complaints filed by mail, as shown in the following Table.

TABLE 16
Percentage and number of complaints by how filed

CHANNEL BY WHICH FILED	2011		2010	
	No.	%	No.	%
E-mail	1,756	7.35	1,127	3.29
Regular mail	6,155	25.78	14,976	43.78
Fax				
- Registered Fax	21	0.09	24	0.07
- Written Fax	564	2.36	852	2.49
Web				
- With certificate	89	0.37	368	1.08
- No certificate	14,093	59.03	15,890	46.45
In Person	1,197	5.01	971	2.84
Total	23,875	100.00	34,208	100.00

As far as the assistance provided to citizens either in person or by telephone, the details in the following Table show a rise in the number dealt with in person compared to 2010. There has also been a rise in the number dealt with by way of the toll-free 900 number.

TABLE 17
Number of calls and visits received in 2011 for providing services for citizens, compared to 2010

No. calls	2011	2010
In person	3,234	2,898
Telephone	7,916	9,187
Toll-free 900 number	5,275	4,658
Total	16,425	16,743

Website visits

In 2011, the Ombudsman website at www.defensordelpueblo.es received 241,114 visits. The following Table provides a breakdown of these visits focusing on the microsites or sections most visited.

TABLE 18
Breakdown of visits to the Ombudsman website. Year 2011

Website	Visits
defensordelpueblo.es	163,054
enclase.defensordelpueblo.es	31,989
mnp.defensordelpueblo.es	16,891
concursodibujos.defensordelpueblo.es	11,278
premioddhh.defensordelpueblo.es	8,204
estadisticas.defensordelpueblo.es	6,302
biblioteca.defensordelpueblo.es	1,882
newsletter.defensordelpueblo.es	1,514
Total	241,114

■ International presence

The Ombudsman's endeavors in the international realm have been marked mainly by the cooperation with other counterpart institutions and with the international organizations committed to human rights, as well as the support of the consolidation of democratic institutions. In 2011, the Ombudsman's Office took active part in different international forums on human relations. In this regard, special mention must be made of the rapid spread of the Iberian Ombudsman model to other similar legal systems, not only in countries within the European sphere and in some of the countries which have emerged following the dismembering of the Soviet Union, but also within the Latin American sphere. Similarly, the Ombudsman has been continuing its support of forums of counterpart institutions safeguarding human rights, such as the Latin American Federation of Ombudsmen or the Association of Mediterranean Ombudsmen, Spain's Acting Ombudsman, María Luisa Cava de Llano serving as Vice-President of both of these organizations.

■ Multilateral collaboration

One of the most outstanding aspects of the Ombudsman's strategy of fostering closer relations with those international bodies devoted to safeguarding and promoting human rights in which Spain by taking part as a member State is that of the collaboration with the United Nations channeled through the office of the High Commissioner for Human Rights. The Ombudsman, in its status as a National Human Rights Institution (NHRI), takes part periodically in the meetings held at the U.N. Headquarters in Geneva, the last intervention having taken place at the 78th session period of the U.N. Committee on the Elimination of Racial Discrimination, these being sessions at which the U.N. requested Spain to put an end to the police raids based on ethnic profiling.

Apart from the above, the Ombudsman's Office collaborates closely with the European Union Network of Ombudsmen and with the European Ombudsman in sharing national experiences and solving problems of European citizens as a whole. This Institution also attends the meetings for coordinating the national human rights safeguarding organizations of the States comprising the European Council, focusing on those papers and studies promoting the improvement of the regional system for the safeguarding of rights and freedoms and of the main body thereof, the European Human Rights Court. Additionally, on September 21st-22nd, representatives from the Ombudsmen's Offices and from the Human Rights Commissions of all of the European Council member States, as well as high-ranking European Council and European Human Rights Court officials met in Madrid to take part in the Conference on National Human Rights Structures of the European Council Member States organized by this Institution in collaboration with the European Council.

The Ombudsman's Office also takes part in the European Council and EU "peer-to-peer" project, the purpose of which is to achieve better training for the civil servants working for the ombudsmen's offices regarding the subject of their daily work for safeguarding the rights of our citizens.

■ The international NPM endeavor

Since the National Preventive Mechanism Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (NPM) with the realm of Spain's Ombudsman, this mechanism has been in close touch with the NPMs of other countries and with the U. N. Subcommittee on the Prevention of Torture (SPT) in order to compare the internal working procedures thereof with those of foreign experts and to thus be able to optimize these procedures. The Ombudsman has taken part in several theme-based workshops in the European NPM project coordinated by the European Council. Similarly, Spain's NPM takes part in projects including programs for training new NPMs.

■ Twinning projects

This Institution collaborates actively in different technical assistance projects provided to governments and institutions similar to the Ombudsman Institution by providing advisory as to the organization and functioning of ombudsman's offices. This is the case of what are known as twinning projects promoted by the European Union. In 2011, one of these twinning projects was gotten under way in the Former Yugoslavian Republic of Macedonia, headed by the Spain's Ombudsman's Office, in which the institution of the Defender of Rights of the French Republic is also taking part, sponsored by the European Union.

■ Communications

In 2011, the communications channels available to the Ombudsman's Office have continued to be further strengthened for the purpose of bringing this Institution even closer to our citizens. In addition to making our website more dynamic, the "Ombudsman to Date" newsletter and making the preparations for this Institution to be launched on Twitter, which took place in early 2012, there has been a continuing commitment to create even closer relations with the media in an attempt to meet their needs for making this Institution's external communications more free-flowing.

■ Magazine

The "El Defensor al Día" magazine prepared monthly by the communications department has remarkably increased the number of subscribers over the previous year, totaling up to 2,500 mailings per issue (Autonomous Community Commission Members, Central Government and Administration, Central Government institutions, Autonomous Community Parliaments, Government delegates and deputy delegates, Joint Commission for Relations with the Ombudsman, Latin American Federation of Ombudsmen, non-governmental organizations and associations, mass media and private citizens interested in receiving the magazine, almost all of whom choose our institutional website as the channel for requesting to receive this publication.

■ Media impacts

The relations with the media are an outstanding part of the daily endeavor of the communications department, by way of sending out press releases, announcements and holding press conferences. In 2011, the work done was reflected in the more than five thousands impacts in written press, radio, television and Internet. During the past year, theme-based notes have continued being prepared concerning the work being done by this Institution in different areas for the purpose of delving deeper into bringing the Ombudsman concept closer to our citizens and showing how useful this Institution is through practical examples.



Supervision of Public Administrations



Cava de Llano moves to have squandering public money considered a criminal offense

As in previous years, complaints have continued being lodged concerning delays, understaffing, shortages of material means and overloading of different jurisdictional bodies. Nevertheless, worthy of special mention concerning the subject of justice in 2011 is the request to have squandering public money considered a crime as announced by the acting Ombudsman during her appearance before the Congress of Deputies. The Government has expressed its commitment to squandering public money being an offense in certain cases.



Undue delays

Once again this year, undue delays have been one of the most serious problems confronting the Justice Administration. This Institution has received numerous complaints concerning delays in all jurisdictions. On October 10th, Law 37/2011 governing Procedural Expediting Measures was passed, which this Institution expects to be able to provide a solution to some of these problems.

In 2011, other reforms such as that of the Bankruptcy Law by way of Law 38/2011 of October 10th. One of the most outstanding new aspects is that consisting of the fostering of the alternatives to bankruptcy through the promotion of pre-bankruptcy financing agreements, as well as providing incentives for the financing of companies in crisis, which will make it possible to lower the economic costs of bankruptcy and to likewise expedite the pendency of the mercantile jurisdiction.

Domestic Violence

In 2011, the most frequent gender violence-related complaints had to do with delays in the court proceedings and lack of means of the psychosocial teams in the gender violence courts.

On another order of matters, this year the processes detailed last year in regard to the shelters have now come to a close after receiving the "Protocol for taking action for coordinating the procedures of referral to the shelters among different Autonomous Communities in further expansion upon the statute".

An investigation has also been concluded in 2011 regarding which information was also provided in the 2010 report which resulted from the expanding use of GPS bracelets for convicted abusers. Until then, the "Cometa" Control Center in charge of implementing these bracelets used them solely for verifying compliance with the precautionary measures of restraining measures and not during the sentence-serving stage.

This Institution has also addressed the Directorate General of the Police and Civil Guard recommending a greater presence of all units of these divisions of officers specialized in dealing with gender violence for the purpose of assuring, insofar as possible, the integrity of the victims. In addition thereto, they have been asked to commit to specific training in risk assessment tools and indicators. With this resolution, the Ombudsman's Office is attempting to prevent cases of women who are murdered despite having a protection order. This recommendation has been accepted by the aforementioned Directorate General.

Staffing and material means

The overwhelming situation Spain's Justice system is currently undergoing is reflected in many of the complaints which have been lodged with this Institution this year, thus stressing the need for more material means and staffing being provided for the Justice system for a return to normalcy.

Particularly important is the situation of the administrative courts. Specifically, acceptance was taken of the complaint lodged by a person who stated having filed an administrative suit in 2010 through Administrative Court Number 5 of Madrid

who had been summonsed for the hearing docketed for January 15, 2015. The Governing Body of the Spanish Judiciary could but confirm this fact, alleging that said judicial body was dealing with an extraordinary workload, the number of incoming matters being 120% above the indicators set by the Governing Body of the Judiciary as a technical criterion.

However, the situation of extreme backlog of the administrative courts also has a bearing on other autonomous communities, which gave rise to an ex officio investigation having been opened with the Governing Body of the Spanish Judiciary, which notified this Institution that the latest report from the Inspection Service suggested that fourteen judicial bodies be created throughout the country, as well as new openings for magistrates in the administrative courts of the Superior Courts.

In the reply furnished at the time by the Ministry of Justice, this Department's disagreement with the recommendation made by the Ombudsman was stated in short, considering the current legal system to suffice. The new Government having taken office following the national election, the recommendation put forth was repeated to the new Minister of Justice. On January 24, 2012, the Vice-President of the Government appeared before the Constitutional Commission of the Congress of Deputies and, in the course of the speech given thereby concerning their program for taking action, stated the Government's commitment to having squandering public money considered an offense in certain cases, which has been repeated in the response received from the Minister of Justice at the closing of these lines.

Public judicial service

This Institution has also received complaints for errors, often the result of the work overload as well as the shortage of means available to the civil servants for doing their work. This is the case of one person who requested the intervention of this Institution in order for the settlement required of him by the Tax Authorities regarding the processing of a procedure which had nothing at all to do with the individual in question to be cancelled. The facts having been made known to Secretary of the Ministry of Justice, they admitted that an error had been made in the identity and national identification card of this person, as a result of which a brief was sent to the Economy and Finance Authorities of Barcelona for the purpose of the settlement which had been being required of the interested party to be cancelled, after which the complaint was closed.

Another error which is still under investigations is that which would have led to the arrest of a man who was walking down the street due to an order which was to have been cancelled five years before. The Court for Violence Against Women Number 2 of Madrid issued a restraining order against him with regard to the victim in question on July 4, 2006 which was cancelled on the 17th of that same month and year. According to the report from the Ministry of Presidency and Justice, the order was sent to both the Central Registry for the Protection of Domestic Violence Victims and to the police station. For the purpose of completing the investigation, this Institution has addressed the Secretary of the Ministry of Justice, currently awaiting receipt of the response.

Legislative reforms

One of this Institution's essential authorities is – either on an ex officio basis or as a result of investigations having already commenced – to promote all those legislative initiatives which are necessary for amending or creating rules which will cover or protect rights of citizens who, to the Ombudsman's understanding, are not sufficiently guaranteed. In this regard, the Acting Ombudsman requested, during her appearance before the Plenary Session of the Congress of Deputies on September 15, 2001, that the squandering of public money be considered an offense. For this reason, this Institution addressed the Ministry of Justice recommending that the work begin toward reforming the Penal Code so as to reinforce the response of the penal system in view of the irresponsible use of public money on the part of authorities and civil servants.

Juvenile offenders

The Ombudsman has continued its ongoing monitoring of the proper enforcement of Organic Law 5/2000 governing the penal liability of minors, especially in all those aspects having to do with the juvenile confinement measures, by supervising to ensure that the rights of juvenile offenders are strictly respected.

As a result of different news items in the media, this Institution learned of the death of a young nineteen-year-old male in the early morning hours of Saturday, July 9, 2011 at the "Teresa de Calcuta" Juvenile Detention Center in Brea de Tajo. He had apparently come to the center accompanied by his moth on Friday to serve the twelve-month confinement measure for some events committed when he was under age. According to these news items, at the point of time of entry, he suffered several panic attacks, showing symptoms making his confinement inadvisable. In fact, he experienced a cardiac arrest following the panic attacks and although the emergency service was called, they were only able to certify his death.

In view of the background information, an ex officio investigation was opened with the managing director of the Autonomous Community of Madrid Agency for the Re-education and Reinsertion of Juvenile Offenders in order to find out the truth of these events, as well as the reasons for which a physician had not been called nor the juvenile transferred to a hospital in view of the state of anxiety he was experiencing at the point in time of his entry.

In the report provided, it was stated that when the youth in question entered, he showed no sign whatsoever of panic or other circumstances out of the ordinary which would make his entry inadvisable or would require medical care or his transfer to a hospital. During the early morning hours of the following day, the personnel at the facility apparently went to the youth's room after being requested to do so, where they found him to be very agitated, demanding to be administered drugs given that he had strong pains in a tooth. At all times according to this report, the coordinator tried to calm him down by informing him as to the protocols for gaining access to the use of medications requiring a doctor's prescription, which caused a violent reaction on the part of the youth, the use of means of mechanical means of restraint being necessary. Once he calmed down, he passed out, the respective services being called and advanced car-

diopulmonary resuscitation being attempted, all measures being unsuccessful and his death certified.

Taking into account that the Court of First Instance and Investigation Number 2 of Arganda del Rey, despite not having opened proceedings at first, was awaiting being informed of the result of the second autopsy, which had been requested by the family members and that the Autonomous Community of Madrid was carrying out the fitting internal verification with regard to the appropriate application, in this specific case in particular, of the protocols for taking action, a supplementary report has been requested, which has not as yet been received as of the date of the writing of this report.

Civil registry

In 2011, Organic Law 20/2011 of July 21st governing the Civil Registry was published in the Spanish Official Gazette (BOE), completely revamping the current registry system in Spain which has been in force since 1957, therefore satisfying, in part, some of the suggestions which this Institution had made to the Administration in recent years concerning the need of making regulatory changes in order to improve the functioning of the registries.

As far as the Central Civil Registry is concerned, the measures adopted as proposed in the Study for Promoting the Model of Service of the Central Civil Registry (Central Civil Registry Plan of Action) can be expected to redound in a situation nearing parameters of normalcy on a medium-range basis. However, complaints have continued being lodged in 2011 concerning intolerable delays, the measures already put into practice therefore seeming to be insufficient.

In 2011, this Institution received a report from the Secretary of Justice providing an account of the processing of the measures for which provision is made under the aforementioned plan for action. Thus, an explanation is provided as to the following measures were implemented in 2011: digitizing of the Central Civil Registry record books; reinforcement of personnel; training plan; restructuring of the service for providing assistance for citizens who come into our Institution in person; automation of the sending of information among the Case Management and In-foreg 0.4 applications; and registry interoperability. These measures have meant improvements, for example, in one of the services for which there is the greatest demand, the issuing of certificates requested by mail, the times having been shortened from three months to one week. This Institution is currently carrying out a follow-up of all these measures and the efficacy thereof for the purpose of suggesting, wherever applicable, the adoption of supplementary measures.

Numerous complaints are still being lodged having to do with the delays which procedures begun with the Central Civil Registry undergo in order to have a marriage registered, as well as those related to the situation in which foreign-born spouses of Spanish citizens are finding themselves due to the Administration requiring that the marriage be registered with the Civil Registry in order to recognize their status as a family member of a Spanish citizen in order to proceed to their documentation. The registration process is delayed due to the backlog of work at the Registry, and the person in question is deprived of the rights falling thereto throughout this period of delay. In 2009, his Insti-

tution put forth a recommendation to remedy this situation which was not accepted. However, the Directorate General of Immigration has recently revised its position concerning this issue and has informed the Ombudsman's Office that it has now prepared instructions the approval of which is currently pending the report from the Directorate General of the Registries and Notariat. Therefore, the investigation is still open at this time awaiting to be informed of said instructions.

As far as the delays in the processing of citizenship procedures is concerned, in a large number of cases, on requesting information from the Directorate General of the Registries and Notariat, this Directorate General replies that the case is currently pending receipt of the required report which the Directorate General of the Police and Civil Guard must furnish. An investigation was therefore opened with this agency, which reported that a plan for action had been gotten under way for optimizing the available human and material resources.

Specific Civil Registries

In view of the volume and type of complaints lodged, this Institution is of the opinion that the legislative changes planned will not suffice to make up for the lacks detected in the functioning of the central, municipal and consular civil registries which have been in need for years now of a major allocation of human and material means and the adapting thereof to the needs of the service in the specific geographic areas where the demands are most highly concentrated. Also stressed is the fact that, in many cases, the functions of the Civil Registry are taken over by bodies which perform duties which are inherently jurisdictional and that the personnel manning the Registry be the same performing the jurisdictional duties of the courts. Part of the reasons for complaints would then have no reason for being when the administrative and jurisdictional duties are clearly separated and are performed by likewise different personnel in accordance with that which is set forth under the new law.

Meanwhile, the different agencies having authorities over the subject are still being urged to adopt the measures and changes necessary which have a bearing on the organization and functioning of the civil registries for the true modernization thereof by reinforcing the staffing assigned and improving the sharing out of the resources.

At the registries of Manacor, Terrassa, El Prat de Llobregat, Parla, Alcorcon, Alcalá de Henares, Torrejón de Ardoz and Col-lado Villalba, an increase in human and material means has been recommended for combating the delays occurring at all these registries. Fuengirola, Granollers, Denia, Arona, Telde, Arrecife, Ciudad Real, Getafe and Murcia are others also incurring in delays, Mislata and Elche are also the main subject of a large number of complaints due to their backlog of work.

Apart from the above, complaints are often lodged concerning the systems set out for making appointments at the civil registries. Numerous complaints were thus lodged due to the criteria set by the Civil Registry of Madrid, which first gives a preliminary appointment to check to assure that all the necessary documentation is available and then schedules another appointment for filing the request for citizenship. Numerous complaints have also been lodged regarding the civil registries of Ontiyent, Valencia, Alcorcón, Torrejón de Ardoz and Lleida

due to the time between the appointment first being requested and it being granted being of up to two years in some cases.

Other complaints had to do with the civil servant taking receipt of the applications on the part of foreign citizens overstepping the bounds of their duties. An investigation was therefore opened after learning of how a civil servant at the Registry in Aranjuez had been reporting people who were in irregular situations who had come into the Registry in person to complete some formality.

As far as the interviews which are to be held in the processing of the citizenship proceedings, several complaints have been received which consider it necessary to provide a remedy for the disparity of criteria existing at some registries and regretting the unsuitability of questionnaires aimed at ascertaining the degree to which the applicant is integrated into Spanish society, such as in the case of the Civil Registry of Getafe, a report therefore having been requested for the purpose of ascertaining whether the will exists to unify the criteria of the interviews for evaluating integration. In its report, the Office of the Secretary of Justice proposes the unification of criteria into future Civil Registry Regulations.

Consular Registries

During 2011, there have been two main reasons for complaint concerning the consular civil registries. On one hand, the complaints had to do with the nearly complete breakdown caused at some consulates such as the one in Havana in view of the large number of applications filed under the protection of the seventh additional provision of Law 52/2001 of December 26th for opting for Spanish citizenship.

On the other hand, numerous complaints have been received from Spanish citizens who are finding their intentions of marrying a foreign citizen thwarted or after having married, are coming up against problems to proceed to registering their marriage at the Spanish Civil Registry. Worthy of special mention are two investigations opened in this regard at the consulates in Bogota and Santo Domingo. The human and material resources assigned to the consulates for meeting the needs resulting from the volume of applications filed under the protection of the Law has been clearly insufficient. This has led to numerous citizens having come to the Ombudsman this year to put forth their disagreement in view of the impossibility of requesting an appointment for presenting their case or, having presented their case, for obtaining information regarding the status of the processing thereof.

Attorneys and Solicitors

As the institutions guaranteeing all of the fundamental rights recognized in the Constitution, the Ombudsman has continued supervising the actions of attorneys and solicitors and the institutions representing the same to ensure that that they are always within the deepest respect for citizens' rights.

The most recent annual reports have been reflecting the details of the problems stemming from the unjustified delays which have been occurring in the payment of the services rendered to the professionals for the free legal aid provided, more specifically to the attorneys of Madrid and Alcalá de Henares.



The investigation opened with the Autonomous Community of Madrid Ministry of Presidency and Justice has continued throughout the year, a further report having been received detailing the payments made within the February 27th – June 30th period for the last three quarters of 2008 and for the full years of 2009 and 2010. Having reviewed this report, the investigation was closed, the conflict however continuing and the President of the Madrid Bar Association having addressed this Institution on two further occasions.

In Bar Association President's last message, he stated that they could not guarantee the right of defense and free legal aid if the Community of Madrid did not meet its obligations in this regard. The Madrid Bar Association had apparently not availed of any economic sum whatsoever since the beginning of 2011 so as to be able to pay the cost entailed in this service, which was giving rise to a major degree of instability in the attorneys who are members of this Association. The services of which the same is in charge were therefore rearranged as of June 1st, without the Ministry of Presidency and Justice having responded to the proposals thereof. In view of this situation, this Institution proceeded to reopening this investigation in order to ascertain what measures are planned to be taken thereby in accordance with the extant budgeting provisions for the purpose of going about paying the sums certified but as yet unpaid. At the closing of this report, no reply had as yet been received.

Request for pardon

The Ombudsman has taken special interest in following the situation of a citizen who has remained in prison almost continually since 1976. Throughout this time, this prisoner, who had not committed any violent crime or any crime against individuals had found his original sentence lengthened once and again mainly as a result of his attempted escapes.

As of 2009, this Institution has processed cases concerning this citizen with the Office of the Secretary of Prison Institutions, expressing an interest in his health and regarding different vicissitudes related to his situation in prison. And for the first time, without underestimating the offenses committed at the time by the interested party, the Ombudsman decided to request the Ministry of Justice to grant him a pardon, on being of the opinion that his debt to society had been sufficiently paid. Lastly,

two Royal Decrees of December 16, 2011 passed by the previous Administration and one enacted on January 20, 2012 by the current Administration have granted the interested party three pardons having resulted in his having been released from prison.

Stolen children

Following representatives of families affected by what is referred to as the “stolen children” cause having brought their case before this Institution in person, an investigation was opened with the Office of the Secretary of Justice. Those affected by this cause reported children having been stolen within the 1940-1990 period for the purpose of unlawfully giving them up for adoption to third parties and falsely informing their parents as to the death of these children.

The Ombudsman conveyed its utmost interest in the investigations of the facts to the aforementioned Secretary's Office, stating its opinion that this matter should be dealt with in an overall manner, without dismissing the possibility of the specific judicial proceedings which have been being held. In parallel thereto, it was deemed fitting to request an official opinion from the Attorney General's Office concerning the procedural treatment being given to the complaints of the affected parties, the number of proceedings under way and the current status thereof.

One of the most outstanding measures carried out to date by the Ministry of Justice is that of appointing a coordinator within the Ministry as the person in charge of maintaining the relations with the associations comprised of persons affected by children having been stolen who renders continual support to these citizens regarding everything they were to need. Similarly, the Ministry has undertaken the commitment of coordinating to the utmost among agencies, taking into account that there are many authorities affecting other departments (Ministry of

Health, Social Policy and Equality) and the Autonomous Communities.

In this regard, taking into account the limitation entailed in the protection of data as a constitutional right, the Ministry reveals that the person who can authorize access to the documentation on record at the registries is the public defender or investigating judge in the course of court proceedings. Thus, a protocol for taking action is now under way for conducting the tests and establishing a database at the National Institute of Toxicology and Forensic Science which has been placed at the disposal of the courts and tribunals of the Attorney General's Office so that they will avail of a possible crossing of data among persons affected regarding those whom they themselves were to have resolved in favor of samples being taken.

In turn, the Attorney General's Office makes reference in the report to the fact that, for the purpose of ascertaining the true scope of the events and maintaining the due coordination, guaranteeing the principle of unity of action proclaimed under Article 124 of the Constitution and further expanded upon under the Organic Statute of the Attorney General's Office, the public defenders heading the different territorial public defenders offices have been keeping the Attorney General's Technical Secretariat continually informed concerning the scope of fact-finding investigations opened thereby as well as of any decision which might have a bearing on the merits of the case.

The Ombudsman has recently addressed the Attorney General's Office and the Office of the Secretary of Justice for the purpose of promoting these proceedings.

The Ombudsman undertakes to focus more attention on the interviews with the inmates on visits to prison facilities

The Ombudsman's Office has undertaken the commitment in 2011 of placing greater importance on the interviews with inmates during the visits made to prison facilities. Four of these visits have additionally been made with multidisciplinary teams comprised of advisors to the Ombudsman's Office and external experts. This Institution has investigated different cases of abusive treatment, alleged irregular actions by prison guards and problems concerning the prison infrastructures.

Prison administration

In 2011, Spain's prison population has maintained the downward trend which began in 2011 following a long period of uninterrupted growth. This is a positive item of data, as it implies a relative relief for the still as yet high occupancy rate of Spain's prison facilities.

In the exercise of the authorities falling to the Ombudsman both as the high commissioner of Spanish Parliament for the defense of the fundamental rights and in its facet as a National Prevention Mechanism Against Torture, this Institution has made visits to the following prison facilities: Madrid III (Valdemoro), Castellón I, Seville Women's Facility (Alcalá de Guadaira), Mothers' Facility in Seville, Albolote (Granada), Figueres (Girona), Melilla, Madrid IV (Navalcarnero), Villanubla (Valladolid), Barcelona Men's Facility, Salto del Negro (Las Palmas, Grand Canary Island), Tenerife and the Alicante Prison Psychiatric Hospital.

The visits to the Castellón I, Seville Women's Facility, Mother's Facility in Seville and the Alicante Prison Psychiatric Hospital were made by multidisciplinary teams comprised of Ombudsman advisors and external advisors who are specialists in law, forensic psychiatry, forensic medicine and criminology. A change was also made in 2011 in the methodology for conducting these visits, focusing greater importance of the interviews with inmates.

Apart from the above, 54 ex officio investigations have been opened, 15 of which are related to deaths of persons deprived of liberty in prison, either as a result of suicidal behavior, drugs or violent actions in prison. Concerning the others, several have to do with irregular actions by prison guards, yet others having to do with deficiencies affecting the facilities which the prison guards have made known through the media.

Deaths in prison

This Institution opens an investigation whenever there is news of the death of an inmate at a prison facility. The latest available data, pending receipt of the 2011 mortality report, reveals the mortality rate per thousand inmates as having been at levels similar to those of 2003, at 3.42%, and that the mortality rate is 2.7 times higher among males than among females. Nearly 65% of the deaths at the prison facilities managed by the Office



of the Secretary General of Prison Institutions are due to natural causes, whilst the remainder are divided among drugs (21%), suicides (12%), accidents (0.9%) and assaults (1.3%).

Concerning the data on suicides and attempted suicides, a total of 36 of the 56 cases of attempted suicides were by hanging, 13 due to cuts, 1 by blows and 1 by fire, another by jumping to their death from heights and 4 by ingestion. A total of 23 of the 56 cases resulted in suicide, all by hanging. Nevertheless, it is striking to find and was so pointed out to the Administration at the time, that none of the deceased was detected as being in an at-risk situation and were therefore not placed under the measures for which provision is made under the Suicide Prevention Program. This reflects the need of investing our efforts in employing each and every single one of the possibilities for improvement of this program.

Abusive treatment

An account of an investigation was given last year concerning the investigation conducted regarding the complaint put forth by an inmate, who stated having been beaten by prison guards prior to being transferred to another prison.

This inmate insisted that the medical report did not accurately state the injuries he had sustained. This investigation is currently dealing with what the prison Administration may be expected



to do in view of the complaining of abusive treatment put forth by an intern either directly or through this Institution, such as this case.

Generally speaking, the Administration has been considering that proper actions have been being taken, although it admitted that it would have been more correct for the initial fact-finding to have been done by the Prison Inspectorate by having carried out a more intense investigative endeavor and that it not to have been by the facility where the events took place. The Administration insists upon playing down these events, but the Ombudsman cannot share in this way of thinking, given that it considers these events to be serious and important enough for the Administration proper to consider investigating what took place in thoroughly to be indispensable.

During this investigation, a recommendation was made for the Administration to issue the necessary instructions in order for photographs to be taken of whatever injuries the inmates entrusted to the custody of the Prison Administration may sustain as a result of the use of coercive means or for any other reason, whether fights among inmates or self-inflicted injuries, as well as those they had at the point in time of entry into prison from freedom or from another prison establishment.

On the visit made in 2011 to the Alicante Prison Psychiatric Hospital, an full account of which will be provided in annual report of the Ombudsman in its NPM capacity, the treatment given to the inmates was analyzed given that some complaints had been lodged concerning the treatment dispensed to inmates by the prison guards. One inmate reported several prison guards for violently restraining him, in the process of which, he stated, he was dragged down a hall where there was broken glass which caused him cuts to his back. In the court proceedings held, the prison guards were found not guilty. The treatment dispensed to the inmates was positively evaluated, generally speaking, on the questionnaires given out to them.

This Institution has intervened in other cases of alleged abuse at the Seville I, Soto del Real (Madrid), El Acebuche (Almeria) and Botafuegos (Algeciras) prison facilities.

Mental patients in prison

A large percentage of persons confined in prisons have psychiatric disorders, they therefore being more highly vulnerable than the other inmates. They are confined at standard type prison facilities as well as in those establishments specifically for providing care, which are the prison psychiatric hospitals. In 2011, the proceedings of the investigations which were begun in previous years were continued, multidisciplinary visits having been made to the Alicante Prison Psychiatric Hospital and to the Castellon I Prison Facility. At the latter, special attention was focused on the degree to which the comprehensive program for the care of mental patients in prison was being implemented.

In the opinion of this Institution, the treatment of mental patients in prison must be the responsibility of the public authorities as a whole insomuch as the public spending cutback processes must be prevented from limiting the adoption of those measures which are necessary for improving the situation of these imprisoned mentally infirm persons.

In 2010, the Administration undertook the commitment of drafting a Strategic Plan for Action concerning the Psychiatric Hospitals for the purpose of analyzing the situation of the psychiatric hospitals in Seville and Alicante. This document has already been prepared and consists of an analytical section concerning the actual situation of these two facilities and another section of suggestions for improvement. In this plan, three major deficiencies are noted: overcrowding, inappropriate organizational structure (more penitentiary than health-oriented) and difficulties recruiting the necessary technical personnel, a set of suggesting being set out for doing away with the deficiencies detected. For this reason, this Institution has a positive opinion of the aforementioned plan.

On the visit to the Castellon Prison Facility, a psychiatrist from the Castellon Hospital was found to be coming into this facility every one or two weeks to provide specialized care. According to the data gathered, for the third quarter of 2011, there were a total of 35 inmates who has one or more diagnosed mental diseases (of a total of 237 inmates under treatments with psychoactive drugs) included in the comprehensive mental patient care Program, classified at the different levels thereof. However, the truth of the matter is that this program is in its very early stages, the aim being to have the medical services become more deeply involved in the multidisciplinary team.

Disabled prisoners

Disabled inmates continue to be given special attention on the part of this Institution.

In 2011, the number of inmates who had some disability totaled 3,400, more than 500 of whom have taken part in specific activities of the specialized intervention program for the mentally disabled. Mention may be made in this regard of the Administration's refusal to provide a list of the activities designed specifically for inmates affected by disability, alleging in order not to furnish this information that these activities are diverse and varied and are carried out inside and outside the prison facilities. In its report, they confine themselves to stating the general objectives of the framework programs for intervention for disabled interns.

In turn, the Autonomous Community Government of Catalunya's Ministry of Justice reported a program called "ACEPTA" being carried out at its prison facilities, the objectives of which are to prevent or shorten the prison stays of those inmates who are mentally disabled, to provide specialized care and to offer support for their comprehensive reinsertion, providing them with housing and employment.

Telemedicine

The follow-up has continued in 2011 for fostering telemedicine at prisons in order to alleviate the extant problems for physicians coming to the prison facilities and the inmates going to the hospital, given that, in the latter of these two cases, the presence of members of the Security and Law Enforcement Bodies are necessary. The Administration reports meetings and negotiations having been held with the Autonomous Communities of Andalusia, Madrid, the Basque Country and Murcia to deal with the subject of telemedicine. The Ombudsman's Office is currently awaiting receipt of an additional report requested from the Office of the Secretary General of Prison Institutions concerning this matter, out of the understanding that fostering telemedicine is fundamental for improving the situation of the inmates in this aspect of the time they serve in prison.

Female inmates with children in prison

The mothers' units are visited intensively on each visit the Ombudsman makes to prisons where these units exist, this Institution having kept an investigation open as of 1999 in this regard. In the aforementioned investigation, the Office of the Secretary General of Prison Institutions reports that, at January 1, 2011, the number of mothers with children in prison was 201, and the number of minors at these facilities being 215. Special mention must be made of the fact that, in 2011, the external mothers' unit was officially opened in Madrid to replace the unit formerly at the Madrid V prison facility. Also worthy of special mention is the interdisciplinary visit to the mothers' unit in Seville, regarding which the a full account will be provided in the Ombudsman's report in the NPM capacity thereof.

Serving community service sentences

Regarding serving community service sentences, it was stated in a report issued by the Office of the Secretary General of Prison Institutions in 2011 that more than 18,500 openings were available for serving these sentences, and that 54 Services for the management of alternative measures and sentences were available, a total of 384 Prison Institution employees having been assigned to the same. The Ombudsman acknowledges the effort which has been being made and encourages the Administration to continue this endeavor from the positive evaluation of this type of sentences for certain offense profiles.

Infrastructures

An investigation continues open with the Office of the Secretary General of Prison Institutions regarding the shortage of openings free for inmates under a standard regimen in the Autonomous Community of Madrid, despite the Estremera Prison Facility having been. For the purpose of alleviating this shortage, it was planned for different facilities for housing inmates under an open regimen to be created, such as the Social Insertion Facility in Navalcarnero and the Southeastern Madrid Facility, this Institution therefore keeping an ongoing watch as to how these evolving.

An investigation of a general nature is also being conducted for the purpose of being informed as to the official openings of new prison infrastructures of different types nationwide. The following facilities have been officially opened: the Mothers' Unit in Madrid, the Social Insertion Center in Valladolid and the Murcia II Prison Facility.

This Institution expresses its concern regarding the overcrowding of the prison facilities, especially that of the older facilities in which group dormitories still exist, some of the most important of these facilities being the facilities of Murcia, Puerto II, Melilla, Bilbao, Eivissa, Las Palmas, Alicante Cumplimiento, Alcázar de San Juan and the Victoria Kent Social Insertion Facility in Madrid. The total number of dormitories occupied by 3 inmates is 311, this being an item of data which can only be considered as being negative.

The Ombudsman welcomes the new Law for the Recognition and Comprehensive Protection of Victims of Terrorism

The new legislation concerning victims of terrorism, passed by consensus, reflects the position maintained by the Ombudsman's Office concerning this issue, which is that the victims of terrorism are victims of human rights violations. Also worthy of special mention in 2011 are the investigations conducted as a result of the clearing of the individuals of what is known as the M-15 Movement who were encamped in Madrid.

Victims of terrorism

In 2011, new legislation was enacted by way of Law 29/2011 governing the Recognition and Comprehensive Protection of Victim of Terrorism, a law which reflects the position maintained by the Ombudsman throughout the course of the processing thereof and which comes to further strengthen the system of solidarity and protection of the victims currently in force.

For some time now, this Institution has been defending the essential idea included in the preamble to this law that the victims of terrorism are victims of human rights violations and, as such, the dignity of our society is also measured by the dignity with which it supports and protects those who have been victims of acts of terrorism.

Therefore, in the opinion of the Ombudsman's Office, the new legal framework designed by lawmakers, which introduces new concepts of defense of the dignity of the victims and creates a new concept such as that of the threatened is laudable, whilst it also broadens the time-related scope, as the application thereof extends to January 1, 1960. Similarly, this law unifies the benefits which had been regulated differently to date under the former laws by increasing the amount thereof.

Security and Law Enforcement Bodies

Last year, several ex officio investigations were opened regarding alleged cases of abuse inflicted upon citizens by the members of the National Security and Law Enforcement Bodies. Worthy of special mention is the investigation opened as a result of learning of the news published concerning the complaint filed by a Moroccan women repatriated from Spain against a National Police Corps officer for sexual abuse. After it having first been verified that the Directorate General of the Police and Civil Guard had filed a disciplinary action against the police officer in question and that he had been temporarily suspended from duty as a precautionary measure whilst the proceedings were under way, proceedings were opened with the Attorney General's Office for the purpose of ascertaining the processing status of the court proceedings.

As far as possible improper or inadequate treatment on the part of the members of the Security and Law Enforcement Bodies is concerned, worthy of special note is the complaint from a

seventy-five-year-old citizen who reported aggressive and discourteous treatment on the part of two municipal officers. The investigation results in a reminder of legal duties, accepted by the Municipal Government of Madrid, so that, in their relations with the community, the municipal police officers will fully comply with the basic principles of action for which provision is made under law.

Other complaints processed have to do with deaths of citizens which are not duly notified to their family members. In these cases, reminders of legal duties in compliance with Instruction 7 of May 2008 from the Deputy Directorate of Operations have been put forth, setting out standards for full compliance with the legal duty of notifying the death of a person to the family members in which, based on the remind of this legal duty of the police put forth in due course by this Institution, the protocol for taking action in such cases is set forth.

Public safety

In 2011, complaints were also lodged concerning the notification of the penal proceedings in those cases in which the offender is a minor. This led to the opening of an investigation with the Office of the Undersecretary of the Ministry of the Interior and with the Office of the Undersecretary of Finance and Public Administrations, in which a number of suggestions previously made to the Ministry of the Interior in 2007 were once again put forth. In the opinion of this Institution, if the result of the administrative offense committed by a minor is the charging of a fine, the fine is most logically not going to be paid by the minor, but rather by the parents or guardians thereof. And, therefore, the parents or guardians must know what is being required of them. Additionally, there is obviously a need for a new regimen regulating the penal administrative law for minors which, as is already the case for Penal Law, includes penalties appropriate for those who are over 14 years of age but younger than 18 years of age, declares minors of this age as not subject to having charges pressed against them, includes the greater interest of the minor and the re-educational values above and beyond the money collecting purposes.

As far as the situations of crime in the streets is concerned, special mention must be made of the measures taken concerning what is known as the "street drinking" phenomenon. In this re-

gard, measures were taken after having received a complaint due to the police failing to take action in view of alcohol being drunk in the Street at different points in the Autonomous Community of Madrid.

National identification document-issuing offices

Some complaints are still being received from time to time concerning dysfunctions in the running of these offices. Hence, during 2011, certain problems were detected due to the impossibility of making an appointment in advance in order to renew a National Identity Card in all of the municipalities encompassed within the close vicinity of Alicante, Orihuela and Elche so as to be able to renew national identification documents. This complaint having been conveyed to the Directorate General of the Police and Civil Guard, they assigned officers with the express commitment of rendering their services during the evening hours, making it possible to increase the job positions working in preliminary appointments at different offices.

Citizen rights

This Institution investigated the process of clearing the individuals of what is known as the M-15 Movement encamped at different points in the city of Madrid. The clearing process carried out on August 2nd took place peacefully and pacifically, as stated in the formalities investigated by Number 3617 of the Provincial Information Brigade of Madrid and in the report issued by the Directorate General of The police and Civil Guard. In turn the restrictions on free movement through the Puerta del Sol and adjacent streets are justified in the reports furnished to this Institution by the Government Delegate in Madrid for the purpose of guaranteeing public safety by "preventing the pedestrians and merchants in the area from being affected, especially in police actions in view of further potential rallies, riots or occupations of public areas".

In the opinion of this Institution, however, and considering the events leading up immediately to the restriction of freedom of movement through the Puerta del Sol and adjacent streets, other alternative measures could have been adopted which would not have involved the limiting of a basic right.

Apart from the above, the police actions on the occasion of the protest against the Pope's visit to Madrid on August 17, 2011 gave rise to a number of complaints from citizen who considered them to have been disproportionately violent. The Office of the Government Delegation in Madrid reported that action had been taken at all times in full compliance with the Constitution and the laws, giving the fitting instruction for guaranteeing the exercise of the fundamental right of meeting as well as the rights and liberty of all citizens. Nevertheless, it also stated that the Ministry of the Interior, in the exercise of its penalizing authorities, has opened disciplinary proceedings regarding three officers in regard to the aforementioned incidents. The investigation opened by this Institution is currently still under way, and the Office of the Government Delegate in Madrid has been requested to expand upon the information provided and to specify the orders given to the Security and Law Enforcement Bodies, especially for guaranteeing the exercise of the fundamental right of meeting. A request has also been placed with



the Directorate General of the Police and Civil Guard for a report concerning the processing of the penalty proceedings opened and the responsibilities which it has been possible to determine regarding the complaints received in regard to the incidents of August 17th and the confidential information which has been gathered for determining other possible responsibilities.

Detainee rights

Concerning detainee rights, the Ombudsman's Office considered these rights not to have been respected in the case of one citizen, a college professor arrested inside the building of the Malaga Law School by Civil Guard officers who handcuffed him despite his not having put up an resistance either to the searching of his office or his arrest. Nor was the due reserve and discretion observed for the purpose of his arrest transcending to a minimal degree, as his arrest was carried out in the presence of students, professors and reporters. This police action gave rise to a recommendation to the Directorate General of the Police and Civil Guard so that, in all those arrests made in the future by the Security and Law Enforcement Bodies, the rights of the detainees in police custody will be guaranteed, placing special emphasis on the weighting of the cases in which there is a need for handcuffing the detainee and in the safeguarding of the rights thereof to have their image and reputation protected.

Religious freedom

Complaints have continued being lodged by Catholic citizens having wished to make a declaration of apostasy and had placed a request with the ecclesiastical authorities for the renouncement of the Christian faith to be recorded on the baptism certificate. In view of the church officials' refusal, they have gone to the Spanish Data Protection Agency, which has on occasions accepted claims and has urged the Archbishopric to furnish the claimants with certification on which it is stated the fact on their



baptism certificate that they had exercised their right of cancellation or that it state the reasons so preventing.

Apart from the above, on the occasion of the World Youth Day being held, complaints were received stating the discrepancy regarding the financing and use of public resources for this meeting. The concern encompassed the participation of central government, autonomous community and municipal agencies in the acts involved in organizing and holding the Day, given that it might have violated the principle of laity or neutrality of the State for which provision is made under Article 16.3 of the Constitution which sets forth no faith shall be of a statewide nature. Those party to the complaint were informed that one must distinguish between the religious acts which the State cannot in any way whatsoever carry out as a result of being contrary to religious neutrality and other acts which the State carries out as a participant in an act outside of the bounds of its authorities but the organization of which cannot be attributed to the State. For the latter, Article 16.3 of Spain's Constitution is applicable, which sets forth that the public powers shall take into account the religious beliefs of Spain's society. Therefore, the participation of central government, autonomous community and municipal agencies in the meetings of this Day cannot be considered to be a violation of Article 16.3 of the Constitution. Concerning the central government financing of these meetings, it was informed that the State may allocate public infrastructures for properly holding acts of a private nature but with multitudinous citizen participation, as the same are also made available for reasons of safety at multitudinous sports events.

Traffic

Over recent years, the competent agencies have made a tremendous effort to lower the highway death rate figures. In 2000, the statistics showed a figure of 5,776 deaths and 27,764

serious injuries. In 2010, these figures dropped to 2,478 deaths and 11,995 injured.

The perception of many citizens who come to this Institution to report that their rights are being violated systematically and that solely through administrative court channels do they have sufficient guarantees for obtaining a just decision is cause for concern. Many thereof complaining that, given the amounts of the fines, it is not worth their while to file an appeal through the administrative court and express being resigned to paying the fine, despite their being fully convinced of the Administration having abused the power of its position.

The problems involved in the notifications give rise to numerous complaints from citizens. In these cases, the Institution accepts the claims for which there is documentation standing as proof of the notifications not having been made according to law. Complaints have also been processed regarding the implementation of the expedited proceedings, which is an incentive for voluntarily paying the fines.

Additionally, the elements of proof in the penal proceedings, such as, for example, radars, have also been a subject of dispute. In one of the claims filed, the claimant alleged having been fined based on a cinemometer which did not meet the legal requirements. The report from the Spanish Directorate General of Traffic revealed that, in the case investigation phase, a certification of the verification of the cinemometer with which the violation was filmed was sent to the interested party, showing a date past the expiration date, as a result of which the penalty proceedings was then proceeded to be revised.

Lastly, complaints were processed related to the right of persons with limited mobility to park in places provided for this purpose. Worthy of special mention in this regard is a suggestion put forth by the Municipal Government of Madrid in order for an application which had been rejected earlier to be reconsidered, assessing both the characteristics of the vehicle the interested party uses for moving around town as well as the parking spaces currently located in the area where the person in question resides.

Also, following a measure taken by this Institution, the Spanish Federation of Municipalities and Provinces (FEMP) has undertaken to disseminate a report from the Spanish Directorate General of Traffic among the local governments concerning the possibility of intervention on the part of the local police forces for removing vehicles in the private spaces which are used by a groups of users and which, by law, are under the obligation of setting aside their spaces to be used by handicapped persons when they fail to abide by the prohibition of parking in the reserved spaced.

Spanish citizens imprisoned abroad

The situation of Spanish citizens imprisoned in foreign prisons continues to be one of the issues causing the greatest concern to this Institution from both the standpoint of fundamental rights as well as from the humanitarian standpoint.

According to data from the Ministry of Foreign Affairs and Cooperation, at December 30, 2011, the number of Spanish citizens under arrest abroad totaled 2,519. Most of these 2,519 Spanish citizens are in Peru (266), Italy (214), France and Brazil

(203), Colombia (200), Morocco (191), Portugal (190) and Argentina (153).

In 2011, complaints were received from Brazil, Panama, the Dominican Republic and Thailand. Additionally, two deaths of Spanish prisoners abroad were investigated (one in Panama and another in Gibraltar).

Similarly, complaints also continued being lodged due to the processing of prison transfer proceedings for serving their sentence in their homeland. Within this context, the most outstanding problems arose regarding a Spaniard extradited to the United States and with another extradited to Italy.

Lastly, taking advantage of the celebration of the assembly of the Latin American Federation of Ombudsmen, the Acting Ombudsman visited the Prison Complex in Ezeiza, Argentina, where she mediated with the authorities in order for a terminal Spanish prison to be able to return to Spain. The Ombudsman also visited three Spanish detainees in Malta and two prison fa-

cilities in Thailand. Months afterward, a letter of complaint was received from a Spanish female sentenced to life imprisonment in that country, after which the fitting investigation was opened.

Representatives from the Institution also made contacts with Spanish prisoners at the Sarita Colonia Prison in Peru. Following a request made to the Peruvian Deputy Minister of Justice, the Spanish prisoners at this prison were transferred to a special module for foreign prisoners with better living conditions.

Lastly, following the Ombudsman's visit to the Eastern Prison and to the Santa Martha Acatitla Men's and Women's Prisons, a request was made for the intervention of the Chairman of Mexico's National Human Rights Commission concerning transferring a Spanish citizen who had been in prison since the 1980's without having committed any violent crime to Spain to serve out his sentence, this being a measure which has concluded favorably.

Cava de Llano pleased that her recommendations having favored several legal reforms and major changes in administrative procedure

In 2011, legal reforms and changes in administrative procedures have been made in keeping with this Institution's recommendations. Organic Act 10/2011 stipulates that any foreign citizen in an irregular situation who is a victim of gender violence may go to the police to file a complaint without any fear of being expelled from the country. Advancements have also been made in combating human trafficking, and the Alien Affairs Regulations recognize the condition of being the parent of a Spanish minor as an exceptional circumstance constituting established roots in the community.



Emigration and assistance to Spanish citizens abroad

The main cause for complaint under this heading is the insufficient number and quality of the services rendered by the consulates to Spanish citizens residing abroad. Additionally, Spanish citizens have contacted this Institution reporting the difficulty of obtaining a passport due to the implementation of a centralized issuing system. The complaints concerning the consular assistance provided to Spanish citizens residing abroad who are in situations of need or dire financial straits have also given rise to an investigation having been conducted. Lastly, several measures taken by the diplomatic missions in emergency situations have been investigated.

Entry into Spain

The requirements for filing requests for a letter of invitation inviting citizens from foreign countries for reasons of tourism or private reasons have given rise to complaints in 2011. Once more, it was found that the different police stations were requiring different documents of private citizens or even documents not included in that order. Following the Ombudsman's intervention,

the Office of the General Commissioner of Alien Affairs and Border Control issued an instruction clarifying what documents are allowed to be required by all alien affairs offices, thus eliminating the differing criteria found to exist and expressly prohibiting that a copy of the national identity document of the party extending the invitation be required.

Once again this year, the complaints related to refusals to allow citizens to enter the country whose legal residency was not sufficiently well-proven in the judgment of the police rank high under this heading. It has been found that entry into the country has been refused to aliens who were legal residents and who were carrying a permit to return, due to their request for renewal of their residence permit to have been denied based on the police database even when the aforesaid decision had not been notified to the interested party. Following different investigations opened, a recommendation has been put forth to the Office of the General Commission of Alien Affairs and Borders on it not being acceptable for a decision denying the renewal of a work and residence permit which had not as yet been notified to the interested party to be capable of rendering the effect of preventing their entry into Spain.

Treatment of stowaways

In 2010, an investigation was opened concerning the treatment given to some stowaways in the port of Valencia who declared themselves to be minors. The investigations made it possible to find that the police authorities decided to conduct tests for determining their age, having evaluated these tests and having considered the interested parties to be of legal age without any involvement whatsoever on the part of the Attorney General's Office, which confined itself to taking receipt of the notice after the fact. In view of noncompliance with the regulations on this subject, a reminder was put forth to the Office of the General Commissioner for Alien Affairs and Border Control regarding immediately informing the Attorney General's Office as to the presence of undocumented foreign minors whose status as being underage cannot be determined in all due certainty.

A reminder was also put forth to said agency as to the obligation of providing assistance to the stowaways in the form of an interpreter if they do not speak Spanish. This same reminder of legal duties was conveyed to the Office of the Deputy Government Delegate in Valencia, and the Attorney General's Office was requested to furnish a report concerning the standard procedure established in Valencia for cases in which the police authorities locate a foreign minor whose status as being under age cannot be determined in all due certainty and the existing protocol for taking action among the different administrations involved within a provincial or autonomous community scope at the point in time of the occurrence of the events.

The Office of the General Commissioner for Alien Affairs and Border Control deems that the action taken by the police was in keeping with the laws and regulations in force. However, the Office of the Deputy Government Delegate in Valencia was of the same opinion as the Ombudsman's Office and addressed a resolution to the Autonomous Community of Valencia Police Headquarters for the purpose of the procedure set forth under Article 35 of the Immigration Laws being respected in the future. In turn, the State Attorney General's Office sent an official communication to the Autonomous Community of Valencia Police Headquarters as a reminder of the enforcement of Article 35 of the Immigration Laws in the terms set forth under Circular 2/2006 and State Attorney General Inquiry 1/2009.

Lastly, this Institution has reiterated to the Office of the General Commissioner of Alien Affairs and Border Control the requirement that the age assessment process be directed by the Attorney General's Office, having put forth the reminder thereto that on the records completed in accordance with that which is set forth in the instructions on the treatment of stowaways, there is no mention made of the aid of an interpreter or translator, which justified the intervention of the Ombudsman's Office.

Unauthorized border crossings

In the 2010 report, an account was provided of the visit to the Temporary Immigrant Residence Facility (CETI) in Melilla at the time when the expansion works were under way for building a news building for the purpose of alleviating overcrowding. In 2011, we have been informed as to the fact that this facility is now going to be revamped, in addition to a program requested by this Institution for the prevention, detection and treatment of victims against human trafficking being scheduled to be implemented once the improvements in question have been made, regarding which further information has been requested.

Following the visit made to the Temporary Immigrant Residence Facility in 2008, improvements have been made, this Institution still as yet being in need of creating family modules, given that, although being in agreement with the Directorate General of Immigrant Immigration which has committed to foster these groups moving out to humanitarian aid programs on the mainland, the experience thereof goes to show that, in practice, many of these families remain at the facility for a long time before being transferred. In 2011, an ex officio investigation was opened, in turn, as a result of having learned via the press of a quarrel having occurred among residents and the fact of the facility being overcrowded.

Unaccompanied foreign minors

In the 2010 report, this Institution expressed its concern in view of the increasing number of complaints regarding the tests for determining the age of both aliens carrying no documents as well as those identified by way of a passport issued by their country of citizenship whose status of being under age was found questionable. As a result thereof, two working meetings were held toward the end of 2010 at this Institution's headquarters for the purpose of having the benefit of the contributions of specialists in legal and forensic medicine, representatives from all the different administrations having authority over this subject and the different non-governmental organizations. Following these meetings, an in-depth study of the situation was begun, having resulted in the presentation of the monographic report "Children or Adults? Age assessment Procedures" submitted to Spanish Parliament in September 2011.

The aforementioned monographic study ends with a chapter of conclusions and 41 recommendations addressed to all government agencies having authority over this matter. At the point in time of the closing of this annual report, some of these agencies had already specifically stated their acceptance of such recommendations, information concerning the measures they are going to take, the replies from the remainder of these agencies currently being awaited, the general assessment of the degree of acceptance of the recommendations put forth in the report therefore being made next year.

Apart from the above, the complaints related to the age assessment process have continued to be a constant in 2011. This Institution still currently has an investigation under way which was begun at the very end of 2011 after having received a complaint from a non-governmental organization lodging the same in the name of three underage citizens of Malawi who came to Spain as participants in the World Youth Day activities and did not return to their country when the same reached an end. These minors hold passports issued by Malawi complete with the required Schengen visas issued by the German Embassy in Malawi. However, after the autonomous juvenile protection institution having initially provided them with shelter at a juvenile protection facility then later notified the Attorney General's Office as to the age assessment tests being conducted in view of their distressed situation, following which two of the three were declared of full age, whilst the third refused to undergo the testing. The Attorney General's Office decrees analyzed include no statement of reasons or reference to the specific circumstances of the interested parties which may have possibly given rise to the reasons for having doubted the reliability of the details stated on the passports. Neither are the results of the tests nor the application of the pertinent range limits to the findings stated. As a result of all of the foregoing, the investigation is still under way at this time after informing the Attorney General's Office as to the substance of the complaints.

Concerning undertaking guardianship of unaccompanied foreign minors, this Institution has been stressing the need of there being no delays involved therein. In this regard, it has been repeatedly stated that although due care be provided for a minor, a delay may diminish the minor's rights, mainly the right thereof to legal residence granted thereto under the regulations in force. The conclusions of the meeting of public prosecutors specialized in minors and alien affairs regarding which informa-

tion has been provided on the part of the Attorney General's Office are in agreement with the thinking of this Institution and point out that de facto custodianship or temporary guardianship cannot go on indefinitely, considering a three-month time period to be sensible for setting up guardianship. However, failures to comply with this time period continue to be the norm in a major number of Autonomous Communities.

The new alien affairs regulations have set forth specific measures aimed at making the Foreign Minors Registry truly effective, given that, as was stated in last year's report, the inadequate management thereof was making this registry ineffective. Specifically, these regulations set forth the obligation of recording in this registry: the minor's details, the Attorney General's Office decree in which the minor's age is established and the non-appealable final decision concerning repatriation. These regulations additionally assign the coordination of this Registry to the State Attorney General's Office. Also to be recorded in this Registry is the data including the transfers of the minors from one Autonomous Community to another, this being an item of data which the Ombudsman deems of major importance for the purpose of preventing repeatedly overlapping administrative measures.

Visits to facilities

In 2011, the investigation which had been opened as a result of the visit conducted to the "Playa Blanca" Juvenile Care Facility in Puerto del Rosario (Fuenteventura) was concluded, the follow-up on the "El Fondillo" Juvenile Care Facility in Las Palmas on Grand Canary Island having been carried out. Specifically, a letter was sent to the Canary Island Directorate General of Juvenile Protection and Family stating that although improvements had been found at this facility, especially in the facilities per se and in the furnishings, organization and cleanliness of this center, the staffing and qualifications of the personnel were found to be insufficient. In addition thereto, complaints were still being lodged regarding the food and there being no sporting or leisure-time entertainment activities which might aid toward personal development, entertainment and the acquisition of social skills on the part of the minors residing there. This investigation is currently still continuing.

As far as the "La Esperanza" Unaccompanied Foreign Minors' Facility" in Ceuta, this Institution put forth the need, in 2010, to the Ceuta Ministry of Social Affairs, for a new facility to be built in view of the major structural deficiencies detected. Nevertheless, until the budgeting possibilities so allow, several improvements were encouraged to be made urgently. Afterward, the Attorney General's Office visited this facility and also requested improvements or closing the facility. Additionally, toward the end of 2011, the Attorney General's Office visited this facility again and noted that closing this center seemed to be the only alternative. A further report from the Ministry in question is currently being awaited, as a result of which this investigation continues to be open.

The investigations regarding the "Nuestra Señora del Cobre" facility in Algeciras and the "Fuerte de la Purísima" Minors' Facility in Melilla still currently remain open.

Alien Internment Centres

In 2010, advisors to this Institution assigned to the National Mechanism for the Prevention of Torture and other Cruel, Inhu-

man or Degrading Treatment or Punishments (NPM) visited the alien internment centres in Algeciras (Cadiz), Barcelona, Madrid, Malaga, Murcia and Valencia, as well as the facilities existing in Tarifa (Cadiz) which are also used as a internment facility in practice. The visits to the facilities in Las Palmas on Grand Canary Island, Santa Cruz de Tenerife, Valencia and Madrid have continued throughout 2011. Similarly, another visit was conducted, in the company of an external expert who is a specialist in legal and forensic medicine, to the Alien Internment Centres in Barcelona at the first of 2012. The follow-up of the aforementioned visits will be set out in the respective 2011 annual report which the Ombudsman will be presenting in the NPM-related capacity thereof.

Since Spain's Constitutional Court issued a ruling in 1987 as to depriving aliens of their freedom as a result of their having committed an administrative violation not being unconstitutional provided that the deprivation in question is subject to judicial control and that the decision of confinement has been adopted by way of a court decision stating the grounds for said decision, the Ombudsman's major endeavor in this regard has been to verify the actual existence of said judicial control and remind the Administration as to these centers not being penitentiaries, as a result of which every precaution must be taken when regulating the living conditions of the individuals held therein. Supplementary provision three of Organic Law 2/2009 of December 11th allowed the Government a six-month period for preparing a set of regulations governing the holding regimen. In any case, the need must be stressed of thoroughly regulating the conditions of the deprivation of liberty at these centers by using a tool of sufficient regulatory range, given that it could go so far as to regulate the exercise of fundamental rights.

The visits to the holding facilities and the processing of the complaints received concerning this subject have allowed this Institution to identify the most significant deficiencies in the current model, regarding which it has informed, in a timely manner, the different Government Administration agencies having authorities over this matter. Firstly, a marked tendency has been identified of placing priority on the security and police control-related measures at these centers. It would be more logical for police custody to be carried out from outside the facilities by assigning the role of coordinating the living activities to the personnel specialized in social intervention. The need has been pointed out of setting up some effective mechanisms for checking the police actions inside these centers, due mainly to the guards working at these facilities not being identified, as well as the shortcomings and limitations of the video surveillance system, which is not installed in all areas and allows for only a limited recording and subsequent storage of the images. This Institution has also expressed its concern regarding the general lack of social worker services inside these centers. Additionally, it has been found that no uniform criteria exist for requesting admission to an AIC, aliens who, after being released from prison, are pending being deported therefore being intermingled with people who have been arrested for merely not residing legally in the country.

Concerning the subject of Alien Internment Centres, as at all other centres where people are deprived of their freedom, this Institution opens an investigation every time that it learns of the death of an inmate or an alleged case of abusive treatment.

Thus, an investigation was opened regarding the death of one inmate at the AIC in Barcelona and of another in the one in Madrid. Additionally, six investigations opened in previous years concerning five complaints regarding alleged abusive treatment at the centers in Barcelona and Madrid were concluded after being informed as to the temporary discontinuance of the different criminal proceedings opened. An investigation has also been conducted of two complaints from citizens who were in the AIC in Madrid. Apart from the above, an investigation is currently still continuing for the purpose of ascertaining the circumstances in which an inmate who reported having been subjected to abusive treatment at the AIC in Valencia was expelled from Spain.

Expulsions and returns

This Institution is especially pleased concerning the reform made in the Immigration Laws by Organic Law 10/2011, allowing any foreign citizen in an irregular situation who is a victim of gender violence to be able to go to the police to file a complaint without any fear of proceedings being open against them for expelling them from the country. The Ombudsman had been denouncing this situation since 2004. However, the Ombudsman's Office believes that headway must continue to be made for the purpose of achieving the objective of no foreign citizen in an irregular situation who is a victim of any type of offense being in fear of filing a complaint in Spain.

In previous reports, the need was set out of reinforcing some aspects of the protocol for police action for repatriation and transfer of foreign citizens by sea and by air, especially regarding that which has to do with physical restraint techniques. Different measures have been taken concerning this issue. The follow-up on the court proceedings opened in 2007 for clearing up the death of a Nigerian citizen in the airplane on which he was being transferred to his country has continued. In another case, a citizen of Ecuador put up resistance to the execution of the expulsion, being injured as a result thereof. The court proceedings opened following the complaint filed were closed due to the impossibility of producing the indispensable evidence, as well as due to the medical reports, which revealed injuries to both the interested party as well as to the police officers involved. In view of the complaints lodged and the number of court cases which are finally dismissed due to the impossibility of continuing the investigation as a result of the interested party having been expelled, the Ombudsman will remain alert to identify any deficiencies which might exist in the procedure and propose the necessary improvements, wherever applicable, so that no case of the use of excessive force during the process of repatriating foreign citizens will go unpunished.

Human trafficking victims

Law 10/2011 introduces some major advances for combatting human trafficking along the line of that which has been requested by the Ombudsman. This law broadens the protection provided to female victims of human trafficking who decide to report the person exploiting them, this protection also being extended to cover the victim's children and anyone who has close family or any other type of ties with the same when proof is furnished as to the helplessness thereof against the alleged traffickers. This law also sets forth the obligation of setting out the



reasons for refusal of the reflection period and the right to file an administrative appeal.

The remarkable efforts made over the past few years by the National Security and Law Enforcement Bodies, autonomous community police forces and authorities responsible for the fight against the trafficking of human beings who are working toward combatting this new form of slavery have broken up numerous networks which had been operating at different points in Spain. In this regard, special mention must be made of the fact that, in 2011, a large number of ex officio investigations have been conducted for the purpose of ascertaining what protection is being provided to the victims freed in these police operations, focusing particularly on minors, as well as the course of processing the criminal proceedings prosecuted for such events. These measures having to do with women and girls from both European Union member States as well as citizens from countries outside the European Union who are victims of sexual exploitation located in different provinces such as Cadiz, Almeria, Barcelona, Girona, Granada, Eivissa, Lugo, Lleida, Malaga and Cordoba, Pamplona, Seville, Tarragona and Zaragoza, as well, also, as male aliens exploited for work-related reasons who were freed in the localities of Cadiz, Madrid, Cantillana (Seville), Toledo and Valencia. The investigations have similarly expanded to include cases of exploitation for begging, cases in the province of Castellón and Palma de Mallorca having become known. In all of these cases, successive information has been requested concerning the situation of those involved up to the final granting of the respective residence permits for exceptional circumstances or, alternatively, the return of the victims to their homelands, as well as the assistance provided to all females who are citizens of the European Community, especially those of Romanian nationality, who are victims of exploitation.

This Institution is currently deeply involved in preparing a monographic report on this new form of slavery which will be presented in 2012 and in which an account will be given of the measures, complaints and meetings held by the Ombudsman's Office in defense of human trafficking victims.

Consular offices

Concerning the assistance provided and communications with the consular offices, the most frequent complaints have had to



do with the way treated by the consulate or the problems entailed in getting in touch with the consulate.

Apart from the above, this Institution has once again taken a hand in numerous complaints for investigating the substance of the reasoning set for rejecting applications for residence visas as well as appeal judgments.

There have also been frequent cases detected in which the consular agencies refuse a residence visa for family regrouping on deeming that the marriage of the interested parties is a simulated marriage or marriage of convenience. In 2010, an account was provided of the suggestion put forth to the Consulate General of Spain in Santo Domingo, which had rejected the application for a visa of a Spanish citizen's spouse despite a copy of the official family register book providing a record of the marriage having been registered having been furnished, in order for the decision made to be retracted. This year, the suggestion was taken and a new decision has been issued granting the visa.

Alien affairs offices

In 2011, the Ombudsman's Office opened investigations at several foreign offices where deficient service has been detected.

Special mention may be made of the follow-up to the visit made to the Alien Affairs office in Barcelona toward the end of 2010, after which successive reports have been received specifying the measures taken for the purpose of increasing the number of civil service employees, as well as adapting their profile to the task of making decision concerning the appeals by means of training measures. In this regard, special mention may be made of the fact that, in 2011, fewer complaints have been lodged regarding delays at the office in question, there having been a major rise in the number of applications to which a reply has been furnished within the appointed time period, although some delays still continue to exist. Similarly, information is provided concerning the office in question abiding by the regulations in force concerning the processing of complaints and

suggestions on the part of those using the service provided and that of the improvements in the case file storage process, as well as in the custody of the return authorization forms. Apart from the above, notice has been received as to a preferential system having been set up for requesting appointments in advance concerning applications for residence of an exceptional nature, such as those filed for humanitarian reasons in view of situations of sudden illness. Lastly, mention has been made of a pilot test currently pending being conducted regarding a computer application which would electronically manage and improve the processing of residence and work permit renewals.

Residence proceedings

The complaints have continued in regard to refusals of visas for family regrouping purposes as a result of the consulates considering the fact of other members of the family remaining in the country of origin as not being compatible with the objective of the family regrouping process. A reminder was put forth as to the paragraphs of Article 17 of Organic Law 4/2000 setting forth that it be compulsory for the regrouping foreigner to have to regroup spouse and children all at the same time.

Apart from the above, complaints are still be lodged concerning family regrouping visas being denied to spouses of residents on the marriages of the applicants being considered fraudulent. A reminder was put forth regarding the aspects included in case law preventing the decision of the consular authority from being based solely on the consul's own person opinions, this being the reason for which this Institution has put forth several suggestions on the order of the refusal of the visas for which application was filed be retracted. It was also found to be necessary to put forth a reminder as to the decisions having to include an explanation as to the reasoning by virtue of which the competent authority determines the alleged marriage of convenience by avoiding the use of standard forms.

Article 186.1 of the Alien Affairs Regulations stipulates that in order for a residence permit to be granted to minors who were not born in Spain who are children of legal residents, substantiating proof must be provided as to the parents or legal guardians thereof fulfilling the economic means and housing-related requirements stipulated under the Regulations governing family regrouping. On the occasion of one complaint received, it was found that the strict application of these requirements may give rise to situations not sought by this rule of law, on being contrary to the higher-priority interest of the minor in question.

As regards the residence permits for exceptional circumstances, this Institution is pleased by the fact of parenthood of a Spanish minor being an exceptional circumstance constituting the existence of established roots in the community. Numerous suggestions had been put forth on the part of the Ombudsman concerning this issue for the purpose of this being taken into account as a circumstance denoting obviously established roots in Spain.

Asylum

An account was provided last year as to the reminder of legal duties put forth to the Directorate General of the Police and Civil Guard so that when questioning is done for the purpose of iden-

tifying victims of crimes of human smuggling or trafficking, the interviews will be held once the asylum proceedings have been completed so that they will be held in the presence of an attorney. The aforesaid Directorate General has heeded this reminder and has informed this Institution that it has now given instructions for full compliance thereof.

A recommendation was put forth by this Institution to the Sub-directorate General of Asylum recommending that it adopt the measures necessary to guarantee differentiating treatment for the requests for international protection filed by persons in a situation of vulnerability to which reference is made under Article 46 of the Asylum Law and that the befittingness under law of including a provision under the Asylum Regulations which would set out a specific procedure that would take into consideration the degree of maturity in the case of minors being evaluated. At the point in time of the writing of this report, no response has as yet been received to the recommendation in question.

Lastly, the Ombudsman's Office would like to spread upon the record the pressing need for regulations to be enacted further expanding upon Law 12/2009 of October 30th governing the right of asylum and subsidiary protection.

Equal treatment

The investigation with the Directorate General of the Police has been continued regarding the identification checks conducted on citizens from foreign countries throughout Spain. In 2010, 141 associations filed complaints with the Ombudsman requesting that an investigation be opened covering the identification checks being conducted on aliens. Additionally, several NGOs have furnished this Institution with specific reports concerning the existence of these practices. All of these studies come to the conclusion as to identification checks for reasons of ethnic profiling indeed existing. This existing situation has also been a source of concern on the part of international organizations to which Spain in part, including the latest report on Spain published on February 8, 2011 by the European Commission against Racism and Intolerance, the last review of the interim report from the United Nations for the Elimination of Racial Discrimination regarding Spain, or the Decision of the United Nations Human Rights Committee of August 17, 2009, ruling a police action reported as a result of an identification check in which the racial criterion was employed as indicative of a higher probability of the interested party not being a Spanish citizen as contravening Article 26 of the International Pact of Civil and Political Rights consecrating the principle of non-discrimination and sentenced the Spanish State to pay the complainant an indemnification.

Taking into account the large number of complaints concerning identification checks, a recommendation was put forth toward the end of 2011 to the Directorate General of the Police for the fitting instructions to be given for the purpose of eradicating the practice of identification checks based on ethnic and racial profiling and that control mechanisms be set up after the fact regarding identification practices in public places.

Similarly, the investigation has also continued with the Office of the General Commissioner of Alien Affairs and Border Control

regarding the interpretation restrictive of the rights of foreign citizens in terms of ethnic traits of circular 1/2010 from the Office of the General Commissioner of Alien Affairs and Border Control. Numerous complainants have reported having been "preventively" arrested and transferred to police facilities, being legal residents, when proof was not provided as to their residing legally in Spain during the identification check.

This Institution has reiterated that from the analysis of the legal regulation in the Immigration Laws, in the Public Safety Organic Law and under the Code of Criminal Procedure, there is no legal authorization for making a "preventive arrest" of foreign citizens duly identified and transferring them to the police station for the purpose of initiating disciplinary proceedings for expelling them from the country due to a violation of the Immigration Laws. Mention has been made of the fact that the transfer of citizens identified in irregular situations is not justified by the "pertinent questioning and procedures", as has literally been stated by the aforementioned Office of the General Commissioner, which are included under current Article 218 of the Alien Affairs Regulations, on this Article making reference to the measures preliminary to the opening of the disciplinary proceedings.

In this regard, the Ombudsman has put forth a reminder as to the preliminary measures for which provision is made under Article 218 of the Alien Affairs Regulations having to be construed and enforced in accordance with the criteria of reasonability, suitability and accordance with the limitation of a fundamental right such as that of Article 17 of Spain's Constitution. This type of deprivation of liberty, to which the Directorate General of the Police refers as "precautionary arrest", does not meet the requirement of need or proportionality, given that a citizen is being deprived of their liberty as a result of not providing proof of the requirement of legally residing in Spain. The only police action possible according to law should consist, as would be done in view of any other administrative violation, of writing a report with the details identifying the foreign citizen and sending the same to the competent administrative authority so that, wherever applicable, the disciplinary proceedings may be opened. Solely within the framework of this procedure would it be befitting under Law that the investigating judge order the precautionary arrests for which provision is made under Article 61.1f) of the Immigration Laws.

A reminder was therefore put forth concerning the legal duty falling to the Directorate General of the Police of not proceeding to the arrest and subsequent transfer to police facilities of duly identified aliens if the requirements are not met as stipulated under law for a criminal arrest for of detention for identification under the Public Safety Act or, alternatively, for precautionary arrests as stipulated under the Immigration Laws. Similarly, a recommendation has been put forth to the Directorate General of the Police regarding the aforementioned circular being modified such that the cases of "precautionary arrest" and transfer to police headquarters of identified foreign citizens will be properly interpreted, and the practice detected, consisting of proceeding to the arrest of identified foreign citizens and their subsequent transfer to police facilities when disciplinary proceedings are opened for being unlawfully in this country will cease to exist.

School admissions criteria and the university grading systems top complaints

In the area of non-university education, the complaints concerning school facilities, criteria employed in student admissions procedures and problems with school transportation have continued to be frequent in 2011. In turn, regarding university-level education, problems concerning scholarships and aid plus the grading systems have been at the top complaints lodged.

■ Non-university education

As in previous years, the majority of the complaints concerning school facilities refer to the public schools used for early childhood education schooling, especially for the second cycle thereof. These complaints set out problems regarding their unsuitability: undersized capacity or lacking certain spaces, defects, obsolescence and lack of building maintenance. They also denounce improvisation in the solutions and delays, use of prefabricated classrooms or spaces meant for other purposes which are inadequate and located away from the social setting.

The ex officio investigation initiated by the Ombudsman in October 2010 concerning the actual incidence of the use of temporary facilities continued in 2011. The responses obtained from the educational administrations have varied to different degrees regarding the detail of the data provided, reveal highly differing degrees of incidence on each community, stressing the systematic use of prefabricated classrooms in the Autonomous Communities of Catalunya and Valencia, whilst in the Autonomous Communities of the Balearic Islands, Cantabria, Extremadura, Galicia, Castile and Leon, Madrid and Navarre the use thereof tends to be decreasing rapidly.

School enrollment and admissions

The problems regarding the enrollment of students at the early childhood education level are related to the lack of public schools for children within the 0-3 year age range, the high degrees of concentration of students having specific needs for support at the primary level – such as the case of two schools in the Region of Murcia – the insufficient number of openings available in certain intermediate-level vocational training cycles, and the enrollment conditions of students with special educational needs who would need more personal resources. Regarding special education, mention must be made of the fact that this education has not always been given the attention it deserves and that the resources allocated thereto are often insufficient and unequally shared out among the different territorial spheres, despite the fact, as is set forth under the Constitution, that those for whom this type of education is offered are under special protection.

The complaints lodged by the parents of students questioning the outcomes of the admissions procedures have also been frequent. The fact of not being assigned the school they had listed as their first choice on their application either due to the school in question being the one located nearest their home, pertaining to or having a way of thinking corresponding to a religious faith, having bilingual programs in place or availing of supplementary services constitute the most frequent reasons for complaints. These complaints are not based on the existence of a possible irregular administrative process and are therefore not allowed by the court, the substance and limit of the right of free choice of a school being explained.

In these complaints, the fact that the school where siblings of the applicants are already enrolled is often questioned, but the outcomes of the admissions processes are the request of the combined application of all of the admissions criteria and of the higher or lower overall point score which is therefore awarded to each student.

In other cases, the difficulties stem from how far away from the home the school assigned is located and other conditioning factors, illnesses, parents' working schedules, etc., which, as a whole, mean that the schoolchildren's going to and from school mean a serious, unmanageable burden. In those cases in which the description and paperwork provided reveal serious, objective difficulties for the school enrollment in question, this Institution, with the sole intent of collaborating on achieving the most suitable solution, takes the fitting steps with the competent education administration. It must be pointed out that the Constitutional Court jurisprudence has clearly established that the principle of equality set forth under Article 14 of the Constitution does not prohibit the establishing of any juridically differential treatment, but rather solely those treatment-related inequalities which are unjust or arbitrary as a result of lacking any objective or reasonable grounds.

The fact that, for the purpose of calculating the per capita income of the applicants for enrollment in the processes for admitting first-cycle early childhood education students announced by the Ministry of Education and Employment of the Autonomous Community of Madrid, the ascendant relatives who also live within the household are not taken into account even when they are in a situation of dependence has given rise to the lodging of complaints. The aforementioned Ministry has

said that the possibility of changing the criteria when a documented dependence exists will be put to study.

Lastly, mention may be made of the fact that for the school enrollment of adopted children, in which special circumstances are also involved, this Institution considers it advisable for the education administrations to study possible ways, including the amendment, wherever applicable, of the regulations governing student enrolment, which, without being damaging to the legitimate expectations of other students, will guarantee, insofar as possible, the assigning of openings suited to the needs of these adopted children and their families.

Academic affairs

Complaints have been lodged concerning the regulatory bases of the extraordinary awards in school-leaving certificate secondary education and other diplomas, in which obtaining a certain grade point average on the test of essential knowledge, skills and abilities (CDI) is a requirement for being eligible for these awards. The fact that students who, for reasons of force majeure, have not been able to take the repeated essential knowledge, skills and abilities (CDI) tests not being able eligible for these awards was questioned. This Institution has found itself in need of reminding the Autonomous Community of Madrid Ministry of Education and Employment of the terms of the request for opinion places. This complaint is currently unconcluded.

Concerning Vocational Training, according to Organic Law 5/2002 of July 18th governing vocational training and qualifications, the creation of a national system of vocational training and qualifications shall have as one of the objectives thereof that of evaluating and officially accrediting occupational qualification, regardless of how acquired, setting forth that when entailing skills acquired by way of on-the-job experience or by way of unofficial training pathways, the evaluation and accreditation shall be carried out in keeping with criteria guaranteeing reliability, objectivity and technical precision, placing the Government in charge of setting the requirements and procedures for the evaluations, as well as the effects thereof, decentralizing the management of the system in the Autonomous Communities to which the announcement and management of the processes falls. A one-year period commencing as of the entry into effect of the Law on August 29, 2009 was established for implementing the procedures,

The failure to comply with the time periods allowed has also given rise to the lodging of complaints. This is the case of no announcement having been made in the Autonomous Community of Madrid concerning accreditation processes regarding skills inherent to the intermediate-level computer system exploitation training cycle, as well as those of the advanced mechanical aircraft maintenance specialist. As is concluded in the report from Madrid's education Administration, the needs of the labor market will determine the order of priorities to be established for the purpose of announcing tests over the upcoming years.

Apart from the above, one citizen possessing long-standing work experience as a psychiatric nursing assistant expressed being upset because the Autonomous Community of the Balearic Islands had not made any public announcements of procedures for the evaluation and accreditation of professional



skills. The Balearic Island Education Administration, which has made some announcements in the healthcare field, has alleged budgeting-related reasons for not having announced any further procedures.

Complaints have also been lodged questioning announcements of tests which prevented or restricted the participation of applicants from other Autonomous Communities, such as is the case of the tests for admission to the educational system Vocational Training Cycles and free tests for obtaining specialist and advanced specialist vocational training diplomas held by the educational Administrations of Castile-La Mancha, Extremadura and Madrid. In view of the arguments put forth by the education administrations queried, this Institution considers it pertinent to continue the processing with the Office of the Secretary of Education and Vocational Training, which, in the information provided in response to our request, makes reference to the applicable regulatory framework set forth under Royal Decree 1538/2006 of December 15th governing the general organization of vocational training recently revoked by Royal Decree 1147/2011 by virtue of which the general organization of vocational training is set forth and no major changes are introduced which have any bearing on the issue at hand. And it is found that the requirements of prior academic ties or residence are not included under the aforesaid basic standard of law. The Ombudsman has requested a further report on possible coordination among the administrations regarding the adequacy of the requirements for tests.

An organization representing the professional interests of healthcare industry workers has put forth to this Institution the lacks of the training programs for the advanced specialist diplomas in the field of imaging for diagnostics, radiotherapy, clinical diagnosis, pathology and cytology laboratories, regarding both the curricula of the course of study and the classroom hour load thereof plus the lack of updating, especially in new technologies, also mentioning the need of increasing the training of the faculty in these technological aspects. This Institution, even with the understanding that it does not fall thereto to make any statement whatsoever concerning the claims put forth, did consider it fitting to convey the same to the Ministry of Education's Office



of the Secretary of Education and Vocational Training, from whom information was requested regarding the intention of collaborating in the shared task of improving the education system, particularly at the current point in time at which the program of measures is aiming to boost Vocational Training. The report received includes data supporting the conclusion that Spanish vocational training diplomas in the healthcare field to which the complaint in question made reference and the respective European diplomas are of similar levels, there therefore being no foreseeable problems involved in the professional movement of Spanish diploma holders in the member countries, the main difference being that related to the duration of the respective studies, which in the European countries, includes training of a general nature, without the shorter length of the Spanish studies determining any differences at the educational or skill-related level.

School transportation

In 2011, a certain drop has been noted in the number of complaints regarding school transportation. The issues dealt with continue to be repeated: disagreement with the routes and with the scheduled stops, condition of the vehicles, disagreements in regard to how far away the school must be located for the home in order to be entitled to free transportation and delays in the recognition and payment of the aid in lieu of this service.

Complaints have been received denouncing the situation of minors residing in the "El Gallinero" shanty town in Madrid, due to the non-existence of school bus transportation between their homes and the schools where they had been assigned, located 7 kilometers apart. The Ombudsman opened an investigation with the Autonomous Community of Madrid Ministry of Education and Employment. In the reply from the aforementioned Ministry, it informed that, in some cases, initiatives had already been adopted and, in others, they were now proceeding to the study of those which are to be applied during the 2011-2012

school year in order to guarantee school transportation for these students.

Also having given rise to a complaint was the decision made by the Autonomous Community of Catalunya Education Administration of not continuing take upon itself the responsibility for paying the expenses for the provision of supplementary school transport and lunch services for the students from a district in Tarragona which had been being paid in consideration of the existing distance between their homes and the school. The aforesaid administration argued that a school had been set up in prefabricated classrooms in the district in question, which justified ceasing the services in question. The Ombudsman is of the opinion that, although the situation entails no irregularity whatsoever from the regulatory standpoint, the students who have been enrolled in school for some time should be taken into account so as to maintain entitlement to the service of which they had been having enjoyment and set the limitation on entitlement thereto solely to the new students who enroll in the newly-created school.

As last year, complaints have been lodged concerning the school transportation of students who have special educational needs. Regarding one of these complaints filed through the Autonomous Community of Castile-La Mancha Ministry of Education, Culture and Sports, the aforesaid Ministry stated that the decision against providing the transportation was adopted taking into account, on one hand, that the school where the students in question are enrolled does not fall within its scope of management, within which the family home of the interested party is indeed located; and, on the other hand, that the interested party is no longer enrolled in compulsory education studies, the possibility being offered thereto of enrolling in a Castile-La Mancha school where she could be provided with the school transportation services.

Attention must be drawn to cases in which, as often occurs in special education, not all of the territorial spheres avail of schools appropriate for enrolling students of these characteristics, and that it does not seem very reasonable that the territorial bounds of each autonomous community entail a limitation on the provision of the transportation service and on the right of the parents to have the option of enrolling their children in the schools they consider most appropriate for them.

At the beginning of the 2011-2012 school year, different days of strikes occurred in the public education sector which had a bearing on primary schools and particularly on secondary and higher secondary education schools. There were numerous complaints lodged in regard to the variations having occurred in the organization and progress of the school year and the increased number of classroom hours for the faculty resulting from the instructions issued by the Ministry of Education and Employment for the start of the school year in question which they considered to have negative impacts on the quality of the education provided.

This Institution has put forth to those having lodged these complaints that it does not fall to the Ombudsman to question the exercise of the authority over self-organization for providing the public education service on the part of the competent authorities, who avail, at all times within the framework defined by the body of law in effect, of an ample margin for discretionally

adopting whatever decision they deem most pertinent in order to achieve the best sharing out of the resources available and the most suitable provision of the services entrusted thereto. Due to the extant degree of conflictiveness in Madrid, from within the territorial bounds of which most of the complaints came, this Institution expressed its concern to the Ministry of Education and Employment regarding the repercussions on the progress of the educational process. In its response, the Ministry in question states being prepared to discuss this matter with the trade union organization, but did not put forth any statement regarding the loss of classroom hours by the students and concerning the adopting of measures to make up for the time lost.

One measure questioned by the parents is combined groups being formed, with children from different grades for the purpose of reducing teaching and non-teaching staff. Another similar complaint is that of cutting down on the groups by increasing the number of students per classroom. And, once again this year, separated or divorced mothers and fathers have filed complaints regarding difficulties involved in exercising some rights attributed to students' parents. This Institution has opened an ex officio investigation to which only five Autonomous Communities have provided a response to date.

■ University-level education

Organic Law 4/2007 of April 1 (amending Organic Law 6/2001 of December 21st) sets the bases for access to the university based on which a general, objective procedure is to be configured for the purpose of meeting criteria in keeping with the European Higher Education Area and which would allow access to those who meet certain conditions although they were not to hold the academic diploma legally required for studying at the university. Royal Decree 1892/2008 of November 14th set forth a new design for the entrance examination which the higher secondary school-level students must pass in order to gain access to the studies for the different degrees offered by Spain's universities as of the 2010-2011 academic year. Numerous complaints have been lodged over the last two academic years against different aspects stemming from the provisions included under the aforesaid Royal Decree, having given rise to many actions taken by the Ombudsman with the former Ministry of Education at the time, warning of the detriments which might be caused by way of the enforcement of some of the precepts thereof, or putting forth the need of undertaking some changes in some of the provisions soon to enter into effect. In 2011, the degree of inequality among the students who enter the university by way of different itineraries has continued being investigated, as well as continuing stressing the fact that it is the Government's duty to set the basic standards for entrance respecting the principles of equality, merit and capabilities.

Apart from the above, the lack of coordination of dates in the entrance procedures during the phase entailing the extraordinary examinations at times leads to the grades being published when the deadlines for requesting an opening at other universities has lapsed or when the academic year has sometimes already begun. This same problem was posed at the Distance Learning University (UNED) regarding its entrance examinations

for people within the 25-45 age range. This Institution is calling, once again, for harmonizing the dates of the tests and the deadlines for applying for admission.

University-level academic grading systems

As a result of complaints from students at different public universities in Spain, the Ombudsman learned of the problems posed by the current regulation system for calculating the grade point average on the academic transcripts of university students and the different equations which are being used by the universities for stating and scaling the grade point averages awarded to students during their university studies. This Institution decided to open an ex officio investigation, given that, in the opinion thereof, the evaluation of the academic performance of these students must be in keeping with objective, public criteria. From the data analyzed, the conclusion was reached as to different systems existing from one university to another at the same time and even two or more systems within one same university.

For this Institution, no general criteria existing for the uniform application thereof by all universities throughout Spain prevents dealing, with the degree of equality which may be required, with the wide variety of cases in which the grade point average on the academic transcript is a determining factor: college entrance, the awarding of scholarships and grants, contracts within the framework of the statute governing investigating personnel in training, official master's degrees, scholarships for master's degree studies at foreign universities, scholarships and grants for the Mobility of University Students, etc. A recommendation was therefore put forth to the Ministry of Education and was accepted concerning the instructions, detailed clarifications or regulatory amendments setting out the instructions, detailed explanations or regulatory changes, in a general manner for application nationwide, stipulating with the utmost degree of clarity the criteria applicable by all universities in Spain regarding the calculation of the grade point average on the university academic transcripts of the students, the scale or scales to be used and the information which must be included on the academic certifications thereof so as to guarantee equal opportunities in the processes of student mobility and in the participation in competitive examinations announced. Ex officio proceedings of an informative nature were also opened with all of Spain's public universities, this being an initiative which met with good acceptance. On another order of matters, the erroneous application by some universities of the general rules regulating the system for the review of academic grades or the internal university rules for carrying out the same were also investigated.

University degrees

The concern set out in reports from previous years regarding new degrees being established for the adaptation to the European Higher Education Area has been repeated in 2011 as a result of the difficulties involved in verifying the official university degrees entitling the holders thereof to exercise their professions as teachers of compulsory secondary and higher secondary education, vocational training and language studies, for the exercise of which one must hold an official master's degree, which is hindering access especially to this profession due to



the limited university-level offer of this degree, which is having a bearing not only on these degree holders but also on those who are already exercising professionals who, due to their major or the degree they hold, are not able to directly access the master's degree studies without, in turn, there being alternative systems of practice compatible with the working activity. At Spain's Distance-Learning University, only barely a few majors are offered, the number of openings for each one being highly limited, the Ombudsman thereof having conveyed to the chancellor the need of increasing the same and of implementing a test allowing entrance based on criteria of equality.

Other actions taken by this Institution have had to do with the complaints concerning the granting of the sworn interpreter's degree, the homologation of higher education degrees which have been entailing extraordinary delays and repeated non-compliance with deadlines for some years, those regarding the process for obtaining the official degree as a psychologist specializing in clinical psychology also having continued. In addition thereto, two investigations of a general nature opened in previous have also continued concerning procedures for obtaining or for the recognition of degrees in healthcare specialties. One regarded the degree of Family and Community Medicine Specialist, the examination for which had not been held for the last four years and then having been announced in 2011 with only a very short margin of time between the announcement of the examination and the date on which it was scheduled to be held, which the Ombudsman put forth before the respective bodies. The other had to do with problems involved in getting the textbook and practical test for the recognition of the nursing degree under way. The department in charge reported that, in view of the large number of applicants, the option between aptitude test and practice period had been eliminated, resolving that it would be necessary to pass a textbook and practical test which would be designed by experts and announced to be held annually.

Scholarships and grants

The calls for applicants for scholarships and grants have continued giving rise to numerous complaints in 2011, some revealing discrepancies or errors in the assessment of the economic situation of the applicants' families, a significant rise having been found to exist in the number challenging the different approaches employed for assessing family assets. A larger volume of complaints has also been received concerning the application of the requirements of an academic nature, despite their being of characteristics similar to those required in the last few application processes.

Following different measures taken by the Ombudsman, the announcements of the process of filing applications for scholarships and grants reflect the right of access for all those foreign students under 18 years of age under the same conditions as the Spanish students and that, due to the fact of having no alien identification number (NIE), that the applicant's identification be by way of their passport.

The implementation as of the announcements for the filing of applications for the 2009-2011 academic years of the system for formalizing scholarship applications telematically caused many drawbacks for the applicants, due either to faults in the functioning of the system or the errors made by the applicants, which have continued giving rise to numerous complaints in 2011. The Ombudsman considered the implementation of this new procedure as requiring prior, gradual development of the necessary technical means and that it did not justify the lack of foresight of the aforementioned department concerning the need of allowing citizens a sufficient length of time to adapt to the new method of filing applications, as a result of which a recommendation was put forth in due course to the Ministry of Education at the time, which was expressly accepted and put into practice in order for the successive announcements of scholarship application procedures to include the formalization of the applications telematically as an option which would not rule out completing the same by means of filing these applications physical at the registries, post offices and other offices permitted under law. This Institution also intervened for the purpose of the hardcopy applications not being delayed in comparison to those filed telematically.

In compliance with a recommendation from the Ombudsman, the announcement of applications for grants for English language courses for the summer of 2011 made provision of the possibility of their being awarded to advanced secondary school students who, meeting all of the other requirements, are enrolled in a higher-level course than they normally would at their age in keeping with circumstances related to giftedness.

Other complaints processed included delays in the recognition of credits for application for collaborating scholarships and in the publication and processing of procedures for applications for the university rental loan program, irregularities in the national program for the mobility of human resources for investigation and delays in the monthly payment of scholarships.

The Acting Ombudsman calls for healthcare benefits to be guaranteed nationwide

The confidentiality of clinical documentation and information, the lack of resources for persons with mental health problems, patient safety and delays in primary and specialized care continue to be the most common healthcare-related complaints. Additionally, in 2011, this Institution opened an ex officio investigation for the purpose of the healthcare benefits of all citizens being guaranteed regardless of where citizens may be located in Spain.

The universal right to healthcare free-of-charge

Within the framework of the twofold perspective of healthcare being universal and free of charge, the Ombudsman has carried out numerous measures in the form of recommendations to the Ministry of Health and the Ministry of the Presidency in regard to healthcare benefits for the entire population residing in our country. General Public Health Law 33/2011 of October 4th, extending the right to public healthcare to all Spaniards residing in Spain, comes to provide a response and solution to one of the fundamental challenges facing our Spanish Healthcare System: healthcare free of charge for thousands of people residing in Spain who have not as yet had the enjoyment of this coverage. One of the most outstanding complaints received in this regard is that of parents of a minor who are residents of the Autonomous Community of Madrid who reported not being entitled to healthcare and having to pay the cost of the medical care provided to their son.

Agreeing with the thought process put forth by this Institution, the Autonomous Community of Madrid Ministry of Health replied by stating that minors are entitled to medical care free of charge, therefore having then proceeded to cancel all of the bills issued for the healthcare provided to the minor in question.

Similarly, the Autonomous Community of Valencia Ministry of Health accepted the recommendation put forth by the Ombudsman in order to guarantee access to the primary care emergency services areas for all patients, even when they may not be able to provide proof of their entitlement to be provided with medical care at the point in time of demanding said care. This recommendation resulted from a complaint from a citizen from Murcia who was refused medical care at a healthcare facility in the province of Alicante due to her health card having expired, she having been referred to a facility located in another municipality based on this having been the way of guaranteeing the invoicing of the care provided. After the recommendation put forth by this Institution, the Ministry of Health has informed that it will guarantee access for all patients to the primary care emergency services at whatever facility they may request care.

Clinical documentation and information

According to that for which provision is made under the Council of Europe Convention, Basic Law 41/2002 of November 14th

governing patient autonomy sets forth that the principles which must guide all activities regarding clinical documentation and information are those of personal dignity, respect for the autonomy of their wishes and the right to privacy.

However, once again this year, situations continue arising in which the confidentiality and privacy, the health information, the clinical documentation and patient autonomy are present in the complaints reaching the Ombudsman. In this regard, special mention must be made of an investigation concerning two patients for whom care was provided at facilities operated by the Canary Island Health Service, who were provided with care allowing third parties to be able to gain knowledge of the disease affecting them (HIV/AIDS). This situation gave rise to a recommendation put forth by this Institution to the Autonomous Community of the Canary Islands Ministry of Health that the fitting instructions be issued for the purpose of maximizing the right to privacy-related measures at the facilities providing care to seropositive patients. This recommendation was accepted, and the Ministry reported the implementation of different measures in the personal data processing procedure, stressing that the recommendation had been conveyed to all health facilities for the purpose of guaranteeing the confidentiality of the information on patients.

As far as the right to access clinical documentation is concerned, the Ombudsman investigated the reports issued at the emergency care service of a hospital in Madrid, in which no mention was made of the identity of the physician responsible for the care. This investigation reached its end when the Madrid Health Service reported that, as of January 1st last year, all of the reports generated are computerized, all aspects of the care provided and the identity of the physician who provided the care in question being stated therein.

Service planning

According to that which has been published in successive healthcare barometers prepared by the Center for Sociological Research, citizens are progressively more frequently demanding the coordination and cooperation among the health services of the different autonomous communities. These approaches underline the fact of the autonomous community administrations being under the obligation of coming to an agreement about offering the population new services, and inequality existing in the



services provided by the public health systems depending on the Autonomous Community in question.

Many of the complaints which are lodged with this Institution have to do with the problems for obtaining quality care when the patients travel outside of the Autonomous Community where they normally reside. For this reason, the Acting Ombudsman opened an ex officio investigation with the Ministry of Health, Social Policy and Equality requesting that the National Health System Interterritorial Council adopt the resolutions necessary for the purpose of guaranteeing, in all cases, the right of our citizens to the healthcare benefits which said System offers, regardless of where they may be anywhere nationwide.

In agreement with the ideas put forth by this Institution, the Ministry of Health has stated that the Working Group on Care for Persons Away from their Regular Places of Residence will raise an initial document of conclusions to the National Health System Interterritorial Council Commission on Benefits, Insurance and Financing which will include the recommendation of starting the fitting work for a draft standard to unify all criteria na-

tionwide for the care of these persons who are away from their regular places of residence.

Waiting lists

Once again this year, many of the complaints received concerning waiting lists have to do with there being long waiting lists for external doctors' appointments, diagnostic tests and techniques and scheduled interventions. Regarding the subject matter of these complaints, this Institution may conclude that the delay in being provided with care is the main cause of citizen discontent with the public health system. According to the aforementioned Center for Sociological Research's 2010 barometer, the main problem of the public health system is the existence of long waiting times for being provided with non-urgent medical care, this list being headed by the Autonomous Communities of Catalunya, Valencia, Balearic Islands and the Canary Islands, whilst for specialized care, the waiting lists are remarkably long in the Autonomous Communities of Murcia, Catalunya and Valencia.

The complaints concerning the long delay in the application of assisted human reproduction techniques continue to be frequent throughout the National Health System as a whole, and back in 2010 the Ombudsman began a general investigation with the different Autonomous Communities focused on the waiting lists for being provided with these services. Over the course of the past year, this Institution has received a response from some of the Autonomous Communities, furnishing information on the number of patients on waiting lists, as well as the average lengths of the delays.

Primary and specialized care

According to the latest healthcare barometer, two of the aspects assessed as worst by citizens in the area of primary care are the time it takes to get diagnostic tests and the office waiting time to see their doctor. Similar conclusions result from the subject matter of the complaints lodged with the Ombudsman in 2011, one of the most noteworthy of which is a complaint concerning the delays and holdups in having scheduled diagnostic tests conducted periodically through the Madrid Health Service, this being a problem which was remedied, given that, in this case, the problem involved was a computer problem; and another due to the 20-day delay in accessing primary care appointments at the "Les Franqueses del Vallés" facility in Barcelona. The Catalunyan Health Service indicated that the basic health district offers users who cannot undergo delays spontaneous, urgent visits such that the patient can go to the primary care facility, where they will be assessed by a professional if the emergency so requires.

Regarding specialized care, this Institution received a representative number of complaints in 2011 which could be grouped by subject matter, firstly, those concerning the management and organization of the healthcare centers. Special mention can be made of the complaints regarding patients requiring special safeguards, such as minors, persons with disabilities and frail, elderly patients. In this regard, the Acting Ombudsman has requested the healthcare administrations to adopt the fitting measures for the effective recognition of companionship for particularly vulnerable patients. The Health Service indicated that

measures had begun for setting out a single protocol for all healthcare centers for the purpose of making the right of patients to have visitors and deal with special situations may be exercised as a true right.

Secondly, there are a significant number of complaints related to the allocation of resources, regarding which special mention may be made of the allocation of resources in cases of acquired brain injury, a growing healthcare situation which is cause for concern and requires a progressively more specialized response. In this regard, the Autonomous Government of Castile and Leon avails of no center whatsoever, neither its own center nor an arranged center, this being the reason why the Ombudsman put forth a recommendation for the purpose of measures being taken for the implementation and operation of specific units for the rehabilitation of acquired brain damage patients. In its report, the aforementioned Ministry accepted the recommendation point out that alternatives are being studied for increasing the availability of care-providing resources for this disorder, either through the creation of a center of its own or by way of arranging for an external service.

Patient safety

Regarding patient safety, the currently-existing prevention measures do not seem to have as yet achieved a satisfactory level, especially if one takes into account that in more than a few cases the healthcare administrations confine themselves to formalizing concise solutions without even looking into the concurring circumstances involved in the care provided regarding which a complaint has been lodged, and that part of the claims of affected individuals end in agreements for economic compensation for damages or in pecuniary liability proceedings filed, in some cases, by this Institution.

Special mention may be made of some measures in this regard, such as that initiated as a result of the complaint concerning a minor who, after having been provided with care several times in the emergency service of the Gregorio Marañón Hospital (Madrid), requested medical care at the "Niño Jesús" Hospital, where, an echogram being taken of his hip, revealed a septic arthritis, he having to undergo emergency surgery and later undergoing two additional interventions, which kept him in the hospital for 24 days. Having requested information from the Autonomous Community of Madrid Health Ministry, this Ministry indicated that a case of patrimonial liability of the administration had been filed in regard to the medical care provided to this patient.

A second investigation has to do with a claim filed by the legal guardian of a patient against the Santiago Apóstol Hospital in Miranda de Ebro. This patient died, and her guardian indicated that the medical care was negligent, she therefore suing for economic compensator for damages. This Institution requested the Autonomous Community Government of Castile and Leon Ministry of Health to open a thorough investigation to determining the concurring circumstances in the medical care provided to this patient in order to determine whether the interested parties had sustained damages due to the medical care provided. Assuming this criterion, the Ministry pointed out that it had opened patrimonial liability proceedings.

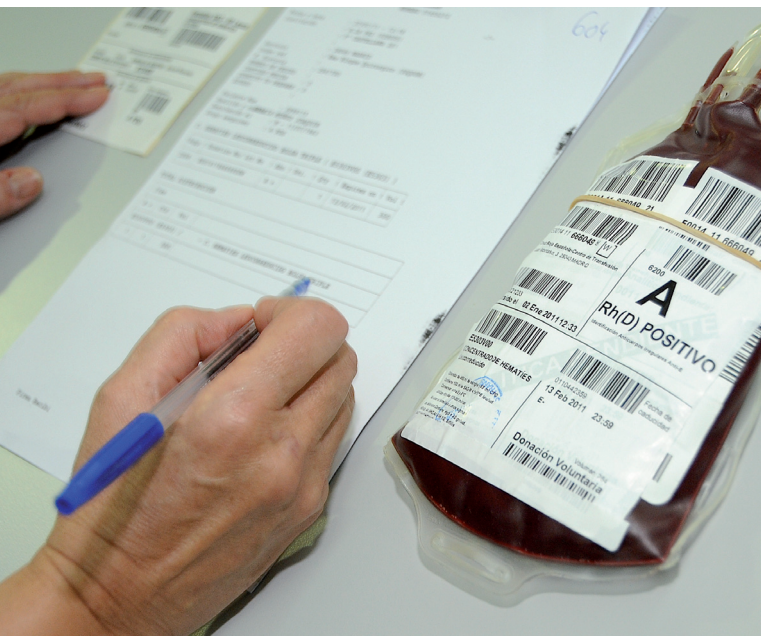


On another order of matters, once again this year, this Institution reiterates the fact that no headway has been made in creating a medical specialty of emergency medicine and emergencies, despite the far-reaching importance which must be given to specific training for the professionals involved in this type of care.

Other services

Concerning the subject of mental health, despite some of the advances set out in National Health System Interterritorial Council's "The Mental Health Strategy" document, there is many a subject as yet pending, including those such as the insufficient staffing of specialized professionals and of quality rehabilitation and social reinsertion resources. Hence, complaints are persistently lodged with the Ombudsman having to do with the fact that within the autonomous community framework, there are still as yet insufficient rehabilitation structures with definite programs for taking action, or complaints regarding the insufficient human resources and specific well-developed programs for particularly vulnerable groups.

The lack of community resources capable of guaranteeing the autonomy of patients with severe mental diseases and alleviating the remarkable efforts made by their families are also giving rise to complaints to this Institution. In this regard, special mention may be made of the measures carried out in 2011 in regard to the care-providing structure in the field of mental health in Eivissa as well as in Formentera. Different associations of family members of mental patients put forth their complaints because in Eivissa as well as in Formentera, different actions undertaken by the Balearic Island Health Ministry, such as the creation of a community rehabilitation units, a residential unit or a children's day hospital and a mobile educational therapy unit. The aforementioned Ministry explained that the new Can Misses hospital will make it possible to move the psychiatric day hospital to this hospital complex, thus freeing space to be occupied by the



community rehabilitation unit. Similarly, the therapeutic education day unit has been functioning since January 2011.

As far as the planning of the pharmaceutical service is concerned, a large part of the complaints in this regard have to do with the funding, supply and distribution, information and control of medicines. Some complaints make reference to the legal

framework in force concerning the subject of user contribution in funding medicines, given that some users find it to be a contradiction that pensioners with high-level incomes make no contribution whatsoever and other persons without sufficient economic resources must pay 40 percent of the cost.

Another major number of complaints has to do with the information regarding medicines, worthy of special note being the investigation conducted as a result of a complaint lodged by the Spanish Committee of Representatives of Persons with Disabilities, according to which the medicine package inserts did not come in formats accessible for certain persons with disabilities, especially the visually-impaired. The Ministry of Health reported that activities had been carried out for the adaptation of the Spanish Medicines and Medical Products Agency website to a format accessible for persons with disabilities and that different measures had been gotten under way for the revamping of the medicine package inserts.

Also worthy of special mention is the ex officio investigation regarding which an account was provided in the 2010 report which was opened with different Autonomous Communities in relation to the feasibility of promoting a suitable legal reform which would make it possible to set in the procedure of awarding new pharmacies, a "quota set aside for persons with disabilities" or rather a specific section in the scales of merits for the competitive procedure. Over the course of 2011, different Autonomous Communities have furnished their reports to this Institution, some replying that in future regulatory plans, disability will be included as a merit on the respective sale, although the investigation is currently still under way.

Unemployment and the growing number of people at risk of social exclusion the main subject of social policy-related complaints

As in previous years, in 2011, this Institution has continued focusing constant attention on the problems affecting early childhood, especially concerning those minors who are in an at-risk situation. Additionally, the growing number of persons in a situation of poverty and the delays in the recognition of social benefits are also the leading subject of many complaints.

■ Social Policy

Over the past few years, the Ombudsman has been placing special emphasis on the need of taking up a legislative reform affecting fundamental aspects on the subject of the juvenile protection. Specifically, it has underlined the need of regulating by organic law the definition and regimen of the centers for the protection of juveniles with special needs when cases of forced confinement affecting personal freedom are involved. In 2011, work has been done of preparing a bill for the updating of the legislation on the protection of early childhood starting from the following three main lines: simplification of shelter-providing and adoption mechanisms; committing to promoting foster families as opposed to custody facilities; prevent minors three years of age from being put into protection centers by doing away with temporary fostering and pre-adoption for the purpose of setting the bounds of procedures; and also, the adoption of persons over 18 years of age in a situation of foster parenting will be permitted and the centers for minors with behavior disorders will be regulated.

This Institution is constantly concerned about preventing at-risk situations and the distress of minors, as a result of which, in 2011, the Ombudsman opened an ex officio investigation with all of the Autonomous Communities for the purpose of ascertaining the criteria employed by the public juvenile protection institutions in determining situations of distress and to obtain more accurate information concerning the practical measures carried out in the proceedings leading up to protection measures being adopted. On the closing date of this report, a great deal of documentation was still being received concerning this subject furnished by the competent institutions in the different Autonomous Communities.

Unfortunately, the Ombudsman is still receiving reports of serious events committed at juvenile facilities. In these cases, the fitting measure is taken with the respective body for the purpose of obtaining accurate information regarding the situation of the minor in question. Mention may be made in this regard of the complaint from a teenager who was at the Picón de Jarama Special Psychosocial Residence, from which he had escaped several times and who came to this Institution requesting to be transferred to another residence or, alternatively, to stay with a family member. Another minor also came to this Institution stat-

ing that, at that same facility, the minors who cause problems are locked up in a room supposedly to be used as a storehouse and they are beaten with gloves so as not to leave any marks. On both occasions, the fitting investigations were opened and are still currently under way.

In regard to the stays of foreign minors in our country, the law sets forth that these stays must be for purposes of school enrolment and that the temporary travel of minors shall be considered in juridical terms as a stay for purposes of studying, which shall end when the school year ends, this being the date on which the minor must return to their own country save for exceptional reasons preventing their return. Within this framework, of special interest is the complaint in which a citizen put forth to this Institution his intention of formalizing the adoption of a minor from Haiti who had arrived in our country through one of the temporary displacement programs. Here, mention must be made of the fact that, due to the earthquake which destroyed Haiti in January 2010 and in view of the risk this situation entailed for illegal adoptions given the danger of trafficking and kidnapping of minors, the decision was made at the international level to suspend adoptions and foster parenting of the children from that country. The measures taken by the Ombudsman came to an end when the Autonomous Government of Catalunya reported that, even though the adoption requested not being possible in the knowledge of the circumstances of the country in question, it was advised against returning the minor, as a result of which it would issue an opinion favorable to the renewal of the visa in consideration of the exceptional circumstances.

Regarding the international adoptions, special mention must also be made of the halting of adopting of minors from Kazakhstan, which gave rise to great concern in a number of Spanish families who were deeply involved in the process of adopting children from that country. All of them were notified of the halting of the adoptions which had not been confirmed at December 31, 2010, given that the authorities of said country had suspended taking receipt of case files as a result of the entry thereof into the Hague Convention. Once Kazakhstan opens international adoptions once again, the applications pending will have the benefit of priority processing. The visit to Kazakhstan of a delegation of experts from the permanent office of the Hague Conference on International Private Law is also scheduled within the framework of a joint mission with



UNICEF to offer technical assistance concerning the subject of adoptions and the implementation of the Hague Convention.

Persons with disabilities

Although it is true that Spain's disability-related legislation is one of the most advanced in the European Union, the exercise of some rights is still as yet quite precarious, it therefore being necessary to continue moving ahead toward achieving full social inclusion of those persons who have any type of disability.

In 2011, Law 26/2011 of August 1st was passed, governing regulatory adaptation of the International Convention on the Rights of Persons with Disabilities, which delves deeper into the social model of disability taking as a reference point Law 51/2003 of December 2nd governing equal opportunities, non-discrimination and universal accessibility of the persons with disabilities. This new law provides a definitive boost to the guarantees of personal autonomy and non-discrimination of persons with disabilities, setting forth that, according to this Convention, they are persons who have long-term physical, mental, intellectual or sensorial impairments which may prevent their full true participation in society under conditions equal to those of all other persons. The aforementioned law, in its sixth supplementary provision, grants a twelve-month period commencing as of the entry into effect thereof for the Government to adopt measures aimed at promoting access to employment of the persons with borderline intellectual functioning. Similarly, the State Disability Monitoring System is recognized as the technical tool for the Central Government Administration which will take charge of gathering information related to the realm of disability and will annually prepare a report on the situation and evolution of disability in Spain.

Accessibility

Royal Decree 1276/2011 of September 16th on the regulatory adaptation of the International Convention on the rights of per-

sons with disabilities amends Royal Decree 1544/2007 of November 23rd by virtue of which the basic conditions of accessibility and non-discrimination for access and use of the means of transportation by persons with disabilities are governed. This amendment is based on the inclusion in the accessibility plans in all the transportation sectors and on the criteria used for setting the bounds of the major infrastructures and services of those which are on a small scale. The latter shall have an annual traffic of 750 passengers per day or less. For the facilities with traffic of over 750 passengers per day, an accessibility plan must be prepared. However, the Ombudsman is still as yet receiving complaints from persons who have some disability reporting the lack of accessibility to public transportation or buildings.

This is the case of complaints which have made their way to this Institution in relation to the accessibility to certain Spanish Railway System (RENFE) stations, such as the Sodupe Station in Bizkaia due to the platform not being at the same level as the train. This complaint closed favorably on the Secretary of Planning and Infrastructures reporting a measure for the adaptation of the platforms of the station in question; or, that of the Segorbe Station in Castellon, which was still not accessible for persons with reduced mobility despite its having been remodeled in 2008 as part of the station accessibility plan. This station had additionally been excluded from the "Atendo" service for the care and assistance of passengers with reduced mobility; or the Villagorda de Arousa station, where the elimination of the aforementioned "Atendo" Services was also reported, among other stations with accessibility-related problems. In this regard, the Secretary informed this Institution that the Administrator of Railway Infrastructures (Adif) has planned the adaptation of its stations so as to allow accessibility to the railway services to 90% of the passengers who have a disability or reduced mobility throughout the course of 2012, achieving 100% coverage in 2012, for which purpose an investment of 479 million euros will be made in a total of 296 stations. Similarly, the "Atendo" Services are going to be studied at the upcoming meetings between the Spanish Railway System (RENFE) and the Railway Infrastructure Administrator (ADIF) in response to the requests of several customers and in the general interest in view of the volume of passengers who regularly go through train stations.

Other aspects of accessibility are the complaints concerning the difficulties which persons with reduced mobility come up against for accessing some public infrastructures, such as police stations and municipal swimming pools. In the reports received by this Institution, the current budgeting difficulties are stressed with regard to undertaking the fitting reforms, which can be gotten under way when such economic limitations cease to exist.

Resources for persons with disabilities

Although the total number of complaints regarding this subject have dropped, once again this year, a significant number of citizens have expressed their concern regarding accessing an opening at centers suited to the their disability after having been approved by the Personalized Care Program (PCP) for the Promotion of Personal Autonomy and Care for persons in a situation of dependence. The procedure followed in these cases consists, first of all, in making an assessment of the dependence, and once the aforementioned PCP has been established,

the best-suited benefit is determined and the dependent person is incorporated into some service.

The Ombudsman had to intervene on learning that a citizen with a 84% disability who was living in a building with no elevator and without any adaptation of his home, with his wife and son with a 65% disability had filed application in 2007 for an opening in a residence providing care for physically-impaired persons, the PCP not having been approved, he thus remaining on a waiting list for entering a residence. The measures concluded satisfactorily on the Autonomous Community of Madrid Ministry of Family and Social Affairs having reported in May 2011 that he had been awarded an opening at a residence for persons with physical disabilities, this being an opening which was accepted by the interested party.

The adaptation of some resources for persons with disabilities of the Autonomous Community of Madrid, upset several citizens who approached this Institution when the Ministry of Family and Social Affairs resolved in favor of the immediate ceasing of all activity simultaneously at three centers- an occupational center, a center for persons with disabilities and a center providing care for mentally-impaired persons- which forced the mandatory transfer of 150 people with disabilities. The Ombudsman opened proceedings with the aforementioned Ministry for the purpose of ascertaining the reasons having led to the closing of these three centers. The Ministry furnished extensive information, in which it set out the structural deficiencies of the buildings, the decision therefore having been made to temporarily halt the activities at the centers and proceed to the transfer of the users and employees to the Senior Citizen Living Facility in Carabanchel, as well as to other occupational centers for the purpose of immediately guaranteeing the safety of these users and employees. The Ombudsman considered it fitting to conduct a follow-up of this situation up to the point of ensuring that all of the persons affected had been suitably cared for, given the large number of persons affected. The measures carried out by this Institution reached an end when it was found that no right or legitimate interest of the users or the employees had been detrimented, and that measures had been taken for the better functioning of each one of the new facilities by outfitting the same suitably with services and a follow-up being conducted on each one of the users transferred to other centers.

The elderly and situations of dependence

The Ombudsman is aware of the complexity of the system for awarding openings to users in senior citizen living facilities and precisely for this reason deems it fitting to stress the need of the guarantees of the right citizens have to the clearest, most transparent information possible regarding those measures which may have a bearing thereon be maximized to the utmost. This need of maximizing guarantees is due to the complaints which come, in most cases, from elderly persons and have to do with the delay occurring in the processing of their requests for access to an opening at senior citizen living facilities operated by the Autonomous Community of Madrid.

In 2011, several retirees from Pinto addressed this Institution to put forth the need of equipping their municipality with a residence and a day center for Alzheimer patients. This fact results in this Institution having intervened with the Municipal government of Pinto, given that the project had been approved but

had not been completely halted for no apparent reason. The aforementioned municipal government reported that the municipal residence was in the final stages of being built, and the measures taken by the Ombudsman came to an end when it was found that a set of administrative and technical clauses had been approved for purchasing furnishings and equipment.

There were numerous complaints lodged in 2011 concerning the subject of dependency having to do with the enforcement of Law 39/2006 of December 14th governing Promotion of the Personal Autonomy and Care of persons in a situation of dependence. Although this Institution has managed to see a certain degree of improvement in the lengths of time for processing the applications for evaluation and the recognition of the citizens affected, unacceptable delays still continue arising in both the evaluation of the interested parties as well as the notification of the decision as to the degree and level of dependency and the subsequent approval of the Personalized Care Program (PCP). Having found said delays to actually exist led this Institution to putting forth reminders of the legal duty falling to the Administration of providing a decision, in due time and form, to the applications filed with the same. In the case of the Autonomous Community of Madrid, the Ministry of Social Affairs commented that a set of measures have been adopted, grouped under three major headings: increasing human resources assigned to the evaluation and preparation of personalized care programs; improvement of the material means allocated to said management; and broadening of the offer of services and benefits thanks to the increased budgeting this Ministry has enjoyed over the past few years. In this same regard, the Autonomous Community of Valencia Ministry of Justice and Welfare put forth its stance through the passage of a decree for expediting the processing of cases, remarkably simplifying the required formalities. In turn, the Autonomous Community of Galicia Ministry of Labor and Welfare reported the progressive increase in the services offered as of the beginning of 2011.

As in previous years, it must once again be stressed that the criteria related to the date on entry into effect with which the rights resulting from the situation of dependency must be recognized vary from one autonomous community to another, different guidelines therefore being following in each territory. In this regard, numerous rulings have already been handed down by the superior courts of justice of different autonomous communities in the regards that the economic benefit for citizens must be recognized as of the day immediately following the date on which the applications are filed, which upholds the criterion maintained by this Institution which should be adopted generally and applied in all of the autonomous communities. This would mean citizens avoiding finding themselves forced to go to court, and a greater degree of equality would be achieved, not only among territories but the inequalities which are arising among citizens who go to court and those who do not do so would also be avoided. This inequality is the criteria regarding the date of entry into effect on which the entitlements must be recognized resulting from a situation of dependence heightens the degree to which the interested parties become upset with and distrust the institutions.

In addition to the above, the differences in the criteria for the enforcement of the law on the part of the different administra-

tions have to do not only with the date of recognition of the benefits, but also the services or benefits recognized, this being a situation which is of serious concern to this Institution, as these differences have not been lessened and are becoming progressively greater.

Large families

During 2011, the reform of Law 40/2003 governing Protection of Large Families for which provision had been made under the General National Budget Laws in previous years has not been undertaken. As of 2008, frequent complaints have been lodged by citizens asking for the possibility of accessing status as a large family as a result of a single parent having two dependent children. In the first report furnished to this Institution by the Secretary of Social Policy and Consumer Affairs, it was stated that the bill regarding this possibility had already been drafted and is being processed, but on the Ombudsman having found that the announced reform was not being carried out, she once again addressed the Administration, informing the Office of the Secretary of Social Policy that the inclusion of a new case – disabled spouse with two dependent children – had entailed having to begin a new phase of study for preparing a new bill for the amendment of the current Large Family Law, by adding this case and the aforementioned case. No change has taken place over the course of 2011, and the Ombudsman has once again reiterated the cases of noncompliance which are arising so that the measures making it possible to increase the protection of large families who are going through major difficulties may finally be adopted.

Persons in a situation of poverty and social exclusion

Society is being very seriously affected by the economic crisis our country is currently experiencing, and according to a study of the European Anti-Poverty Network (EAPN), the number of Spanish citizens in a situation of poverty and social exclusion rose alarmingly within the 2009-2010 period up to a total of 11,666,827 people, 2.1% more than the immediately previous year. Additionally, 25% of Spain's citizens are already in an at-risk situation. This means, among other things, that Spanish citizens are resorting progressively more often to the social services of their respective municipal governments for the purpose of being informed as to the social aid they can obtain to assist them in their progressively more dire economic situations. The delay in obtaining this information or in the processing of social aid gave rise to complaints from several citizens who approached this Institution seeking the protection of the Ombudsman given that any delay worsens their economic difficulties.

On another order of matters, this Institution has always shown special concern for the services provided for the homeless. Once again, the need was found to exist of the city of Vigo having a municipal shelter and, through the Municipal Government of Vigo, it was reported that they were awaiting confirmation of joint financing on the part of the Autonomous Community government for the completion of a project for creating a shelter. However, as 2011 drew to a close, Vigo still had no shelter, al-

though the agreement for building this shelter had already been approved.

The works for the improvement of the San Isidro Shelter in Madrid gave rise to the intervention of the Ombudsman for the purpose of verifying the respect of the rights of the users affected by these works, the municipal government reporting that, prior to the works the regulations in force were indeed being violated. Similarly, the aforementioned city council reported the preparation of the 2010-2012 City of Madrid Social Inclusion Plan, the main objective of which was to provide a response to the challenge of social exclusion by implementing the policies necessary to prevent this phenomenon. According to the Municipal Government of Madrid, a total of 80% of the planned measures had been achieved, further measures being planned for 2012.

■ Social Security and Labor Administration

Under this heading, the most frequent complaints are related to the employer's duties of notifying the point in time at which the activity of the self-employed worker commences mainly or the need of notifying the Administration as to the extinguishment of the obligation of contributing to the Social Security System due to permanently ceasing their activity or temporarily being on leave from the same. However, the greatest number of complaints regarding measures taken by the General Social Security Treasury have to do with collection procedures filed for contributions which had not been paid into the system in due course or economic benefits having been collected which the competent Administration has considered unjustified.

Benefits

Concerning the subject of disability benefits, an analysis is made of those complaints from persons who, for reasons of some illness, had required their health to be under observation in regard to properly performing the duties of their occupational activity.

Concerning permanent disability, the matters processed by the Ombudsman had to do with the recognition of the right to the economic benefit, the review of the situation of disability due to a worsened condition or improvement due to error in the determining of the degree of disability, as well as the undue maintenance of the payment to the beneficiary of the pension once the time period established for the benefit recognized has lapsed.

Thus, the worker filed a complaint with this Institution in which it was specified that the National Social Security Institute recognized a benefit for total permanent disability for him in 2006 for a maximum six-month period. Despite the aforementioned period at the end of which the benefit in question would lapse, the pension continued being paid, with notification to the interested party of the successive annual revalorizations, which were sent one after another up to the decision of February 2011 in which the management entity resolved to cancel the benefit effective November 2006. The citizen affected fully accepted the situation but considered the economic amount of the debt noti-

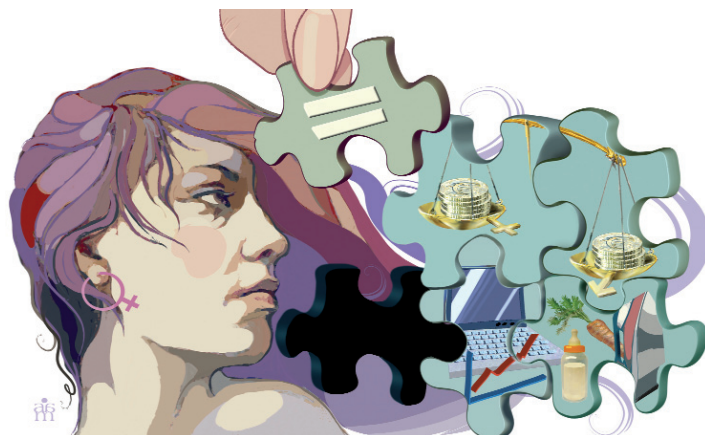
fied to be highly burdensome. This Institution remedied the case by putting forth a recommendation to the National Social Security Institute that the necessary administrative measures be adopted for the purpose of avoiding unfavorable consequences at the economic level due to a undue collection of sums by the beneficiary who is recognized as entitled to a benefit for total disability for a certain time period which is collected over a lengthy period of time. The National Social Security Institution accepted the recommendation, stating that it had developed administrative measures for checking the expiration dates of the Social Security benefits which are recognized for a certain length of time.

In the area of retirement pensions, numerous complaints have revolved around the effects caused by provisions of law such as Royal Legislative Decree 8/2010 and Law 27/2011 due to the harshness citizens perceive due to the enforcement of cutbacks in the social benefits. Many have found their expectations regarding their personal income which they had generated based on the rules of law in force up to two days prior to their having reached a certain age to be shattered after having built up a record of an extensive period of contributions paid into the system throughout their entire working life. Similarly, the Institution has taken different measures concerning issued related to the requirements for the recognition of the pension, as well as concerning the legal possibilities for gaining access to early retirement.

In regard to the unemployment benefits and concerning the processing of different cases, this Institution has been putting forth to the former National Employment Institution different aspects concerning the delay found to exist in the processing and notification to the interested parties of the proposals for extinguishment of benefits and unemployment compensation or undue collection. The Ombudsman has found there to still be a delay in furnishing notice of decisions concerning undue collection of benefits and unemployment compensation issued by the provincial headquarters of the National Public Employment Service. This delay in the notifications causes serious economic detriments to those collecting these benefits, given they impossibility of their repaying the sums within the voluntary payment period on normally not having sufficient incomes. The Ombudsman's Office has reiterated the need for the review of the applications for benefits and compensations be in keeping with the principle of efficacy. For the purpose of expediting the procedure for the repayment of benefits unduly collected, a new computer application has been created which is of great help for managing the process of recovering the benefits unduly collected by citizens.

Vocational training

Under this heading, the lack of further expansion upon Royal Decree 1224/2009 of July 17th in recognition of the professional skills acquired through on-the-job experience on the part of some autonomous Communities to which the authority over vocational training has been transferred has given rise to different measures. Hence, this Institution requested the opinion of the Andalusian Employment Service, which reported the technical difficulties existing for further expanding upon the aforementioned decree. Nevertheless, the competent executive centers of the Andalusian Employment Service are working on incorpo-



rating into the text of the different comments which have arisen during the processing procedure. Therefore, the actions taken were considered finalized.

Placement and employment

By way of the Autonomous Community of Valencia Employment and Training Service (SERVEF) website, a job offer was published in which the company required a certain age for performing the job in question: minimum 18 years of age, maximum, 30 years of age. For this reason, the applicants from several unemployed persons were rejected. The associated center of the Municipal Government of Valencia considered there not to have been any irregularities in the processing of the offer and that the offer in question complied with the procedure stated in the job offers manual. In turn, the SERVEF stated that the processing and management of the associated center of the Municipal Government of Valencia did not entail any irregularity whatsoever following an analysis of the details. Once again, this Institution would like to point out that the publication of job offers in which limitations are set for the candidates for reasons of age are illegal as a result of being in violation of Articles 14 of the Constitution as well as Article 4.2c) of the Workers' Statute. Therefore, no Employment Service can accept the publication of job offers in which a gender or an age requirement is stated.

The employment offices must advise the employer concerning the irregularity of these discriminatory conditions and, in the event that no change is made therein, not to allow the publication thereof. The SERVEF informed this Institution that it has sent out a message to all of its own and associated centers in order for job offers in which an age requirement is stated, even though as "preferably", are not to be accepted.

Employment offices

The complaints lodged with this Institution year after year regarding the employment offices are numerous and have to do with both the information provided by these offices as well as the management and processing of the services through computer channels. These complaints rose in number as a result of the transfer of authorities over the active employment policies to the autonomous communities. For this reason, the Ombudsman has promoted the setting up an effective coordinating system. Lastly, Royal Legislative Decree 3/2011 of February 18th gov-

erning urgent measures for the improvement of employability and the reform of the active employment policies has added an article in which the tools are introduced for coordinating the National Employment System and, more specifically, a common information system for the public employment services.

Although the measures on the part of this Institution were considered to have been concluded, follow-ups are continuing to be conducted, it thus having been possible for different incidences to have been detected in the process of making advance appointments both by telephone and online at the employment offices operated by the Autonomous Community of Madrid, as a result of which this Institution deemed it fitting to open proceedings in this regard with the Directorate General of the Public Employment Service. These problems have spread to the rest of the country, this being the reason for which an ex officio investigation was opened concerning the measures planned for attempting to remedy these problems. The aforementioned Service indicated that, in order for the persons using this Service to not have to put up with long waits, the decision had been made to adopt an advance appointment system, which is gradually being implemented.

Toward full equality of women in the working world

Despite the national policies and the legislative framework for the promotion of gender equality in the working world having made remarkable headway in our country, the practical implementation of these policies does not always result in true equality in the working environment. Women continue to be victims of discrimination in jobs, pay, working conditions and particularly with regard to gaining access to management positions. According to recent reports, women's wages are on the average of 70%-90% of what males earn, and there is a higher percentage of women in low-paying jobs despite their having similar educational backgrounds.

According to the complaints lodged with the Ombudsman, discrimination against women comes to bear in widely-varying contexts, which may constitute cases of direct discrimination when, in employment policies or practices, for example, when women are ruled out or males are given preference over females, or indirectly, when certain practices may entail the rejection of women, for example, on requesting a certain height, which would leave most women out as candidates. Additionally, special mention may be made of the fact that, according to the latest Center for Sociological Research surveys, the inequalities in women's wages as well as their discrimination on the job are a remarkable concern in our society. This discrimination against women in the working world worsens in times of crisis,

a situation which has come to be termed as the "feminization of poverty".

As a result of all of the foregoing, the Ombudsman proceeded to open an ex officio investigation, requesting the Office of the Secretary of Employment to furnish a report on the provisions in place concerning the future possibility of undertaking measures aimed at doing away with this discrimination. The aforementioned Office of the Secretary has furnished an extensive report indicating that there continue to be gender gaps in aspects such as access to the job market, keeping jobs and job conditions. Some relevant figures are, for example, the female employment rate of 41% as compared to 53% for the male population. Additionally, women concentrate 76% of the part-time contracts, hold most of the least-valued or more poorly-paid jobs, hold a limited number of management positions and collect lower pay than the males working at the same job.

For the purpose of achieving a substantial improvement in the employability of women and their working conditions, the report from the aforesaid Office of the Secretary points out that the active policies comprising the Spanish Employment Strategy have been reformed. On one hand, in order for equal opportunities to actually become a reality, the Labor Inspectorate, in collaboration with the autonomous communities, is carrying out plans for action for monitoring actual equality between men and women at companies. Similarly, a campaign has been carried out for seeing to the non-existence of wage discriminations in different sectors. Additionally, inspecting measures are being carried out concerning the occupational risk prevention from a gender-related perspective, targeting those companies which carry out activities which may pose a risk to the maternity or maternal lactancy of their female employees.

Lastly, special attention must be focused on women with special insertion-related difficulties, such as the victims of gender violence, by fostering specific employment insertion plans for them, designing training programs with incentives for starting up new self-employed activities or providing incentives for companies hiring women who are victims of domestic violence.

Despite the fact that the Ombudsman recognizes, along general lines, the regulatory advancements made for the true equality of women on the job market, the Ombudsman shares the opinion of the Office of the Secretary of Employment, in which the existence of some major gender gaps is recognized. Therefore, within the scope of its authorities, this Institution will continue the investigations currently under way, to which end it has recently requested a report be furnished by the Labor and Social Security Inspectorate concerning the inspection procedures as well as the provisions in place for planning specific campaigns on the subject of equality.

Citizens ask the Tax Authorities for more transparency and flexibility

Taxpayers complain about the many difficulties they find when meeting their tax obligations. And they attribute this to the lack of clarity of the measures taken by the Tax Authorities, regarding which they are also critical of the exceeding inflexibility when interpreting the heterogeneous tax laws and regulations. In 2011, citizens once again alleged being unprotected in the processing of the Personal Income Tax statements and lack of justification in charging and raising local taxes.

■ National taxes

The Ombudsman's office constantly receives complaints concerning the difficulties taxpayers have in their relations with the National Tax Administration Authorities for defending their rights and interests.

The heterogeneity of the tax laws and regulations and the lack of clarity in the actions taken by the National Tax Administration Authorities tremendously hinder taxpayers complying with their tax obligations.

Sometimes, the documents the AEAT sends to taxpayers employ language which is not readily comprehensible, which places citizens in a clear situation of defenselessness. This is the case of a letter which the AEAT sent out to thousands of tenants instructing them to make the payment of their rent directly to the Revenue Bureau in order to pay off the debts their landlords owed to the State. The letter sent out, in the form of a credit garnishee formality, is difficult for the persons to whom it was sent to understand and, additionally, places these citizens under the obligation of going to a credit institution monthly to make the payment. Throughout the course of the ex officio investigation opened with the Tax Authorities by this Institution, it was suggested that the information provided in the letter be expressed more clearly; that a mechanism be organized for avoiding the tenants having to go to the banking institution in person every month to pay the rent; and that the consequences set forth for the case of default on payment be eliminated, it being necessary for compliance to be rendered, in the event of default on payment of the lease rent, with the provisions of the Urban Leasing Law and that stipulated under the lease agreement. In its response, the AEAT assured that it would attempt to simplify the letter; and that it would be possible for the payment to be made by telephone in the case of natural persons or online if in possession of a user certificate. As regarding the consequences of default on payment of the rent, on this Institution not being in agreement with the Tax Authorities as a result of their considering this circumstance to be punishable, this Institution is preparing a recommendation regarding which it will provide an account in next year's annual report.

Another of the outstanding measures in 2011 concerning the subject of taxes had to do with a recommendation put forth so that citizens will be informed as to the fact that their details on the municipal registry of residents ("padrón") are going to be



changed, that the changes in question have no tax-related consequence nor entail any change whatsoever in the databases of other government agencies, as a result of which, if they wish for these changes to enter into effect, they must notify the change to all the other public offices.

On the other hand, throughout its investigations, the Ombudsman has found that the AEAT usually interprets the tax laws and regulations too strictly and inflexibly and, in fact, rarely modifies its way of thinking in view of the evidence of what is to be applied not being in keeping with reality. Hence, numerous complaints have been lodged due to the questionable interpretation which the AEAT is giving to the tax laws and regulations in regard to the application of the exemption for reinvestment in a regular place of residence, especially with regard to the probative value of the municipal resident registry certificate ("empadronamiento") as proof of residence. In the complaints, citizens are of the understanding that the Tax Authorities always consider that taxpayers are aiming to cheat, which comes to fore in their demanding an abundance of documentation standing as proof of having fulfilled the requirements for being enti-



tled to the exemption and, above all, standing as proof of the new dwelling purchased constitute the taxpayer's regular place of residence. For the AEAT, the municipal resident register certificate ("empadronamiento") does not constitute evidence of residence, however, if, to the contrary, one does not have said certificate, this fact stands as proof of non-residence, despite several rulings having been handed down which have determined the nature of a regular place of residence not being proven by the municipal resident register certificate. The Ombudsman's office currently has several investigations open concerning this matter.

Apart from the above, many citizens allege being unprotected in processing Personal Income Tax statements. Within this context, the difficulty existing when accessing the advance appointment service has been investigated and also the need of the AEAT adopting some measure for the purpose of preventing this type of situations from continuing to occur, given that this is a matter of citizens fulfilling their tax obligations in the manner less burdensome for them.

Another recurring complaint is that of the citizens who are facing disciplinary proceedings after having confirmed a draft tax return with errors committed by the personnel of the Tax Agency proper. This circumstance gives rise, in the judgment of the Ombudsman, to a serious situation of uncertainty of law. Back in 2007, a recommendation was put forth and rejected in which it was asked that a form be included stating all of the documentation and information furnished by the interested party. In view of the fact that this problem continues to exist, this Institution will put forth another recommendation of the AEAT.

Other problems detected are the lack of security when confirming the draft prepared by the AEAT or the delays in the Administration when returning, wherever applicable, the amount under the heading of the Personal Income Tax.

As far as the VAT is concerned, the self-employed workers are still asking that this tax be paid only on the invoices on which collection has already been made, changing the current accrual

system to delay it to the time at which the invoice is collected in full or in part. The Council of Europe made a pronouncement concerning this issue in July 2011 by means of the passage of a Directive allowing the States to authorize the VAT to be declared in accordance with a cash accounting regimen allowing the supplier to pay the tax after having received the payment. The time period for the transposition thereof ends on December 31, 2012.

Similarly, the type of Value Added Tax rate applicable to the basic supplies in the current economic crisis situation has been the object of complaint in 2011, on citizens considering that this rate must be lowered, taking into account that the price of these supplies has risen remarkably.

Transfer taxes

In the area of the Property Transfer Tax, the main reason for complaints has to do with the value verifications made by the Administration as a result of the transfer of real-estate assets. The problem lies in the appraisal methods employed, which are generally based on applying multiplier coefficients to the land registry value, despite the values having been assigned at a point in time at which, unlike the current situation, the market was a bullish market.

The complaints received allege there being no reason for the aforementioned appraisals and delays in processing these procedures, with the resulting interest on arrears entailed therein. Additionally, citizens cannot understand what, in their judgment, is a fund-collecting move on the part of the Administration, they deeming that the appraisals should have been made individually, taking into account the actual current situation of the real-estate market at each given point in time.

Apart from the above, another group of complaints reflects citizens as feeling discriminated against in terms of where their place of residence is located, in view of the lack of homogeneity of the legal regulation of the Inheritance and Gift Tax in the different autonomous communities. In the opinion of this Institution, this difference should not exist, but the investigations conducted concerning this issue have not achieved the desired objectives.

■ Municipal taxes

The incorrect entry into the database of the taxes under shared management (Real-Estate Tax, Urban Land Value Increment Tax, Mechanical Vehicle Circulation Tax and different rates) and the inadequate maintenance of said database, on the records of which the revenue-collecting management of the local entities then depend, have given rise to many complaints. The complaints lodged by citizens are occasionally revealing of net worth detriments to the taxpayers due to poor database management and the lack of coordination among the different Administrations.

□ **Mechanical Vehicle Circulation Tax:** One of the reasons for the largest number of complaints concerning this tax is the idea regarding the concurring requirements for obtaining recognition of eligibility for the exemption due to disabil-

ity. Throughout the investigations with different municipal governments, widely-varying and even surprising opinions have been found to exist regarding the assessment of disability. Special mention may be made of two which are particular cause for concern: first, that disability does not entail any loss for the person who has the disability that the system is already attempting to compensate through constitutional regulation, but which depends on the circumstances which the Municipal Government proper must assess; and, secondly, that a will to cheat the tax system exists on the part of the taxpayers which must be cut short by means of demanding especially exacerbated requirements in order to be eligible for the same.

- **Real-Estate Tax:** The two major reasons for complaint concerning this tax revolve around the depreciations which real-estate had undergone on the market. Citizens consider this tax rate to be out of proportion following the real-estate market crash, and the lack of coordination among the Directorate General of the Land Registry and the municipalities. Complaints have also been received regarding the limit set for recognizing allowances or exemptions as a result of the budgeting difficulties of the municipal governments.

Municipal rates

As in previous years, the complaints regarding the lack of justification of the municipal rates have continued. Citizens complain many times about the collection of the rate as if it were a tax, the charging of which is justified by the need the municipal governments have of collecting funds and not on there being a real need for the provision of services of the service rendered justify the cost which is shifted to the taxation. Another common reason for complaint is the unjustifiable rise in the rates for occupancy of the public domain or the taxation of inappropriate taxpayers.

■ Land Registry

This institution has been investigating the functioning of the Land Registry since 2009. The conclusions of this investigation are set out in a monographic report which will be presented in 2012.

In general, citizens complain regarding the lack of explanations concerning reasons for decisions on the Land Registry certificates; the assigning of land values exceeding the market ranges at the point in time the appraised values were approved; the lack of coordination and silence or the delays in providing responses.

The Ombudsman reminds the “Banco de España” (National Central Bank) of Spain as to its duty of assuring the rights of bank customers

The lack of information on the risks involved in engaging certain financial products continue at the top of the list of complaints lodged by citizens. In this Institution’s judgment, the Banco de España’s complaint service is not doing its duty, as it is not sufficiently guaranteeing the defense of the rights of the customers of the financial institutions.

■ Insurance

One ex officio complaint opened in 2011 has to do with the inoperability of some life and unemployment insurance policies which customers find themselves forced to sign in order to be able to again access to a mortgage loan, with underwriters pertaining to the same financial group as the institutions granting them the loan.

The banking institutions have also forced civil service employees and military personnel to take out life and unemployment insurance linked to the mortgage loan, knowing full well that it is not likely that they will ever be out of work. In the case of the military personnel, on having a hazardous job, they are excluded from the life insurance death coverage.

The investigation opened with the Banco de España and the Directorate General of Insurance and Pension Funds is aimed at ascertaining whether the Administration had knowledge of this practice, of the number of complaints filed and of the solution provided thereto.

In the opinion of this Institution, the information provided to the policymakers has not been adequate, as a result of which it would be necessary to assess whether the consent rendered fulfills the requirement of validity for the agreement, which makes these insurance policies ineffective. Therefore, a recommendation has been put forth to the Directorate General of Insurance and Pension Funds regarding a study being made as to the need of setting restrictions on this widespread practice of the banking institutions of imposing the engaging of insurance for safeguarding loans and that greater diligence be heeded on the part of the insurance companies when writing the policies, as well as the precautions being maximized in the interpretation which is made of these policies, given that it is clearly these citizens have not rendered their consent freely for engaging the same and have most certainly not rendered informed consent.

■ Financial institutions

The actions of the Banco de España Complaint Service continue to be a source of constant complaints, because this serv-

ice is not fulfilling the safeguard function entrusted thereto and is not guaranteeing the defense of the rights of the credit institution customers, but rather the protection is usually leaned toward the banking institution with the justification that prime importance must be placed upon the supervision of the solvency of the entities concerning the protection of the clientele. Citizens feel defenseless, because said service generally considers that it does not have the authority to evaluate the complaints lodged and, in most cases, makes no pronouncement regarding the substance thereof.

Apart from the above, this Institution has been demanding, since 2005, the appointment of the commissioner for the defense of the financial services for which provision is made under Economic Planning Law 44/2002. Later, the Sustainable Economy Law 2/2011 has abandoned this idea by placing the protection of consumers in the hands of the Bank of Spain complaint service through the resolution of their complaints.

In 2011, one of the most common complaints had to do with the financial bartering products linked to the mortgage loans under many different names, although the most widespread thereof be the swaps. The numerous complaints led the Ombudsman’s Office to open ex officio proceedings. Although this be a matter of legal practices, this Institution considers these products as not providing adequate information to consumers concerning the high risks they entail.

Once again, citizens feel defenseless as a result of being the weakest party compared to the credit institutions in these agreements, having to take recourse to the law to settle these disputes, given the aforementioned lack of effectiveness of the Banco de España as a body for supervising the actions of the banking institutions. For the Ombudsman, the legal protection of these complex products not designed for this type of customers is not sufficiently safeguarding, some regulations governing the information which must be provided to each type of customer in relation to this type of products therefore being considered necessary.

Within this context, this Institution decided to take ex officio action following the entry into effect of Order EHA 2899/2011 on the transparency and protection of banking service customers in order to ascertain whether there are products on the market which truly safeguard the mortgage customers from interest rate hikes and, if this not be the case, so that the possibility of

regulating the same be taken into consideration. This Institution aims, through this measure, for both the Banco de España and the Office of the Secretary of Economy to clear up some aspects which are either not set out in the aforementioned order or are not dealt with completely thereunder.

Apart from the above, just as in previous years, the complaints have continued regarding what are known as “floor clauses”. An *ex officio* investigation having been opened with the Bank of Spain and the Office of the Secretary of Economy, both of these bodies alleged that this type of products are valid contractual formula, provided that they be reflected on the loan agreement, and that province over deciding as to the abusive nature or the violation of the banking legislation falls to the judicial authorities. Nevertheless, this Institution has requested that measures be adopted to guarantee the protection of those using financial services when including this type of clauses in their mortgage agreements.

Despite the fact that Order EHA/2899/2011 is a substantial improvement on the former framework of protection of the customers of banking services, in the opinion of the Office of the Ombudsman, the problem lies not in the regulations but in the proper application thereof.

■ Measures resulting from the current economic situation

Although the study “Economic Crisis and Mortgage Debtors: The Ombudsman’s Measures and Proposals”, was presented to Spain’s Parliament in January 2012, this Institution had already undertaken several measures in 2011 which are included therein:

- **Family insolvency:** The Ombudsman’s Office has been stressing the fact as to it being necessary to more effectively regulate the situations of personal insolvency. The Bankruptcy Law, which is the law applicable to these cases, is costly and requires extremely lengthy processes, therefore not providing adequate protection for families. Additionally, the main debt confronting natural persons is their mortgage debt, and the special protection which the Bankruptcy Law offers credits with collateral prevent said debt from being postponed or interrupted during the process, which hinders the recovery of the domestic economy. As matters stand, the current legislation does not sufficiently protect the interests of citizens, who are the weakest party in the contractual relationship, the purpose thereof being aimed at the regulation of a specific market, the fundamental protection of the mortgage system and the safeguard of the interests of the creditors, who are the strongest party in said relation, generally comprised of banking institutions. In this regard, one must bear in mind that said institutions granted mortgage loans during the years of the economic boom without sufficiently assessing the risks thereof, having approved credits of up to 120% the appraised value of the real-estate and up to fifty-year repayment schedules. In view of this situation, the Ombudsman’s Office has suggested creating mechanisms (either an administrative, judicial or mediation procedure) facilitating an agreement between the parties.

The objective is for citizens to be heard and, if no agreement is reached, for there to be a decision-making body to issue a decision. This is a matter of families being able to cover their minimum living needs, without failing to meet their obligations, so as to not further worsen a process which is also affecting their health and their dignity.

- **Datio pro soluto:** The economic crisis has been an unforeseeable situation for the citizens who, when taking out mortgage loans, were in condition to pay for the obligation undertaken. However, the situation of the economy has put them in a position making them temporarily unable to do so, as a result of which the responsibility of these debtors must be reconsidered, when the default is a result of circumstance beyond their control. Within this context, this Institution is of the opinion that the natural persons or small businessmen and professionals, especially self-employed workers, need to keep their homes and their means of production in order to be active and not passive elements in the fight to get out of this situation. Therefore, the possibility should be looked into of dividing the mortgage credits into subtypes and giving different consideration in the case of arrears or default to the regular places of residence and business premises on which the regular profession is carried out, compared to any other acquisition of real-estate in which the same are put up in guarantee. Therefore, *datio pro soluto*, which limits liability and shares it out between the parties to the transaction could be limited exclusively to those acquisitions of a necessary nature, leaving a system burdened with liability for another type of acquisitions. Similarly, both the regular place of residence as well as the business premises should be given extraordinary protection in a foreclosure, given that the loss thereof multiplies the risk of poverty and social exclusion.

■ Gas

The complaints related to the natural gas service have to do mainly with the delay in the attention given to the applications for supply of new natural gas point by the marketing companies. This is due to the supply liberalization process which changed the structure of this sector with regard to the supply of household consumers.

■ Electric power supply

As had occurred previously in prior years, numerous complaints have been lodged regarding the provision of the electric power supply service by the companies in this sector. One of the major reasons for complaint is that failure to meet the requirement set forth under Royal Decree 1955/2000 governing the activities of transport, distribution, sale, supply and procedures for the authorization of electric power facilities. As matters stand, numerous investigations have been undertaken due to suspension of the supply.

Additionally, the high amounts charged by or the abusive practices of the supply companies were the main subject of many complaints in 2011. For example, a company's bad management caused a citizen several garnishees due to failure to pay an incorrect invoice totaling over 1,400 euros, when the monthly expense amounted to some 250 euros.

The Ombudsman has also intervened in regard to the administrative silence regarding the abusive practices related to electric bills or in view of the difficulties which both private consumers and municipal governments are experiencing for engaging the supply on the liberalized market, due either to insufficient concurrence of offers on the part of the marketing companies, or due to the requirement of guarantees of payment or bank guarantees on the part of the marketing companies which do not always seem to be sufficiently justified.

Apart from the above, numerous complaints have been lodged by owners of photovoltaic facilities who considered the new regulation which entered into effect toward the end of 2010 to have violated their rights because, among other things, it limits the hours of operation of solar panels already installed. Therefore, many business owners in this sector complained that they were not going to be able to recover their investment or make the payments on the bank loans. In this regard, different measures having been gotten under way, including a recommendation to the Ministry of Industry so that, given the new crisis situation, it assess the idea of increasing the production hours of photovoltaic facilities and to prevent situations of uncertainty, that it prepare a stable, clear regulation for the electric power sector under a special regimen. This resolution has however recently been rejected. In this opinion of this Institution, it is necessary for a new stable regulation of the electric power sector to be undertaken.

■ Water

The most frequently recurring problems are the water supply being cut off by the water supply companies without any advance notice, the disagreement with the amount of the water bills and faulty water meters.

One repeated problem regarding billing is how difficult it is to understand the price of the water and the elements making up the price. In many complaints, only the system in order for citizens to assess whether reasons exist for making a complaint are explained.

■ Communications

The delay some citizens undergo in the installation, transfer, portability and repair of faults in their telephone lines has continued to be a reason for complaint in 2011.

Order ITC/912/2006 governing the conditions related to the service quality in the provision of the electronic communications services furnished legal coverage for certain situations which had previously lack true legal regulation, leaving the interested parties in a vulnerable situation. Additionally, Royal Decree 766/2011 sets forth that the operator designed for the supply

of the universal telecommunications service has to fill the reasonable requests for connection to the public network from a fixed location within the time period of 60 calendar days. However, the problems put forth by citizens vary greatly, although the one circumstance common to all of these complaints is related to the delay in a response being provided and incidents put forth to the companies being remedied. Generally speaking, the delay caused is several months in length, although there are cases in which the delay is longer.

In the opinion of the Ombudsman, the operators must be scrupulous in compliance with the time periods stipulated so that citizens will be affected to a minimum degree. Along this line, an investigation has been made into the actions of certain companies, who cut off the service engaged without any prior request on the part of the service subscribers. This is the case of one elderly lady with a 67% disability. After opening an investigation, a urgent report was requested, an account of the outcome of which shall be provided in the upcoming annual report. Nevertheless, in the opinion of this Institution, the companies must be extremely diligent when processing a cancellation of this type of services, given that the inconveniences which are causes when customers are left without this service are added to the serious damages this causes to the most socially vulnerable groups and persons who live alone by themselves.

Apart from the above, Sustainable Economy Law 2/2011 includes a recommendation made by the Ombudsman in 2009 for the broadband internet service to be incorporated into the universal telecommunications service and therefore the actual provision thereof be guaranteed to the citizens requesting the benefit thereof.

As far as mobile telephony is concerned, citizen complaints have to do mainly with the billing problems and the lack of coverage in certain municipalities.

Continually receiving unsolicited SMS messages, the receipt of which entails an economic cost has been the reason for numerous complaints. An ex officio complaint is currently still open concerning this matter. On the other hand, a request has been placed with the Commission for the Supervisory of the Surcharge Services of the Office of the Secretary of Telecommunications and for the Information Society which is preparing a specific report on the problem of the billing of the Premium SMS message unsolicited by users. Although specific legislation has been passed in this area over the past few years which has mean an improvement in the safeguarding of user rights, a further effort must be made on the part of the public powers in addition to more far-reaching measures being adopted.

As far as the operators' customer assistance services governed under Royal Decree 899/2009, the complaints received reveal that the treatment dispensed at times on the part of the personnel providing the services is not always respectful. The operators are demanded, through this Institution, to adopt the fitting measures so that the service will be correct. It is true that the citizens at times expect solutions from the operators or put forth queries which are hard to answer, but the persons answering the calls are also often lacking the training and information necessary to duly provide the interested parties with assistance.

Apart from the above, there is a customer assistance services bill currently pending processing through Spanish Parliament which is aimed at guaranteeing the basic rights of consumers and setting some minimum parameters of quality with which compliance must be rendered by the customer assistance services of the companies in the water, gas and electric power supply services, the passenger transportation services, postal services, conditional access audiovisual media and electronic communications services. In this regard, special mention may be made of the fact that most of the complaints received by the Public Administrations on the part of consumers all share the common element of deficient customer assistance, especially the large-scale companies. It is for this reason that this regulation is deemed necessary, as it also makes provision of the possibility of the small and medium-sized companies and those companies which are in losses not being affected by the regulation, on not being those mainly causing these complaints.

■ Transportation

Regarding intercity transport, an investigation has been made into matters including the high cost of airfare for tetraplegic persons; the rate policy applied to the Madrid-Barcelona High-Speed Train (AVE); the non-inclusion of persons affected by a disability of 33%-64% in the Spanish Railway System Operator (RENFE) gold card; or the prohibition of access to the train of the parents children under 12 years of age who are travelling alone.

As far as air transportation is concerned, numerous complaints were filed due to the clauses in the airline contracts, which many citizens consider to be abusive. Specifically, that which sets forth the right to charge for issuing the boarding pass when the passenger in question is not carrying a printed copy with them gave rise to a recommendation to the National Consumer Affairs Institute.

Regarding the detriments caused to passengers due to the walkout of the air traffic controllers on December 3-4, 2010, the decision was made to suspend the measures on Spain's Airport and Air Navigation Company (AENA) having been party to the proceedings in its capacity as having subsidiary civil liability in the penal process opened by the Examining Magistrate's Court No. 3 of Madrid.

Lastly, as far as urban transportation is concerned, supervisory is continuing of the conditions of access for those persons using a wheelchair to the vehicles operated by the City of Madrid's Municipal Transportation Company (EMT).

■ Expropriation

The serious problems affecting the provincial expropriation panels in carrying out their duties are meaning an irregular and lengthy processing of the cases of appraisal taking the form of a long wait on the part of the owners involved in an expropriation procedure in order to collect the indemnification.

The lack of personnel and material means experienced by the different provincial foreclosure panels prevents them from ad-



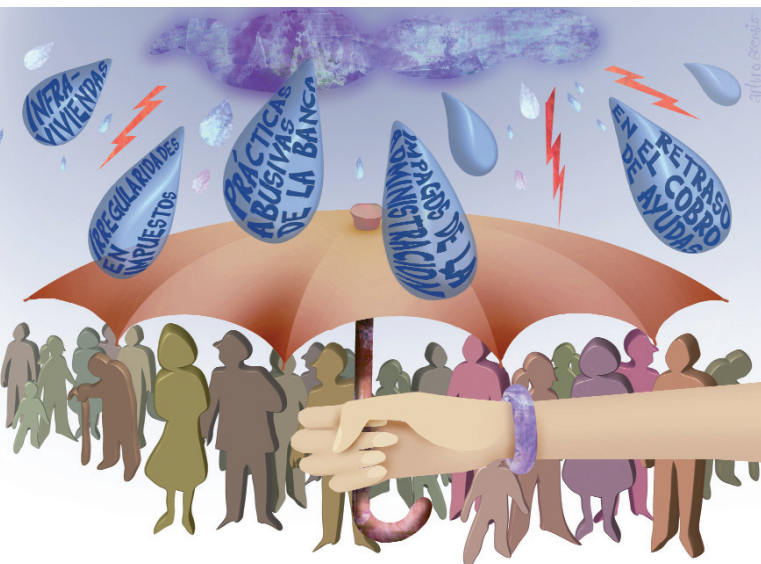
equately performing the task entrusted thereto. This is something which had been found to exist over the course of the many investigations carried out and has been put forth in several of this Institution's annual reports for the purpose of certain precepts of the Foreclosure Law to be amended, an as yet unsuccessful endeavor to date.

After opening an ex officio investigation of a general nature with the Ministry of Territorial Policy and Public Administration, a report was prepared which included a suggestion for action, with the idea of providing different solutions which would contribute to improving the processing of the cases and avoid the delay and resulting charging of interest on arrears, whilst also suggesting the passage of a new regulation setting out the organization and functioning of the panels. According to the data provided by the Administration, there are an extremely large number of cases currently pending decisions, totaling 21,185 cases in all.

■ Administrative contracts

As was formerly stated in the 2010 Report, the Treasury deficit which the municipal administrations are experiencing is affecting the payment of the services, supplies and works carried out by third parties for the Administration. This problem has a bearing on people and companies who have found themselves deprived of cash flow due to the impossibility of collecting what is owed to them and due to the uncertainty as to the point in time at which they may avail of credit in order to be able to make the payments.

Most of the complaints received concerning the subject of administrative contracting has to do with the following municipal administrations: Madrid; Valdemoro (Madrid), Pinto (Madrid); Humanes (Madrid); Villalpardo (Cuenca); Campillo de Altobuey (Cuenca); Tarancón (Cuenca); Pétrola (Albacete); Madrigueras (Albacete); Motilleja (Albacete); Miguelturra (Ciudad Real);



Guadalmaz (Ciudad Real); Ocaña (Toledo); Real Sitio de San Idefonso (Segovia) and Bollulllos Par del Condado (Huelva).

Along this same line, complaints have also been received concerning the Autonomous Community of Valencia and Andalusia.

■ Consumer affairs

Consumer and user defense continued in 2011, being an area of major importance in this Institution's activities. The complaints received show consumers to be taking on a progressively more active role as far as protecting their interests is concerned. This means that they are more demanding and are better aware of their rights and the guarantees to which they are entitled when decided to purchase a product or engage a service. However, despite all the precautions which are taken on the part of consumers, situations are still continuing to arise in which their rights are undermined, which then gives rise to their bringing their complaints to this Institution, as well as to the consumer affairs bodies in search of information and solutions to their problems.

In most of the complaints lodged with the Ombudsman, the citizens request information concerning different consumer affairs-related issues, more specifically, what to do in view of the deficient assistance of some technical services or in view of the failure to meet the expectations the buyer has regarding the product acquired, the failure to issue a sales receipt, the right to abandonment on the part of consumers, the refusal to facilitate complaint forms on the part of some establishments or consumer rights during sales seasons.

Complaints have also been received concerning the deficient services provided by some vehicle repair shops and emergency repair companies; due to the failure to comply with the purchase guarantees on the part of certain dealerships; due to abusive prices; and due to the irregular conduct of certain vehicle rental companies. Consumers have also requested information on what to do in the cases in which they do not receive goods engaged under contract for which they have paid, especially when the purchase has been made online. In these cases, however, the Ombudsman's Office cannot intervene as a result of these being issues of a private nature. But it can, indeed, and in fact does provide information concerning the rights of consumers and users, as well as regarding the legislation applicable to different situations they describe. The Ombudsman also furnishes information to citizens regarding the different extant consumer protection organizations.

Lastly, other matters which consumers have also brought to this Institution have to do with their disagreement with the decisions handed down on the part of the consumer affairs bodies to which they take their issues or, alternatively as a result of feeling themselves to be defenseless when faced with a complex procedure which they do not manage to fully understand and the outcome of which usually ends up many times in the law courts. Citizens also express their dissatisfaction in view of the lack of bindingness of the extrajudicial system for remedying disputes between consumers and companies.

This Institution has been stressing the need for some time now of the consumer affairs bodies conducting a follow-up on those complaints which are referred to other bodies for reasons of authority over the matter in question. The end purpose of conducting said follow-up is none other than to assure the effectiveness of the procedure and that it be concluded by means of the respective decision handed down concerning the complaints lodged by the citizens. This being because a major number of complaints are related to administrative silence in those cases in which are proceedings are referred from one agency to another for the remedy thereof.

Despite the Ombudsman recognizing the work of the consumer affairs services in the safeguarding of citizen rights, it deems it necessary to continue bolstering the work of the Administration for improving the Consumer Affairs Arbitration System. It is also indispensable for the inspection policies to be well-organized when put into practice and to achieve greater dissemination of alerts regarding possibly existing fraud.

Lastly, the Ombudsman's Office commits to further informative campaigns adapted to our society's current needs being carried out and also reiterates the need of expediting the mechanisms for the management of the processing of complaints, given that this would redound in a indubitable benefit for consumers and users.

The Ombudsman asks for greater coordination among administrations and more effective housing policies in view of the economic crisis

In the hundreds of housing-related complaints processed over the past year, suggestions and recommendations have been made to the public administrations as to their not resigning themselves in view of the budgeting limitations. In light of the economic crisis, it is possible and necessary – without increasing spending – to apply more effective policies and improve the coordination among institutions. On the other hand, an ex officio investigation was conducted with the Autonomous Communities regarding the number of vacant public protection dwellings.

■ Urban development

Despite the constitutional rights concerning this subject, the truth of the matter differs greatly: a city design of empty lots with vacant apartment houses and half-completed development complexes, not always completely vacant, as some people live then in a sort of “quasi-city” or “quasi-countryside” in a striking degree of isolation. Not only are their empty lots and apartments, unnamed streets, scant street lighting or buildings standing alone by themselves in a “desert”, but there are also sprawling city apartment complexes inhabited by a very few families; concrete structures, new houses, others half built and others solely design on paper. The completed residential land totals 1.5 million m², a total of 3.6 million vacant dwellings without there seeming to be any chance of their being occupied anytime soon.

Urban planning

In 2011, there were numerous complaints revealing citizen awareness regarding the conservation and preservation of the environment. Additionally, this Institution also took action on an ex officio basis after learning of a projects of the Municipal Government of Níjar in the province of Almeria which would also have the approval of the Autonomous Community of Andalusia Government for the construction of 1,000 dwellings, 2,500 hotel bed spaces and a 27-hole golf course in an area adjacent to the Cabo de Gata-Níjar Nature Reserve.

Complaints were also received concerning the processing of the urban planning plans: public participation, delays in the processing procedure and approval of the plans, one of the main causes of which was the lack of coordination among administrations; and cases of processing plans by disregarding the due procedure.

As far as public participation is concerning, it is necessary to stress the importance of this participation in the preparation and modification of these plans. The administrations have the obligation of facilitating everyone who has either a direct or indirect interest in the urban planning and management with access to the instruments which are submitted to approval. This right of obtaining information is the right of every citizen, not solely of

those who have entitlement or a legitimate interest, as some Administrations would have it.

Concerning the delays in the processing and approval of plans and the lack of coordination among urban planning Administrations, which are recurring themes in this Report, special mention may be made of the following cases, all of which were also mentioned in 2010: the timely amendment of the Subsidiary Standards of Archena (Murcia); the delays in the preparation of the Special Plan for the Protection of the “Cáceres El Viejo” Archaeological Site; and the delay in the General Plan of Gondomar (Pontevedra).

Similarly, this Institution is processing several complaints due to the delay in the approval of the General Urban Town Planning Plan of Moraleja de Enmedio (Madrid), the delay in which is affecting more than 3,000 persons, the majority of whom are members of cooperatives who have been waiting for over ten years now for their lands to be zoned as developable and thus be able to develop and subsequently build. Measures have been followed-up with both the city hall as well as with the Autonomous Community of Madrid in an attempt to foster the final approval of the Plan; and last of all, a suggestion and a reminder of legal duties have been put forth.

Planning process and permits

Although the difficulties of the developers are causing an obvious halt to development works being carried out, the problems inherent to this phase of unrolling the plans do not cease to exist either due to halted work or irregular management-related elements, whether in the reparceling, in the compensation or in so many other mechanisms which can always go wrong. The same is true regarding the final building stage, in other words, with the application, processing and granting or refusal of permits, the subsequent verifications (first activity, fitness for occupancy certificate) and with all the incidents imaginable (expiration, administrative silence). The mission of this Institution is to supervise the functioning of the public urban planning Administration but not the developer to see whether full compliance has been rendered with all of the urban planning commitments undertaken in due course thereby. This Institution does not consider these measures to have reached full conclusion until the urban planning Administration (generally the mu-

municipal planning administration) provides a definitive solution to the problems.

As far as the incomplete building of older development complexes, the construction crisis is causing the halting or abandonment of development complexes and building in progress. Therefore, once again this year, the complaints have to do mainly with the problems caused by the planning not being carried out completely. Some of the most outstanding are the deficient condition of the Esquinzo/Marabu (municipality of Pájara, Fuerteventura) and its deficiencies in infrastructures resulting the developer not having completed the development work it was under the obligation of completing, in addition to deficiencies in the completed works (drainage, water supply and treatment). In this case, whilst the Island Government has taken proper action, the same cannot be said for the Municipal Government. This investigation is currently under way.

Another case, also currently under way, is that of a development complex in Huecas (Toledo) which does not avail of a water supply or sewerage service; the drinking water comes from a well to which the residents themselves add chlorine and which often leaves them without a water supply; there is apparently no garbage collection or street cleaning service. Located five meters from one house there is a "clean point" where garbage and all types of objects are dumped, which the municipal services never pick up, which causes a major degree of uncleanness, presence of rodents and risk of fire. This Institution is currently awaiting a complete report from the mayor's office setting out the reasons for not taking action as required to do and for this office to clearly explain what measures it is going to take for the purpose of putting this situation into proper order.

Other similar cases which are still as yet currently under investigation are those of the Tres Palmeras in Carmona (Seville), Marcolina in Alcossebre (Alcalá de Xivert, Castellón) and Pla de la Torre (Torre de Claramunt, Barcelona).

Apart from the above, as far as permits are concerned, worthy of special note is the exceedingly numerous number of complaints related to dwellings which have been granted this permit without having the provision of basic services. In these cases, the municipal governments seemingly consider to have proceeded properly by the mere fact of the first occupancy permit being granted following favorable technical and legal reports having been obtained, by stating, for example, that the lack of some supply is a problem "which has nothing to do with the Municipal Government". However, there are residents who are living in dwellings which do indeed have the first occupancy permit – and which have therefore already passed the municipal check- but which are lacking, in fact, some basic utility (electric power, water). As matters stand, the Ombudsman's Office cannot agree with a first occupancy permit being processed and granted whilst the works have not as yet been completed, nor a check not even being made to assure that the works are as per the building permit and the development design plan. The Administrations must prevent some builders or developers from being able to sell dwellings to third parties, who buy them in good faith in the presence of a notary public believing that they can be immediately occupied because they have all of the development services which may be required, which turns out to not be true. Special mention may be made of the cases of Valmojado (Toledo), where the dwellings were not habitable on it

not being possible for the contract to be signed for the electric power supply; Casalla (Alicante), where almost forty families are living in dwellings for which a first occupancy permit, utility certificates and completed works certificates have been issued but which have no electric power supply; Ollo y Commonwealth of Municipalities of Pamplona.

Apart from the above, there are also cases of dwelling without first occupancy permits. It is indispensable and mandatory that the Municipal Administration be active and take steps to force developers to assure the dwelling they are developing and selling are as per the approved design plan so that they may be put into proper order and this permit granted. The Municipal Government Administration, which is the closest to citizens, must implement a solution to a real, serious problem which affects groups of residents who are living in uninhabitable dwellings. For this purpose, the municipal governments have to adopt additional measures other than mere demands, to which no response is provided in most cases. These measures may consist of charging coercive fines, disciplinary proceedings or even the subsidiary execution by the Administration at the expense of the entity under obligation, as this Ombudsman's Office suggests on many occasions. The cases of the city halls of Onil in the province of Alicante and Jaraiz de la Vera in the province of Cáceres are cases worth of special note due to their being so serious.

Duty of caretaking

The duty of caretaking concerns all, also the administrations proper regarding the assets of which they are in charge. The passiveness of some municipal administrations is amazing. For example, a foundation of the Autonomous Community of Valencia reports the treatment which the Municipal administration of Torreveija has been giving to different buildings pertaining to the Catalog of elements under the protection of the General Urban Planning Plan (PGOU) – The "Teatro Nuevo Cinema", "Casa y Torre de los Balcones", "Pension del Parejo", among others). Following a three-year investigation, this Institution has called attention to the delays and inactivity of the city hall concerning the aforementioned buildings, without having received the explanation requested as to the reasons for said delay.

Another examples, in this case the lack of caretaking on unbuilt lots, is that reported in Llagostera (Girona), where the Municipal Administration was not taking the measures stipulated under the Law governing Fire Prevention in Development Complexes which are not directly contiguous to the urban section were not being adopted.

Urban planning information

Once again, we must stress the large number of complaints that are received from citizens finding their requests for access to certain information to be denied without any legal grounds and generally by means of the easy (for the public power) and exasperating (for the citizen in question) administrative silence or, alternatively, by arguing erroneous interpretations of Law 30/1992 governing Common Procedure and Law 27/2006 governing the Right to access to information, public participation and access to justice regarding environment-related matters. Interpretations, in the opinion of the Office of Ombudsman,

which are mistaken and/or restrictive of the law, also often providing access to the information incompletely and with a considerable delay beyond the time period allowed. In this regard, measures have been taken up with the city halls of Moncada (Valencia) and Benicassim (Castellon).

■ Housing

In the opinion barometers which the Center for Sociological Research has published monthly in 2011, the highest-ranked concerns of Spanish citizens were unemployment and the problems resulting from the economic crisis, one of which is housing. According to data from different sources, there are currently 30,000-50,000 homeless people in Spain, and hundreds of thousands live in sub-standard housing or dwellings in extremely deficient conditions, besides the common problems of needy persons without housing or on the brink of being evicted. This situation has found its reflection in the Ombudsman's Office. The investigations on this subject have totaled 540 in number, 320 of which have to do with new complaints received in 2011; not counting those regarding the basic emancipation rent for young people (499) or the Public Rental Company (82). The cases dealt with are commonly dramatic and cannot wait out delays.

The social and economic background of the constitutional right to the enjoyment of decent housing can be described in figures: the collapse of the investment in housing construction, which is showing itself to be a calamity whilst there are more than 1,200,000 empty dwellings, some 600,000 completed and unsold, 300,000 under construction and nearly 400,000 halted (National Institute of Statistics, Population and Housing Censuses, but the data provided by other sources is even higher); average expense in domestic consumption is dropping gradually, whilst that related to housing is rising, currently totaling an average of 30% of the family income, nearly 9,000 € per year (National Institute of Statistics, Family Budget Survey, October 2011; this expense encompassing real property rentals, water, electricity, gas, owner's association fees, repairs, heating); the households allocating 30% of their budget to housing, 14.4% to food, non-alcoholic beverages and 12.4% to transportation (Ibid).

This Institution has been putting forth in its reports to Spanish Parliament that housing is not only a commercial asset, nor is the housing market a standard market; that the Constitution does not refer to housing as a net worth asset, nor a market item, but rather a basic asset for use and enjoyment, an object of constitutional right. Thus, in the resolutions addressing the Administration, it has been continued to stress that the land and housing market must be conceived in favor of all citizens, as a means for resolving the scarcity and lack of these assets and that, from the constitutional standpoint, cannot be understood as a means for the profitability of an investment.

In the hundreds of complaints processed this past year, suggestions and recommendations have been given so that, despite the adverse economic conditions, that they not acquiesce or resign themselves in view of the limits of the budgeting items. The constitutional right to housing is crucial inasmuch as it is one of the most basic factors of family stability. It is therefore necessary to denounce not only the large number of persons who do not even have a place to stay, but also that of those who

do have housing but in indecent conditions, a place which does not meet the most basic conditions for living and sleeping, where the family can related with one another with a minimal degree of autonomy and independence. It is not admissible that such a high percentage of the family income must be devoted to housing in detriment of the incomes which could be used for the education of their children, health protection or personal and family development. Hence, this Institution is stressing that this right be made a reality, demanding the positive action of the public powers and that the obstacles be removed for guaranteeing decent, adequate housing for those who are in need thereof and cannot obtain the same reasonably by other means.

Housing-related investigations have also been conducted concerning such closely-related issues as the banks collaborating with the administrations in the right to housing, that is to say, the actions in administrative and credit-related collaboration. In the opinion of this Ombudsman's Office, some responses from the Public Administration and the behavior of the credit institutions on which they are based do not seem to be fully in keeping with the legal system. Strictly speaking, which, on the other hand, are the terms with which the Administration and credit institutions face the facts (strict freedom of contracting, strict compliance with the obligations of repaying the loan, eviction and loss of the mortgaged property due to default on payment), the conclusion is that a violation of the Constitution could exist if it turns out, for example, that a person 67 years of age cannot gain access to housing due to their relatively older age, precisely as was reported in one complaint lodged with this Institution.

All Spaniards are entitled to the enjoyment of decent, adequate housing; and the public powers have the constitutional duty of promoting the necessary conditions and setting out the pertinent rules of law in order to make this right a true reality. The public powers have the constitutional duty in particular of guaranteeing the economic sufficiency of citizens during their senior years; and of promoting their welfare by means of a social services system which will provide an answer to their specific housing-related needs. And it is not a decision inherent to a social State for a person 67 years of age not to be able to gain access to housing due to their age, a reason put forth by the collaborating banking institution for not granting the loan thereof. Therefore, a denial which goes against the administrations with which the bank allegedly collaborates and which has been selected to collaborate not to decide by itself whether or not it recognizes a person's right to gain access to housing.

Legal safeguard of the right to housing

The administrations are not under the obligation of paying the full amount of the housing to which the citizens gain access. The end of Article 47 of the Constitution is to assure citizens, by means of indirect benefits, the possibility of accessing this property, of using the same and of having the enjoyment thereof. However, this Ombudsman's Office is finding that not only has the objective set not as yet been achieved, but that, to the contrary, it has been moving further away over the past few years, given that the demand for public promotion housing has undergone a considerable rise due to factors resulting from the economic crisis, such as the rise in unemployment, the drop in family incomes in weaker economies, the uncertainty in the purchase of private housing or the major credit crunch on the part

of the banking institution. In parallel thereto, the objective of meeting the needs or public housing or social needs is also further away due to the offer thereof by the administrations having been very small in view of the budget restrictions and because the decisions of the business owners in this industry have been held up by the narrowing profitability on the investment in private housing.

Although access to public protection housing can be fostered through budgeting channels by intervening in the development, construction or financing thereof either directly or by way of agreements with other public administrations or with private entities, there are however other means of doing so which are unlinked to these limitations, that is to say, which do not entail any expense whatsoever. This Institution has stressed to the administrations the need of more effective policies, active policies in coordination with other administrations and in accordance with the necessary planning resulting from a thorough knowledge of the actual housing demand, of the social need thereof. For this purpose, the administrations can contribute to providing a solution to the scarcity of housing by way more effectively combatting the fraud in the public protection housing or the growing number of dwellings occupied without legitimate title thereto, by improvement of the personal and material means for expeditiously processing the recovery of possession of the dwellings under their ownership which are currently vacant so that they may be awarded again to others who are awaiting a dwelling or with measures aimed at shortening the delay in turning over the keys to those to whom these dwellings have been awarded.

Vacant public promotion housing

This Ombudsman's Office cannot remain impassive in view of the thousands of citizens who cannot gain access to a dwelling whilst the administrations have thousands under their ownership which are, for some reasons, vacant or underused. Therefore, an ex officio investigation was opened with the competent ministries of the Autonomous Communities for the purpose of gathering the necessary information on the specific number of public protection housing dwellings which may be vacant, regarding the existence of a special registry of the current situation of each vacant dwelling and concerning the measures which are being adopted so that they may be occupied by whomever needs the same.

The Autonomous Community of the Basque Country has reported that as a result of the public protection housing system having been shielded, there are no structurally vacant public dwellings and that the only ones which could be tentatively vacant are the very few which are not as yet occupied due to the time lapse between award after being vacated and possession of the housing by the beneficiaries.

At the point in time of the writing of this Report, replies have been received solely from the Autonomous Communities of Aragon, Canary Islands, Cantabria, Castile and Leon, Basque Country and the Autonomous City of Melilla. Cantabria admits to not availing of data for providing an exact number of vacant public protection housing dwellings; Aragon also stating that it has not registry because the majority of the protected dwellings are privately developed. The Canary Island reported regarding several cases but did not provide any reply concerning the number of vacant dwellings. And, lastly, the Autonomous Com-

munity of Castile and Leon did not provide a figure either, although raising the question as to what is understood as "empty or unoccupied dwellings", although it recognized that these situations are increasing of late among the public protection housing dwellings and not solely among those of a private nature.

Although the other Autonomous Communities have not as yet furnished their reports, despite having requested them to do so, this Institution knows that the Balearic Island Housing Institute (Ibavi) had nearly three hundred public protection housing dwellings available in September 2011, a total of 103 of which were for purchase, 183 for rent and 11 for rent with an option to buy. Similarly, the Autonomous Community of Catalunya recognizes that, over the past few years, the number of vacant public protection housing dwellings it manages has nearly tripled, now totaling 3,264, divided upon among 499 developments, this being the reason why it has designed a plan for awarding them based on revising the rental prices downward and fostering the approach of rental with an option to buy. The Ombudsman's Office has also learned toward the end of 2011 that the Autonomous Community of Castile-La Mancha had 305 unsold public protection housing dwellings in 26 municipalities in Ciudad Real that were vacant because the possible buyers being unable to find financing, this number being 38% of all of the dwelling developed by the regional Administration of the aforementioned province.

Evictions for default on mortgage or rent payments

In 2011, numerous complaints have been received from people who finding themselves on the brink of an upcoming eviction. These people generally come to this Institution when they have already been informed of the date set for the eviction (notice from the court). In both cases, this Ombudsman's Office finds itself faced with serious personal and family situations, with the impression of a failure in life in view of adverse economic circumstances. This Institution cannot intervene in preventing a court-ordered eviction from being carried out, not even in order for an alternative dwelling to be provided for the persons evicted, as it is not vested with the authority to do so.

Nor can it intervene in order for a public protection housing dwelling to be awarded without further ado, but this Institution is, indeed, vested with the authority to supervise the activity of the Administration, especially the process of the awarding of housing, as a result of which it suggests to those affected that they file application, in due form, for the public housing suited to their family, economic and social circumstance (providing them with the addresses of the bodies they may contact according to their place of residence). If the dwelling which must be vacated is public protection housing, then they are also informed that this Institution cannot intervene as a result of a court decision already having been issued, but that if the person affected might have any doubt as to a possible irregularity of the Administration, they are informed that, prior to taking receipt of the notice, the public agency has to have requested court permission for entering a home in order to proceed to the eviction and that the administrative courts will likely have reviewed the administrative documentation focusing solely and exclusively on the formal aspect of the procedure. This judicial check as to the Administration having acted lawfully is fundamental with regard

to whether or not the required authorization permitting the eviction is granted. Similarly, this Institution keeps close watch over the citizen initiatives, such as those of platforms of persons affected by mortgages, as well as those of the parliamentary groups.

Special mention must also be made of the complaints aimed at not evicting once again from a public protection housing dwelling a person who has occupied the same without permission by the Administration holding ownership over the same. The interested parties have been informed as to this Institution not being able to provide protection for a citizen who is occupying a dwelling without having following the stipulated procedure and that the legislation recognized the government agency holding ownership thereover as being entitled to carry out an administrative eviction and recover possession of the property owned thereby.

Although this Ombudsman's Office understands the personal and economic situation of these families, they have been informed that one of the requirements they must meet in order for them to be awarded a public protection housing dwelling set forth under some laws is that of not occupying the dwelling without sufficient title, which would exclude them from the procedures for the award thereof to which they were to have the intention of filing application if they were to continue with the illegal occupancy.

Illegal occupancy of public promotion dwellings

In addition to some structured families evicted from their homes due to default on their mortgage or rent payments turning into "squatters", special mention must also be made of the fact that, in 2011, there has been an increase in the illegal occupancy of public protection housing by persons who have never gained access to housing due to lack of resources, in addition to those groups which have been employing these practices for some time. This situation, due to a great extent to the large number of vacant public dwellings, has given rise to the managing public institutions having found themselves forced to hire private security guards for protection and prevention. One example thereof is that the Madrid Housing Institute (IVIMA) has been holding a tender for years for subcontracting the security guard service, at a cost to public funds of five million euros over two years' time, some case of so many attempts at illegal occupancy having taken place that it was necessary to assign 14 security guards to one development in order to have each one of the lobbies under supervision round the clock. Whilst the Autonomous Community of Catalunya stated having up to 85 protected dwellings on record as being illegally occupied, the Madrid Housing Institute stated that, in its 19,000 inspections, it had detected up to 185 irregular situations.

Here, special mention must be made of the paradox consisting of the fact that it is easier to evict a tenant in arrears or someone who has gone without paying a mortgage from a public protection housing dwelling than getting someone who occupied one by means of "kicking down the door" to leave, and the fact of the matter is that, in these latter cases, neither express eviction nor arbitration, which saves on so many tedious steps and proceedings and time, can be applied. One there not being any juridical relationship between the administration owning the

apartment or estate and the illegal occupants of the dwelling, they can only be evicted by court order by law, by disciplinary proceedings by means of a complaint for breaking and entering or by way of the civil jurisdiction by means of eviction for non-payment. These situations have been found to exist in different investigations because the residents of some properties owned by public entities report in their complaints the passivity and scant effectiveness of the recovery of possession of dwellings illegally occupied (there is some case where one same stairwell has had up to six illegal occupancies, even in this irregular situation for several year). This Institution has recommended adopting other measures which will contribute to putting a stop to this problem: increasing the negative consequences for the occupants, such as their being excluded from the selection process; or that coercive fines be charges in an amount calculated as a percentage of the value of the properties occupied, repeatedly until their moving out is achieved.

Waiting lists for the award of housing

As the Autonomous Communities have undertaken in their statutes the exclusive authority over housing, this Ombudsman's Office has stressed that they must improve the regulation of the housing offer such that it will be adapted to the utmost to the current real needs of the beneficiary; fostering universal accessibility to housing for all individuals; establishing the conditions, measures and procedures which will allow the housing to be decent and adequate; perfecting the legal regime and the requirements for the award, management and control of protected housing; as well as fostering the quality of the construction, the control and prevention of fraud and the defense and restoring of legality.

In the opinion of this Institution, there being so many public protection housing dwelling vacant is due to the fact that the administrations are not effectively combatting fraud.

Other public housing service deficiencies

Complaints have arisen on the part of persons with physical disability to which a public protection housing dwelling has been awarded which is not suited to their using a wheelchair, their blindness or deafness. This resulted from an ex officio measure for ascertaining the method for checking this type of specific dwellings, as well as the conditions of the dwellings reserved for this type of handicap. From the data gathered in this investigation, it was deduced that the regulations were being interpreted restrictively.

Complaints were also received concerning public protection housing developments. This Institution has suggested to the Autonomous Community and Municipal Administrations that they inspect, monitor and, if necessary, penalize developers and/or builders when they default on their obligations. This legal duty of the public powers is not always met, which favors the developers and is damaging to the beneficiaries of dwellings, who have even had to pay amounts on account.

Young people's basic emancipation income

Numerous complaints have been received over the past few years concerning this subject; 385 complaints in 2008; 628 in 2009; 532 in 2010 and 490 in 2011. Generally speaking, these

complaints boil down to stating that their entitlement to this income has been recognized but they have not collected this aid, although there be no incidence in the case file. In August 2011, the Ombudsman's Office modified the method for processing these complaints for the purpose of expediting the processing without reducing the efficacy of the intervention of this Institution, such that an ex officio investigation was conducted of the general problems detected in the management by the Administrations of this aid granted, an agreement having been reached with the then Directorate General of Architecture and Housing of the Ministry of Public Works for a simplified management of these cases consisting of this Institution sending an e-mail message weekly with the list of complaints received concerning delays in collecting the emancipation income, which is also answered weekly by the Ministry, where the situation of each case is synthesized.

Apart from the above, no new beneficiaries are now being recognized following the entry into effect of Royal Legislative Decree 20/2011 governing urgent budget, tax and finance-related measures for the correction of the public deficit on January 1, 2012. The beneficiaries whose entitlement has already been recognized still have the enjoyment of the conditions set forth under the royal decree revoked and in the terms of the decision for recognition. Those who were to have filed application prior to January 1, 2012 are allowed, on an exceptional basis, to be beneficiaries of the right to the basic emancipation income.

Public Rental Company

The Public Rental Company (SPA) is a publically-owned corporation which holds a mediation process at the request of the landlord and undertakes certain obligations with the contracting parties. Both the mediation contract signed between the Public Rental Company and the landlord as well as that of the lease between the parties with the intervention of the Public Rental Company are agreements of a civil nature and are subject to civil legislation, meaning that this Institution's supervisory work regarding the actions of the Public Rental Company cannot cover the analysis of compliance with the contractual clauses. However, due to the number (159 complaints received in 2011), one must take note of the citizens who have contacted this Institution stating their disagreement with certain measures taken by the Public Rental Company, such as the unilateral amendment of the contracts signed, breach of the stipulated conditions, the delays in returning the deposit money and the failure to answer the letters from the interested parties.

Especially striking is the case of the owners of dwellings who entrusted the comprehensive management of the leasing of the dwelling to the Public Rental Company for a renewable five-year period. The conditions stipulated included the Public Rental Company guaranteeing the owner that it would collect the full covenanted amount (normally monthly rent), also through the periods of time when the dwelling was not occupied. However, many owners have contacted this Ombudsman's Office stating that shortly after the dwelling was left vacant for any reason, they have received officially-recorded sms messages from the Public Revenue Company informing them as to the "redefining" of the contract offering them "rental with guarantees" services essentially consisting of doing away with the obligation of guaranteeing the covenanted monthly amount during the periods of time that the dwelling is not occupied, it being understood that

the private citizen in question agreed to the same if no notice to the contrary sent in a manner providing an official record thereof were to be sent within the one-week period commencing as of receipt of the official sms message.

In light of case law, this Institution entertained doubts as to the exceptional conditions set out by the Supreme Court for the unilateral amendment of the contracts signed by the Public Rental Company to be considered according to Law in the cases reviewed. In any case, this Institution considers the messages sent to the interested parties, by way of a simple, almost telegraphic official sms message, as giving rise to legal uncertainty and perhaps entailing a break in the principle of legitimate confidence which the Public Rental Company must respect in its actions, in its status as an entity assigned to the Public Administration. This condition justifies the intervention of this Institution, which has given rise to an ex officio investigation having been opened.

■ Architectural barriers

From the urban planning and construction-related standpoint, complaints have also been investigated in 2011 concerning architectural barriers in public and private buildings which either prevent or seriously hinder the circulation and access to these buildings. In the majority of cases, we have found a willingness to exist on the part of the administrations to eliminate these barriers from the public buildings. However, cases of halting and postponing measures aimed at eliminating barriers, basing themselves on the current economic situation, have also been found to exist. This Ombudsman's Office finds it upsetting that this justification become a formal hackneyed excuse, given that the adaptation of environments and buildings is necessary in order for persons with disability to be able to exercise their rights and freedoms under conditions of equality with all other citizens.

This Institution is also concerned and is, in fact, conducting an ex officio investigation concerning the fact that, eight years following the passage of Law 51/2003 of December 2nd governing equal opportunities, non-discrimination and universal accessibility of persons with disabilities, the basic conditions of accessibility and non-discrimination for access to and use of goods and services at the disposal of the public have not as yet been approved.

Regarding the financing of the accessibility works, despite the fact that Law 26/2011 has introduced a paragraph fundamental for the owners experiencing economic difficulties, such as the exclusion for the payment of the apportionment on the part of those residents whose annual income total less than 2.5 times the multipurpose public income indicator, it must be said that this problem has not as yet been remedied. In the opinion of this Ombudsman's Office, it will not be possible for architectural barriers to actually be eliminated by counting solely on the efforts of our citizens, for which purpose it is indispensable that the public administrations collaborate. The municipal public works policies by means of aid and subsidies to the owners' associations must be a priority objective.

The Ombudsman's Office criticizes the order of judicial decisions being broken through legislative channels

Once against this year, citizens are denouncing by way of their complaints the extant trend of breaking the order of the administrative and judicial decisions through legislative channels and weakening the system of liability for damages to the environment. In turn, the measures continued last year regarding the Cañada Real, Valdemingómez, the Canary Island Protected Species Catalog, and an ex officio investigation was opened concerning the advisability of conducting an anti-noise campaign in 2012.

Right of access to information

The Ombudsman's Office's activity regarding the complaints due to failure to gain access to environmental information consists of explaining the regulatory framework of this right and seeking to have the Public Administrations change their way of thinking and furnishing access to the environmental information they are initially denying either without any legal cause or with legal cause but without stating the reasoning for the same or simply failing to provide any response.

Some of the most outstanding matters investigated are the cases in which some administrative bodies request exorbitant sums from the applicant under the heading of fees. In the case of one citizen, he was informed by the Cantabrian coastal boundary authority that it would charge him a fee resulting from multiplying 1.78€ per page, regardless of the format in which it were to be filed. The required design plan, available on CD, was comprised of 1,400 pages. After considering the complaint well-grounded as a result of its denying the object of a legal right recognized under the Constitution by dissuading the exercise thereof, this Institution issued a recommendation, still as yet pending acceptance, to the Directorate General of Sustainability of the Coast and Sea of what was then the Ministry of Environment and Rural and Marine Affairs at the time, that it consider the documents in digital format as being an equivalent to eh hardcopy format of 1 CD = 1 page; with the maximum equivalence of 10 pages.

Action has also been taken regarding the fact that the administration furnishing this Institution with the information requested by the citizen, but not directly to the citizen, which does not stand in lieu of due fulfillment of the administrative obligation nor remedies the violation of the law.

Right of public participation

Worthy of special note is the follow-up conducted by the Ombudsman's Office of the new Canary Island Protected Species Catalog. A state report noted that Canary Island Law 4/2010 governing Natural Heritage and Biodiversity, which made provision for the creation of the catalog, was approved in use of the statutory authorities thereof and that it therefore does not fall thereto to assess matters including the lack of citizen participa-

tion or scientific accuracy. However, in the opinion of this Institution, it is not authority which determines responsibility. For example, the legitimacy to contest Law 4/2010 concerning a violation of a constitutional right requires assessments which must be made by someone who is legitimized and lacks statutory authorities and legislative power. This is a matter of wild species, of threatened species, of natural heritage and biodiversity, and the State is not lacking authority over these matters.

Right of access to justice

Once again this year, this Institution must put forth to the Chambers its opinion contrary to the tendency toward breaking with the order of the judicial decisions through legislative channels by means of enacting specific case-related legislative provisions. This hinders access to justice (by preventing contesting before the judiciary or voiding the judicial decisions) and substantially reduces public participation.

One of the most striking cases is that of the validation by law of proceedings carried out under the protection of a decree declared null and void judicially. This is a case of the fifteenth supplementary provision of Law 22/2011 governing Waste and Contaminated Soils, the end purpose of which is to overcome the voiding decision of Royal Decree 1419/2005 (Supreme Court ruling of November 24, 2009). This new provision validates "all the works and measures" for planning the water resources of the Guadiana, Guadalquivir and Ebro river basins stemming from the royal decree voided by the Supreme Court. This Ombudsman's Office considered, in accordance with the Constitutional Court jurisprudence, that Law 22/2011 has a constitutionally legitimate end purpose, but the new legal system set forth by Law 22/2011 entails a lesser protection of the environment: the general interest in the protection of the natural environment was surpassed by the interest in meeting a need (due to a former drought which no longer existed).

Therefore, the disagreement of this Institution must once again be put forth regarding the way of doing of the legislative branch. Although we be dealing with a law where we do not find any flaws in constitutionality regarding which the Ombudsman might have filed an appeal before the Constitutional Court, we also find that the perception on the part of the applicants and

the citizenry in general that what has not been obtained through other former channels ruled irregular by the judiciary is not being sought other way is a perception which is neither illogical, illegitimate nor without grounds.

Therefore, it must be reiterated that, in these cases, that the grounds for the final decisions adopted by the public powers comply with the rules of the laws and regulations be set out clearly and conclusively for all.

Impact assessments

The strategy assessment does not encompass only that which has to do with the environment. It is plain to see the outcome of a deficient planning, with airports that are not used and other inoperative infrastructures, always undertaken under the catch-all of the general interest and very costly, not only economically. This Ombudsman's Office is delving into whether the alternatives have been sufficiently studied. In the large-scale projects, the public powers base themselves on reasons which are not in accordance with those of Law 9/2006, which requires, for designing plans and programs, that what is referred to as "alternative ZERO" be taken into account, in other words, assess the possibility of not carrying out the same (Article 8.1). It is stressed, hence, once again this years, that the alternative in question must have some actual possibility of being taken into consideration and of being chosen.

Still as yet in its beginnings, the ex officio investigation opened regarding Decree 6/2011, which sets forth the procedure for the assessment of the repercussion on the "Red Natura 2000" network of the plans, programs or projects carried out in Castile and Leon is worthy of special mention.

As regards airports, an account was provided last years as to the measures taken with AENA and AESA concerning air safety as far as the impact of the airport infrastructures are concerned and the suggestions not taken regarding the material possibility of implementing a faster way of deciding as to the filing for disciplinary proceedings against the airline companies. It is not a function of this Ombudsman's Office to issue an opinion regarding air safety, but rather regarding whether the air safety administration is functioning irregularly, but it must be underlined that serious discrepancies are inferred from some investigations. Although the investigations conducted regarding the penalizing power concerning the subject of civil aviation do not cease turning up deficiencies (2010 Report), it can be said that AESA avails of the necessary legal mechanisms to progressively reasonably cover the room for improvement which, in the opinion of this Institution, it still as yet has in view.

Another aspect of the measures undertaken is the advisable manner of proceeding on the part of citizens in cases of possible violation of the rules of law governing noise due to noncompliance with routes or other sources of annoyances. Generally speaking, the current situation is not identical to some ten years ago, when the administration maintained that "it was not the airports but rather the airplanes causing the noise". This is fortunately no longer so, and the law today expressly stipulates that the airports are indeed noisy infrastructures, besides being dangerous and annoying, on which duties and obligations fall aimed at attenuating the noise and reducing the risk. This Ombudsman's Office has also sent further suggestions for taking

action and insistent reminders in 2011 if the explanations given several times to the Ministry of Public Works have barely had an effect.

Concerning roadways, the problems are persistent and similar in nature to those before. This Institution has sought, in several cases of exceedingly noisy highways near dwelling, to obtain confirmation as to the dossiers for the contracting of works including a statement of urgency setting out the reasons for the same written by the contracting body in order to undertake soundproofing measures. The Administration cannot, in the opinion of this Institution, go on over and over again without changes in such an attitude over the course of the years with a progressively more well-perfected legislation, looking for limits to the fulfillment of its obligations. Therefore, the prospects are discouraging for those affected, and now the budgeting situation coming to add to the problems from years ago in the past. Therefore, a suggestion has been put forth to the highway administration to urgently engage the works for implementing corrective measures.

In general, the highway administration takes a less than collaborating attitude regarding this Institution, when the reports received are practically identical to other previous reports. The deficiencies encompass the realm of the provincial highway administration, for example, the Provincial Government Office in Salamanca, which is involved in breach of the obligations it has undertaken and of its legal duties, because it does not conduct a noise study with guarantees of objectivity, impartiality and public participation, nor does it undertake any decided measure for correcting the noise generated by a highway under the ownership thereof. The suggestion of conducting a noise study has not even met with a clear response in order to accept or reject the same. Another example of unjustifiable passivity is that of the Autonomous Community of Murcia Ministry of Public Works and Regional Planning, which says that it is not possible for it to immediately engage the supply and installation of noise barriers "due to reasons solely and exclusively of a budgeting-related nature". But the truth of the matter is not exactly as stated, as it is now alleging lack of budgeting resources so as to not undertake forthwith a suggestion which remedies problems made known to the administration in question some eleven years ago. The truth of the matter is that the administration in question has been alleging budgeting problems since 2004, the administration's financial problems therefore not being something of the present.

Municipal permits on classified activities

A wide variety of also widely-varying complaints have been lodged regarding this subject: annoyances due to stockbreeding operations and farms for private consumption; establishments and activities of all types, almost always in urban areas; even facilities owned by the municipal administration property. These complaints also denounce an insufficient concept of the municipal authority over controlling classified activities: too many formalities and too little efficacy, "over-guaranteeing" in favor of the offenders and placing less than proper value on the rights and interests of those affected.

Similarly, despite municipal passivity, the Autonomous Communities generally resist acting in lieu of the municipal administration, although the law so allows and even so imposes.

Natural resources

The proceedings are currently still continuing with the Office of the Secretary General of the Rural Environment (now Agriculture and Food) concerning the problems caused by the use of neurotoxic pesticides revealed in beekeeping.

In 2011, the investigation concluded on the artificial, illegal introduction and eradication of the European beaver in the Ebro River Basin (Aragon, Rioja and Navarre). In the opinion of this Ombudsman's Office, this case shows that the scientific definition of this "extinguished native species" category as differing from that set forth under Law 42/2007. Therefore, this Institution deems that Paragraph 12, Article 3, Law 42/2007 should be amended for the purpose of adapting the legal and scientific definition.

Other investigations in 2011 were regarding the use of lead munitions in the wetlands of Galicia; and the review of an erroneous boundary line set in a Site of Community Importance of the Region of Murcia, which excluded public woodlands of natural values but nevertheless included farmlands of the complainant which do not have said natural values.

Concerning livestock trails and public roads, the measures are increasing in number, as is citizen awareness of these problems. One of these trails, the "Cañada Real Galiana" has been the main subject of an ex officio investigation regarding which a request has been placed with the Autonomous Community of Madrid for a report concerning the future of a livestock trail, as well as all of the other aspects set out in the complains, waste management, urban planning and regional strategy, planning and control issues (capital city of Madrid and metropolitan area, Rivas-Vaciamadrid and Coslada, mainly), forecasts regarding scheduling and management of public measures concerning housing and land rehabilitation, possible awards and measure for citizen support. We have asked the Autonomous Community Administration to not overlook bearing in mind always that the dimension to which we are referring are of a supramunicipal scope.

In the judgment of this Institution, National Livestock Trail Law 3/1995 and also the Autonomous Community of Madrid Livestock Trail Law unequivocally attribute to the Autonomous Community Administration the responsibility of an adequate conservation and reestablishment of the livestock trails, for which, according to both of these laws, all those measures which are necessary for the restoration of the integrity and adequate protection thereof must imperatively be adopted, which includes measures in addition and/or supplementary to those of Law 2/2011 for which provision is not directly or specifically made thereunder, these being measures which are to then serve to restore and reestablish the integrity of the livestock trail. All those who exercise functions of surveillance, in particular the Security and Law Enforcement bodies and the environmental agents, must see to the custody and conservation of the Cañada Real livestock trail.

Apart from the above, as far as the amount of water supplied to the population is concerned, remarks have been addressed to the Tagus River Basin Authority concerning the strategic environmental assessment, the ecological flows and the hydrological planning, no response having been received from this agency. The Ombudsman's Office is of the understanding that



merely stating that the calculation has followed that which is set out in the Hydrological Plan is not enough in order to justify a rational use of the water. The Ombudsman is not questioning the criteria set out in the hydrological plans of allocating "x" liters per permanent inhabitant and "y" liters per seasonal inhabitant, but does not understand that the calculation of the water supply in the concessions being made considering a number of inhabitants (permanent and seasonal) which is not the real numbers (by estimating their short-term vegetative growth) at the point in time of the granting of the water concession, but rather with an expected growth based on urban development.

Concerning the protection of the quality of the hydraulic public domain, the problem is that of the persistent irregular effluents caused by companies and private citizens. The Ombudsman's insistence has achieved, following years of persistent irregular effluents, that several river basin authorities have now taken material precautionary measures such as sealing facilities, apparatuses, equipment, wells, periodic inspection plans, sample taking; and that they have requested the ceasing of activities from the municipal and autonomous community authorities. In urban wastewater treatment, several Municipal Administrations (Medina del Campo, Daimiel, Sigüenza and others smaller in size) have been persuaded to undertake improvements in their insufficient treatment facilities, connect centers of urban population to the same and modify permits for effluents into the municipal sewerage system, modifying the ordinances regarding effluents. The Municipal Administration of Arbo (Pontevedra) has ordered the sealing of a septic tank which was giving off bad odors after it having been materially proven that the illegal septic tank is not used and does not contain waste and is not causing leaking, which was necessary for resolving this problem and what this Ombudsman's Office had suggested thereto.

As far as the coasts are concerned, an ex officio investigation is still currently under way concerning the regeneration of beaches, to the limited extent to which it has been possible to



make any headway in 2011, although we shall be able to provide the results in the 2012 report.

Pollution

Actions are continuing and complaints are still being received concerning the bad odors being suffered by the residents in the vicinity of the Valdemingómez (Madrid) waste management facilities. A total of now more than 100 complaints have been lodged with regard thereto. In 2010, the Municipal Administration of Madrid conducted an odor detecting and measuring study in the residential areas in the near vicinity of these facilities with a radius of 5 kilometers, suggested by the Ombudsman's Office. In the opinion of this Institution, another study would have to be made once the open-air composting plant has been definitively closed.

As matters stand, the Ombudsman's Office put forth a recommendation concerning this matter, which has been rejected by the Municipal Administration. The suggestion in question intended for those lands on which the bad odor cannot rationally be corrected (or any environmental affection preventing the decent use of a dwelling) not be used for residential purposes. This suggestion also put forth the idea that, on planning the uses of the land, provision be made for a perimeter around the large-scale polluting facilities in which the residential use of the land be prohibited. In the opinion of this Institution, whilst the Valdemingómez technological park is bothersome, the responsibility is the owner's but also that of whomever has permitted housing to be built at distances not preventing the bad odor being noticed thereby.

Apart from the above, an ex officio investigation was opened in 2011 concerning illegal dumps and the legal situation of some waste treatment plants in Galicia, León, Canary Islands and the

Autonomous Community of Valencia. This Institution deemed it necessary to gather events which have still as yet not been remedied by the Administration for the purpose of promoting the sealing of illegal dumps and knowing the evolution of the execution. Similarly, it is necessary to ascertain the reason or cause of some Municipal Administration delaying closing the dumps and what urgent or precautionary measures are being taken by the Autonomous Community Administration. The type of management and control currently being carried out concerning pharmaceutical waste has also been investigated. Lastly, a check was made to see whether the Urban Waste Management Plan had already been approved and whether it had been possible to get all of the municipalities to sign up for the Integral Waste Management Systems in order to recover the material resulting from the sorted collection.

Concerning air pollution, the Autonomous Community of the Region of Murcia Department of Agriculture and Water has agreed to disseminate on its website the hourly, daily and monthly air pollution concentrations in Benzene, Toluene and Xylene recorded at its measurement stations, precisely as suggested by this Institution.

On the subject of noise, as previously explained, airport noise continues to be giving rise to numerous complaints, some headway having been made in the corrective measures, but very little with regard to the effectiveness and even validity of the preventive assessment. One example is that of the expanded hours of the Lanzarote airport. Prior to making a decision as to expanding the schedule, the more than likely acoustic impact thereof was not assessed.

Numerous failures have additionally been detected in the administrative intervention for the control of sources of pollution. The administration sometimes proceeds according to law, however does not proceed as expeditiously or effectively as it should, this being something it attributes to lack of budgeting.

Complaints are due to all types of sources of noise, being lodged quite frequently due to music festivals or concerts, open-air bar/restaurants, nightclubs, town-wide patron saint's festivities located a few short meters from residential areas, without reconciliation of interests between those persons who wish to live decently in their homes and the establishment owners. The same is true for bothersome unlicensed activities, where the Administration does not proceed to closing the same immediately despite the complaints filed by citizens; and for bothersome activities verified by the municipal inspectorate, in some cases constituting a serious risk for humans or the environment without anything effective being done to prevent the same and even encouraging the same.

Within this context, the Ombudsman's Office opened an ex officio investigation with the Spanish Federation of Municipalities and Provinces and with the Office of the Secretary for Climate Change of the Ministry of Environment and Rural and Marine Affairs concerning the advisability of conducting an Anti-noise Campaign in 2012 nationwide of a twofold municipal and provincial scope.

The impact of the economic crisis has meant the restriction of public employment offers and a large number of complaints from civil servants

As last year, the impact of the economic crisis and the cutbacks made by the administrations in both their public employment offers and civil servant pay have been the leading subject of the complaints lodged concerning civil service employment.

Access to civil service employment

In accordance with the provisions set forth under Royal Decree 264/2011 of February 28th enacted in approval of the public employment offer for 2011, the impact of the economic crisis had made it necessary to continue adopting measures set out in the Council of Ministers Resolution of January 29, 2010 passed in approval of an immediate plan for action for the aforesaid year and an austerity plan for the 2011-2013 period, including the containment of personnel expenses by means of the implementation of restrictive strategies in the configuration of civil service job offers.

Therefore, the complaints during 2011 concerning the major cutback in the civil service job offers for accessing, by means of the incorporation of newly-admitted personnel, the Civil Guard and National Police Force approved respectively by Royal Decree 265/2011 of February 28th and Royal Decree 264/2011 of February 28th, as well as to the other Government Service bodies.

This Institution has informed the complainants as to Public Administration personnel management policy directives falling within the framework of the exercise of the power of self-organization conferred thereto by the legal system for carrying out the provision of public services, such that, at all times within the applicable legal frameworks, the best option for each situation or circumstance may be set out, which currently has to do with the criteria on containment set out in the aforesaid plan for austerity.

Apart from the above, by way of Supreme Court rulings of March 21, 2011, this Court has welcomed a claim repeatedly lodged over the past few years by citizens aspiring to the Security Forces and Corps, as, by way of these rulings, the age limit established for entering the National Police Force as set forth under Paragraph b), Article 7 of Royal Decree 614/1995 of April 21st, which, for the basic scale, was to be at least eighteen years of age but under thirty years of age and for the inspector category was expanded to thirty-five years of age is ruled void.

This fact has given rise to a large number of citizens having requested the intervention of this Institution in order for the maximum age limits for entering other civil service forces such as the Civil Guard, the different local police forces and the Armed Forces to be modified, it however having been necessary to in-



form them that a proposal such as this would have a bearing on the adopting of legislative policy measure.

In the educational field, the primary education specialists included on the lists of contract teachers put forth their disagreement with the procedure for managing the teacher exchange, on considering that teachers of specialties other than primary education had been habilitated as primary education teachers and placed in a preferential situation. Considering that this management system could cause a lessening of the quality of the education provided, as well as a possible detriment to these teachers, who, due to their specific preparation and academic training, must always be given priority in the process of assigning these teaching positions offered, it was resolved to open an ex officio investigation with the state educational Administration in Ceuta and Melilla, as well as with the 17 autonomous community education administrations for the purpose of ascertaining how the contract teacher exchanges are managed regarding the aforementioned aspects for accessing the primary education teacher workforce.

The problems stemming from the selection processes within the scope of the Justice Administration are reflected in the complaints lodged by the citizens who have taken part in the massive competitive examinations for accessing the Administration

of Justice judicial assistant workforce held within the territorial scope of Andalusia, in which they stated irregularities which, in their opinion, occurred in the process of holding the examination given on November 27, 2010 in Seville, they therefore requesting the voiding of the selection procedure and the announcement of the holding of a new examination.

This Institution therefore requested the Office of the Secretary of Justice to take all of the measures within the scope thereof for the appeals and complaints pending to be remedied forthwith so that both the termination of the aforesaid process as well as the upcoming holding of examinations would be carried out with the expeditiousness and efficiency on which the actions of the Public Administration must be based. All of which, for the purpose of preventing situations such as those reported from reoccurring.

Job provision and mobility

Within the framework of the mobility processes, a secondary school teacher and husband of a primary school teacher stated the Ministry of Education having published first the competition for primary school transfers and that, during 2011, the tentative award could be rejected only up to April 11th. However, the next day, they published the competition for secondary teacher transfers, he therefore being of the opinion that the solution in order for hundreds of families with the same problem to be able to regroup was for the announcements to be published at the same time or at least a only a few days apart to thus have a margin of availability for choosing or rejecting the destination offered by way of the aforesaid competitive transfer procedure.

The Office of the Undersecretary of Education indicated that around 140,000 civil servants had taken part in the statewide competitive transfer procedure for the 2010/2011 academic year and that that the group taking part in the procedure for the teacher workforce was quite large, as a result of which the competitive transfer procedure for teachers is tremendously complex, which made it advisable to break down the awards of the procedures by workforces. Therefore, it was first proceeded to obtain the tentative award of destinations for the competitive teacher transfer procedure, adding that, if the tentative award of the assignments for the teachers had been put off until that of the other workforces was ready to be published, this would have entailed meant all of the claims coinciding in time and foreseeably delaying the final decisions of all of the competitive procedures.

Lastly, it was concluded that, in the case of the competitive procedures of an autonomous community scope, for those years in which it is not fitting for the statewide competitive transfer procedure to be held, as a result of the number of participants being noticeably smaller, there will be a greater degree of maneuverability which could open up the possibility of taking into account coinciding openings for the different workforces for the effects of filing waivers.

Apart from the above, an ex officio investigation was opened on learning of the engaging of family physicians at the primary care level on the part of the Autonomous Community of Madrid by means of an appointment of a casual nature in accordance with that which is set forth under Article 9.3 of Law 55/2003 of December 16th governing the Framework Statute of the statu-

tory health services personnel, on considering this measure as entailing a higher degree of job insecurity.

The Autonomous Community of Madrid stated the reasons for the existence of the rate of casual engagement of family physicians as being due to factors such as the growth of the healthcare infrastructures due to the rise in the population for which care is being provided, as well as the new organization into one single are of this autonomous community's healthcare map. Once the new organizational structure has been definitely set out, the job consolidation policy could be improved, to which the conclusion of the procedures for the provision of transfer openings and job offers would contribute, the staffs being set adapted to the actual needs, at which point in time the vacancies will be covered by means of appointments of an acting nature, which gave rise to the conclusion of this investigation.

Civil service employee pay

Different petitions have been filed requesting appeals to be filed regarding violations of constitutional rights related to state and autonomous community rules of law having a direct or indirect bearing on the pay-related conditions of civil service employees are set out under the respective heading of this report.

Civil service employee working conditions

This year, the protocol for taking action against harassment at the workplace in the General State Administration has come into being by way of resolution of May 5, 2011 of the Office of the Secretary for the Civil Service, as a tool for the prevention and penalization of this behavior and the legal admonition thereof within the scope of civil service employment, this being a subject dealt with in previous reports regarding which the Ombudsman shall continue its supervisory work for the purpose of guaranteeing the dignity of civil servants at the workplace.

Pensions and benefits

Civil service employees from different areas have set out the problems stemming from partial retirement with hand-over contract. Thus, they pointed out that the National Social Security Institute was refusing these retirements to those who had reached 60 years of age, arguing that the respective employers or trade union stewards had not filed the company agreement to which transitory provision two of Royal Legislative Decree 8/2010 of May 20th adopting extraordinary measures for the reduction of the public deficit makes reference.

In any case, in view of the data furnished to us by the competent administrations, it has not been possible to detect the existence of any irregular measure, since one of the bases on which the Administration rests is that of not being able to access partial retirement when the trade union representatives or the company under the charge thereof have not made use of the one-month time period to which reference is made under Ministry of Labor and Immigration Order 1827/2010 for notifying and making available to the provincial directorates of the National Social Security Institute or the General Social Security Treasury the company collective bargaining agreements signed up to May 24, 2010.

The NPM incorporates physicians, psychiatrists and psychologists on its teams visiting facilities for the deprivation of liberty

At the end of 2011, the NPM has incorporated into its visits physicians, psychiatrists and psychologists who are experts in treating persons deprived of their freedom. Incorporating these experts is a commitment to an integral, multidisciplinary evaluation of the imprisonment facilities and sites.

The National Preventive Mechanism Against Torture (NPM) has as its main objective that of conducting visits to imprisonment facilities in order to detect structural and procedural problems making it possible to prevent the practice of tortures or abusive treatment and the subsequent impunity thereof.

The first year in which the NPM was in operation (2010) was characterized by making a large number of visits throughout the country to a wide variety of places of deprivation of liberty (231 visits to 13 different types of facilities). It was attempted for these facilities to be representative both in geographical terms as well as with regard to the agencies managing the different concepts of deprivation of freedom for which provision is made under Spanish law. The aim was therefore to make an initial general assessment of the current situation of the sites for the deprivation of freedom.

In 2011, the NPM conducted 77 visits and has now commenced relying upon the collaboration of professionals of accredited training and experience as external experts, who have the mission of reinforcing the NPM working teams on their visits in order to assure a comprehensive, multidisciplinary evaluation of the centers and places for the deprivation of liberty.

Relying on external experts, a common practice throughout Europe

The need of counting on this independent, specialized advisory is common throughout all European NPMs. In fact, the Council of Europe has formed what is known as the "Independent Medical Advisory Panel" (IMAP), an team of medical experts possessing long experience in visits to places for the deprivation of freedom whose purpose it is to provide advisory to the prevention mechanisms and to the national medical experts proper with regard to the particularly complex matters on those in which the scientific criteria are not sufficiently well-defined one way or the other.

During 2011, it has been attempted for the visits made to focus on the living regimen of the facilities, the intervention protocols and, above all, to listening to the voice of those deprived of their freedom and comparing what they have to day to the other elements of judgment available. A total of 77 visits have been made, the classification of which, in keeping with the typology of the facilities visited, is provided in the following Table:

TYPES OF SITES FOR THE DEPRIVATION OF LIBERTY VISITED	NO. VISITS
Police stations and other short-term custody sites; National Police Force	13
Headquarters and other short-term custody sites; Civil Guard	12
Juvenile offender facilities	11
Prison facilities	10
Municipal police	7
Court building jails	7
Hospital custody units	4
Autonomous Community Police (Catalonia, Basque and Canary Island)	3
Alien internment centres	3
Military disciplinary establishments	2
First Aid and Detention Facility	1
Police facilities at border checkpoints	1
National Police Force Unit assigned to an Autonomous Community	1
Prison Psychiatric Hospitals	1
Mothers' Module (prison establishment)	1
Total	77

As shown, the typology of the visits has changed compared to 2010. Mention may also be made of the visits conducted to the Psychiatric Prison Hospital in Alicante, a National Police Force Unit assigned to an Autonomous Community (Autonomous Community of Valencia), an Alien First Aid and Detention Center at the Port of Almeria and the Mothers' Module in Seville operating under the General Prison Administration.

Multidisciplinary visits, any time any day

Similarly, as of October 2011, the time at which external specialists joined the NPM visiting teams, a total of 9 multidisciplinary visits have been made. Some of these facilities had been visited previously, it however having been considered fitting to conduct a follow-up and emphasize some area which were to particularly require the medical or psychological perspective.

This new method carried out on these visits has required a longer average length of time devoted to each one thereof, which, in the case of the multidisciplinary visits, has ranged from 2 to 4 full days. This has entailed the need of adjusting the number of visits to increase the intensity thereof. At the same time, the practice has been maintained of scheduling a number of visits on holidays as well as conducting nighttime visits, all for the purpose of gaining the broadest-ranging most reasonable view possible as to the actual functioning of the facilities visited. All of these visits were conducted without advance notice.

The collaboration of these professionals, specialists in legal and forensic medicine, in psychiatry and psychology, have enriched the NPM reports with the analysis of the conditions of deprivation of freedom and have contributed a specialized focus when conducting the individual interviews which are held with the persons deprived of freedom and evaluating the results thereof. This is especially important both in the case of persons who have mental illnesses and in psychiatric hospitals, prison facilities, juvenile offender treatment facilities, etc. Reviews have also been made of the medical records of those deprived of their freedom, as well as of whatever injury reports may be included therein.

The multidisciplinary team is always headed by one of the members of the NPM. The external specialists carry out measures considered appropriate within their specialty. The external technical reports are prepared in parallel separately from the record documenting the measures of each visit for the purpose of assuring the specific, totally independent nature of technical advisory provided. Nevertheless, the conclusions of the record are assured as being a synthesis of all of the thoughts emerging from the work of the multidisciplinary team as a whole.

As the Association for the Prevention of Torture recalls, the visit is not an end in itself, but rather "only the beginning of a process aimed at improving the conditions of treatment and detention of the persons deprived of their freedom" based on the tested and proven conditions of deprivation of freedom, the main problems identified and the good practices found. In this regard, it must be said that the NPM protocols for taking action have incorporated the process of taking photographs of all of the facilities visited, a selection of which will be illustrating the 2011 annual NPM report.

The NPM additionally analyzes whether the detention conditions observed are according to the national and international stan-

dards applicable thereof and tries to find the possible cause of any deviation: insufficient training of the personnel, insufficient human or material resources, national legislation that is not in keeping with the international standards, lack of adequate guarantees, etc. for the purpose of then preparing whatever conclusions may be in order and opening whatever investigations are deemed necessary.

If, during the course of the visits, complaints are received on the part of the persons deprived of their freedom concerning improper treatment or alleged abusive treatment, without detriment to the aforementioned analysis, these complaints are conveyed to the respective area of the Ombudsman's Office for their study and, wherever applicable, the opening of the respective investigations.

When, from the response of the authorities, the will to take into consideration the conclusions of the NPM entailing improvements in the detention conditions is not noted, the NPM may make use, formally, of the pertinent resolutions which the Law recognized as falling to the Ombudsman, such as the recommendations, the suggestions or the reminders of legal duties.

The investigating process culminates in a constructive dialogue. In addition thereto, by means of the follow-up, the NPM may evaluate whether there is a positive response on the part of the responsible Administration. This dialogue must be constructed on the premise that, as also pointed out by the APT, the conclusions of the NPM "are also an opportunity for the States to take advantage of the detailed, practical and specialized advisory of the mechanisms...".

The NPM carries out the follow-up of the acceptance of the recommendations and verifies whether the official responses are in keeping with the actual situation by means of further visits to certain detention sites. This has been the case of the follow-up visits made in 2011 to the Civil Guard facilities in Intxaurreondo (San Sebastian) and Arguineguín (Las Palmas), to the Alien Detention Facility in Valencia, the Central District Police Station and the central National Police Detainee Registry, both in Madrid. The subsequent visits afford the NPM with the possibility of seeing, first hand, the degree of acceptance, in practice, of its criteria and resolutions and serve to identify further deficiencies or the need of working more intensely on different points of interest detected on prior visits.

Apart from the above, as was stated in the 2010 Annual Report, the complete design of the NPM set forth by way of Organic Law 1/2009 of November 3rd, which introduces a single final provision into the Ombudsman Organic Law entailed the creation of the Advisory Council. The Acting Ombudsman presented a bill for the reform of the Institution Regulations to the competent body of Spanish Parliament. The passage of this reform has taken nearly eleven months as a result mainly of the dissolving of the Chambers and of the subsequent process of constituting the same following the election held last autumn. Lastly, the reform of the Regulations has been approved at the time of the writing hereof, by way of a resolution of the Boards of the Congress of Deputies and the Senate, meeting at a joint session on January 25, 2012. By way of establishing the Advisory Council, the intent of this Institution is that of establishing a permanent channel of dialogue and cooperation with civil society and with accredited specialists concerning issues of in-

terest to the Spanish NPM which will afford the possibility of enriching the perspectives with which work is to be done.

The detailed explanation of the activity carried out by the NPM in 2011 will be set out in a specific report which shall be presented to both Spanish Parliament and the Subcommittee on the Prevention of Torture (SPT) in compliance with that which is set forth in the Optional Protocol for the Convention Against Torture (OPCAT).

Other Affairs

Co-official languages

The complaints lodged in 2011 concerning this matter have to do, for the most part, with procedural aspects and violations of the laws and regulations governing the use of the co-official languages in signposting roadways and public areas.

Complaints have continued to be lodged by complainants denouncing the infringement of one of the linguistic rights for the realm of the administrative procedures: exclusive use of Castilian Spanish in resolutions and communications to citizens (Provincial Delegation of the Public Employment Service of Tarragona) or in the opposite case, exclusive use of the other co-official language (Galician municipal administrations), lack of versions in one of the co-official languages in certain territories of forms for mandatory use for carrying out administrative formalities (lack of forms in Catalan on the part of the Spanish Tax Authorities) and certain contents of the website of the Ministry of Education and University Planning of the Autonomous Community of Galicia solely in the Galician language. Other complaints have to do with the signposting of roads and public areas in the Autonomous Community of Valencia.

The administrations involved as a result of the complaints allege in their reports a major increase in the volume of resolutions and communications, lack of technical means, economic restrictions or upcoming measures favoring the change requested of them.

Personal data protection

The complaints have continued concerning the way in which the Spanish Data Protection Agency is proceeding. In many of these complaints, the interested parties state their discrepancy with the decisions issued by the Agency and in others make reference to failure to comply with the time periods stipulated for issuing decisions.

When the complainants state their disagreement with decisions to close proceedings or dismiss complaints and claims, once it has been found by the documentation and the allegations that no irregular administrative action is found to exist, the interested parties are referred to the exercise of the channels for taking exception thereto for which provision is made under the specific rules and regulations applicable thereto, the same being done in cases of discrepancy regarding the adequacy or sufficiency of the factum or legal grounds on which the administrative decision or action is based when it is considered that a violation of constitutional rights the defense of which is entrusted to this Institution has not occurred. Although not complaints in the strict sense of the term, a good number of messages have been received by this Institution in 2011 in which the Spanish Data Protection Agency, in keeping with the provision set forth under Article 46 of Personal Data Protection Act 15/1999 of December 13th informs the Ombudsman as to the resolutions in which the Agency normally confines itself to generally requiring the respective administration to adopt the measures necessary in order for the effects of the former to cease or be corrected without specifying what the same must be. The Ombudsman has continued along the line of action to which reference was made in the 2009 Report with the Autonomous Community of Madrid Data Protection Agency with the intention of achieving a more literal application of the provisions of the aforesaid Article 46 such that the

decisions issued will not be confined to suggest the adoption of unspecified measures to correct the violation, but rather include a precise description thereof so that the owner of the file penalized will know exactly what the scope of the obligations thereof are for the purpose of fully complying with the laws and regulations in force regarding personal data protection.

Electoral system

The legal changes coinciding in time this year with the electoral process has involved a major increase in the number of complaints regarding the electoral system. The procedures for appointing members of the electoral boards and the results stemming from the exercise of the channels set forth under the electoral legislation in order for those appointed to excuse their participation have been a cause for complaint.

The problems involved in receiving votes by mail (November 2011) echoed in the media gave rise to this Institution opening an ex officio proceeding with the electoral census office and the Directorate General of Interior Policy. The Census Office has provided a detailed explanation of the different conditioning factors there have been whilst the aforementioned Directorate General did not express in the report furnishing any intention whatsoever of studying the revision of the current procedure for voting from abroad along any of the lines suggested by this Institution.

Regarding the voting procedure accessible for blind or visually-impaired persons called for by this Institution, this is detailed with the publication and entry into effect of the amendment of the Organic Law Governing the General Electoral System, but is currently pending the application thereof in local elections.

Citizen safeguard against the audiovisual media

For over a decade, the Ombudsman has been putting forth a call, in its reports, for the creation of an audiovisual authority independent from the executive branch of government to which possible functions may be entrusted including the task of guaranteeing the effectiveness of the measures for the protection of juveniles and young children in the audiovisual media.

Two years following the General Audiovisual Communication Law, the creation of the State Audiovisual Media Council is still pending and complaints are still being lodged due to violations of the contents broadcast by the audiovisual communications services which are affecting the citizens in general but also the rights of minors.

Use of the Spanish flag

The current legal system clearly stipulates that the Spanish flag must be flown outside and occupy a preferential place inside all of the buildings and establishments of the central, institutional, autonomous community, provincial or island and municipal Administrations. And constant, reiterated jurisprudence of higher courts of justice and the Supreme Court stress this legal requirement and the obligation of all public authorities of adopting the measures necessary in order for full compliance to be rendered with these provisions.

Compliance with this legal duty has been being repeatedly failed to be rendered by public administrations, particularly autonomous community and local administrations, mainly in Catalonia and the Basque Country. Although considering that it does not fall to the Ombudsman to take initiatives aimed at compliance with the legal provisions set forth under Law 39/1981, which fall to the public authorities in their respective scopes and to the courts of justice, this issue was dealt with previously in a general manner in the 2007 Annual Report for the purpose of Parliament having knowledge of the situation and of the opinion of this Institution and that regulatory or whatever other type of measures were to be deemed advisable thereby be adopted.

Since then, complaints have been being received from citizens rather often in regard to the violation of Law 39/1981 on the part of different autonomous community and municipal administrations and, similarly, in regard to the inactivity of the bodies of the Central Administration, specifically the Offices of the Government Delegates and Deputy Government Delegates as a result of either not processing the complaints files in this regard or not issuing the fitting demands for full compliance with the state legislation to the administrations committing these violations.

Citizen participation and information

The right of citizens to be furnished with the most ample information possible concerning the activity of the municipal administrations and of attending the plenary town council meetings which are, in principle, public and of obtaining copies and certifications of the local resolutions, as well as consulting the local archives and records within certain limits has, once again this year, been cause for complaint, most due to no reply having been provided to the applications and claims filed by those interested in the exercise of such a right.

Special mention may be made this year of the complaints related to the treatment given by municipal governments to the possibility of authorizing the recording of the plenary sessions of the town council meetings for the subsequent copying and uploading thereof onto the internet, this being a recording process under the protection of the Constitutional Court and the Data Protection Agency.

Municipal activities and services

As every year, the complaints lodged in relation to the municipal actions and functioning, with the activities they promote and the services they provide for meeting the needs and aspirations of their residents have been numerous and varied.

Complaints have been lodged regarding deficiencies in regard to the tap water supply and the drinkability thereof, the drainage and sewerage system, the garbage collection and street cleaning service, the state, upkeep and lighting conditions of the urban streets and minor roads, as well as the management of cemeteries. And also regarding the standards of use and the fees stipulated for the use of sporting facilities, the condition of maintenance and safety of children's playgrounds, the conditions of enjoyment of use of the common properties, the exercise of the powers regarding the maintenance and recovery of the public assets and the conditions for the ownership and use of domesticated animals.

The economic crisis has been reflected in complaints from residents to whom the refund of deposits or the payment of subsidies has been either delayed or defaulted upon, alleging a lack of cash flow.

Municipal resident registry management

As a result of municipal elections being held in 2011, there have been a major number of complaints lodged denouncing registrations in the municipal resident registry ("empadronamiento") suspected of not being situations of actual regular residence of the residents for the purpose of influencing the make-up of the electoral census and the outcome of the elections, which is particularly easy at small-scale town councils in which minimal changes in population can go so far as to distort the census.

The complaints which had previously been lodged in 2010 by the president of the Association of Moroccan Immigrants and Workers in Spain (ATIME) and the municipal group of "Izquierda Unida" (Spanish coalition of leftist parties) in the City Hall of Robledo de Chavela (Madrid) due to requirements for registration in said registry which come to bear solely in the case of Moroccan immigrants have not been possible to be checked in view of the attitude of the Municipal Administration of Robledo de Chavela which has completely ignored the three successive requests for information made thereto without any reply whatsoever having been provided. Two new complaints in which likewise Moroccan citizens claimed that, despite having been living in the municipality in question since November 1, 2010 and having formalized a housing lease agreement, they had been denied registration in the municipal resident registry ("padron"). As in the preceding cases, no response whatsoever has been obtained from the municipal government after two requests for information, as a result of which the fitting measures will be studied for achieving the required collaboration of the aforementioned municipal administration.

Apart from the above, the City Hall of Madrid has agreed to make changes in the wording of the letter it sends out for the confirmation of residency and thus avoid misunderstandings on the part of citizens.

Pecuniary liability

The right of the governed to be indemnified for the damages caused to their properties and rights, provided that they be the consequence of the functioning of the public services, has given rise, as in previous years, to a very large number of complaints regarding the public administrations, most of which have to do with the long length of time involved in a decision being provided to the proceedings. The complaints for damages sustained have had to do with widely-varying matters. Most refer to the personal injured and material damages caused by the poor condition of maintenance of streets and roads. Apart from the above, complaints have been lodged concerning the air space having been closed in December 2010, the death of a person in a forest fire, the alleged negligent action in the processing of aid from the European Commission, the modification in the wage scale the air force specialist corps and the voiding of a municipal building permit.



Institutional Relations



Institutional Relations

■ Parliamentary activity

On April 6th, the Acting Ombudsman, accompanied by the Second Deputy, presented the 2010 Management Report to the Presidents of the Congress of Deputies and the Senate.

On June 21st, she appeared before the Joint Commission to present the 2010 Annual Report. Later, on September 15th, she presented the aforesaid report before the plenary session of the Congress of Deputies. The elections being held earlier than originally scheduled prevented the 2010 report from being presented to the plenary session of the Senate in 2011, said presentation having been postponed until February 8, 2012.

During 2011, another two special appearances of the Acting Ombudsman additionally took place. In the first of these two

■ Relations with parliamentarians

As in previous years, this Institution has taken part in the preparatory workshops serving as a prelude to the holding of the ombudsmen coordination conference. On January 24th, a meeting of the Autonomous Community Commissioners was held with the Acting Ombudsman at the headquarters of this Institution to set the workshops, theme and venue at which the XXVI Ombudsmen Coordination Conference was to be held.

The Second Deputy took part in the workshop "Senior Citizen Rights" held on April 28-29 in Albacete. Manuel Aguilar was also present at the workshop on "Persons in a Situation of Dependence. Special Consideration for Senior Citizens" on May 3-4 in



Presentation of the 2010 Report to the President of Congress of Deputies



Presentation of the 2010 Report to the President of the Senate

appearances, on June 20th, the Ombudsman appeared before the Special Senate Commission for the study of the problems of national adoption and other related matters to report on the situation of the juvenile guardianship centers. The second of these special appearances was requested by the Equality Commission on July 19th to report on the comprehensive Bill for equal treatment and non-discrimination.

Apart from the above, on July 20th, the Ombudsman presented to the Houses of Parliament the National Preventive Mechanism Against Torture and other cruel or degrading treatment or punishments (NPM) activity report for the 2010 year.

Lastly, on September 23rd, the monographic report prepared by this Institution concerning the procedures for determining the age of unaccompanied foreign minors was presented to Spanish Parliament.

Given the delays caused by the electoral schedule in 2011 and the forming of the new Houses of Parliament, these monographic reports could not be presented prior to the end of the calendar year through an official appearance and debate before the Joint Commission of Relations with the Ombudsman.

Alicante. This Institution also took part in the workshop "Sociosanitary and Other Rights" held on May 10-11 in Santa Cruz de la Palma. Apart from the above, the Acting Secretary General attended the Secretary Generals of Ombudsman's Offices Conference held on May 4-5 in Murcia.

XXVI Ombudsmen Coordination Conference

The XXVI Ombudsmen Coordination Conference was held on June 6-8 in Cartagena (Murcia). The object thereof was to analyze the rights of senior citizens and seek solutions to the problems which have a bearing on this group.

The Acting Ombudsman was in charge of officially opening the conference. The working sessions commenced with a framework presentation titled "Senior Citizen Rights: Human Rights". The rest of the sessions were devoted to holding three workshops, the first of which was on socioeconomic rights, the sec-

ond on sociosanitary and other rights and the third on dependent care focusing especially on senior citizens.

The conclusions of this conference are available in the full version of the annual report at:

www.defensordelpueblo.es

Other working meetings with the Autonomous Community Commissioners:

- Working meeting between the Acting Ombudsman and the Basque Country Ombudsman, Iñigo Lamarca. April 11th at the Ombudsman Headquarters
- Working meeting of the Acting Ombudsman and the Ombudsman of Aragon, Fernando García Vicente. October 4th at the Ombudsman Headquarters.

Ombudsman Institution to analyze how the interviews should be held with persons deprived of their freedom. This training session was held within the framework of the recycling tasks this Institution's advisors are carrying out following this Institution having undertaken the function of a National Preventive Mechanism Against Torture and other cruel and degrading treatments. November 17-18, Ombudsman Headquarters.

Working meetings with authorities, citizens and social organizations

Throughout 2011, citizens and representatives of social organizations of different types have come to the Ombudsman Headquarters to meet with the Acting Ombudsman to set out their complaints regarding different actions taken by the Administra-



XXVI Ombudsmen Coordination Conference Group Photo



Working seminar on Human Trafficking in Spain

Conferences organized by this Institution

- Working Seminar on Human Trafficking in Spain. The keynote speech was delivered by the Acting Ombudsman, who was accompanied by the Secretary of Equality, Bibiana Aído. May 10th, Ombudsman Headquarters.
- Conference on National Human Rights Structures of the Council of Europe Member States. Organized in collaboration with the Council of Europe. This conference was attended by representatives from the Ombudsmen's Offices and the Human Rights Commissions of all of the Council of Europe's member States, as well as high-ranking officials of the Council of Europe and the European Human Rights Court. These conference sessions were for the purpose of discussing the European Court of Human Rights standstill, seek ways for the actual enforcement of its rulings and promote education in human rights. September 21-22, Senate.
- NPM training workshop. Psychiatrists and psychologists of renowned prestige held a meeting with advisors from the

tion. The Ombudsman's Office has also hosted meetings with representatives from the public administrations or the public institutions operating thereunder for the purpose of attempting to expedite the investigations or settle difference of opinion which might hinder the effective processing of citizen complaints.

- Meeting with representatives from the National Association of the Unemployed (ADESORG). January 12th.
- Meeting with Spanish Committee of Representatives of Persons with Disabilities (CERMI) to present their reports on human rights and disability for 2008 and 2009. January 18th.
- Meeting with representatives from Renewable Energies Associations to set out their complaint in view of the passage of Royal Decree 14/2010 of December 23rd concerning the regulation of Photovoltaic Solar Energy. January 18th.
- Meeting with representatives from the Federation of Independent Teachers' Unions (FSIE) petitioning the filing of an appeal for the violation of constitutional rights against Ad-

dendum IV to Article 17 of General National Budget Law 39/2010 of December 22nd for the year 2011. January 19th.

- Meeting with Representatives from the Smokers for Tolerance Club for putting forth their discrepancy with Law 42/2010 of December 30th enacted in amendment of Law 28/2005 of December 26th governing health measure to combat the smoking habit and regulating the sale, supply, purchase and advertising of tobacco products, also known as the "Anti-Tobacco Law". January 25th.
- Meeting with the National Association of Recreation Hall Owners who set forth the problems which what is referred to as the "Anti-Tobacco Law have meant for their group. January 27th.
- Meeting with the Regional Federation of the Francisco Giner de los Ríos School Body Parents' Associations, petitioning the filing of an appeal for a violation of constitutional rights against Law 9/2010 of December 23rd governing Public Sector Fiscal, Administrative and Rationalizing Measures of the Autonomous Community of Madrid. January 31st.

- Meeting with the Coordinator for the Prevention of Torture and Penal System and Human Rights Monitoring System. February 15th.
- Meeting with the Platform of Persons Affected by Clinics Throughout Spain as a result of the "stolen children" cause to present the measures taken by the family members affected by the "stealing of children" at Spanish clinics in the interim between the post-war years and the early 1990's. February 16th.
- Meeting with the Respectful Care Foundation to present a study on the prevalence of use of restraints at residential facilities. March 9th.
- Meeting with Ombudsman of Barcelona, María Assumpció Vilá i Planas. March 22nd.
- Meeting with the representatives from the Concepción Arenal Judges' Association for setting out the problems faced by substitute magistrates and judges. April 4th



Meeting with representatives from the Federation of Spanish Journalists' Associations (FAPE) and the Press Association (APM)



Meeting with representatives from the Spanish Committee of Representatives of Persons with Disabilities (CERMI)

- Visit of representatives from the Chambers of Commerce to set out their disagreement with the substance of Royal Decree 13/2010 of December 3rd by virtue of which mandatory membership in these Chambers is eliminated. February 9th.
- Meeting with representatives from the Federation of Spanish Journalists' Associations (FAPE) and from the Press Association to set forth the concern of journalists regarding the Electoral Law, specifically concerning Article 66. February 10th.
- Meeting with members of the cleaning staff from the Municipal Government of Aranjuez to set out the alleged irregularities in the process and competitive procedure for selecting the persons to fill the openings for cleaning staff at said city hall. February 14th.
- Meeting with members of the Photovoltaic Industry Association (ASIF) and the legal representatives thereof to request an appeal against violation of constitutional rights against Royal Decree 14/2010 of December 23, 2010 regarding the regulation of Photovoltaic Solar Energy. February 14th.

Meeting with representatives from the Platform for the creation of the Official Association of Archivists, Librarians and Documentalists of the Autonomous Community of Madrid to set out their proposal for creating the aforesaid Official Association. April 7th.

- Meeting with members of the Neighborhood Human Rights Watch Brigades. April 26th.
- Meeting with representatives from the thirteen trade union organizations signing the manifest "Civil Society in Defense of the Savings and Loan Associations" to petition an appeal against violation of constitutional rights against Royal Decree 2/2011 concerning the requirement of solvency of the savings and loan associations. April 29th.
- Meeting with the President of the National Coroners' Association to present to the Ombudsman the issue of the Spanish Legal Medicine Journal in which the conclusions reached by the Spanish coroners at the conference on age determining organized by this Institution were published. May 4th.

Meeting with the “Smoke-Free Freedom” Platform for presenting 600,000 signatures against what is referred to as the “Anti-Tobacco Law”. May 4th.

- Meeting with representatives from ACNUR in Spain to discuss human trafficking with a view to the monographic report which the Ombudsman’s Office is preparing on this subject. June 14th.
- Meeting with the Asylum and Refugee Office to discuss human trafficking with a view to the monographic report which the Ombudsman’s Office is preparing on this subject. June 14th.
- Meeting with police inspectors to explain the experience of the National Police Force in the fight against human trafficking with a view to the monographic report which the Ombudsman’s Office is preparing on this subject. June 15th.
- Meeting with representatives from the Civil Guard. to explain the experience of the Civil Guard in the fight against human trafficking with a view to the monographic report which the

- Andreu Martín, Director General of Administration of the Autonomous Community of Catalonia.
- Claro José Fernández-Carnicero González, delegate for Relations with the Ombudsman and member of the Governing Body of the Spanish Judiciary
- Emilio Gines Santidrián, from the United Nations Subcommittee for the Prevention of Torture
- Representative from the Coordinator for the Prevention of Torture
- Representative from the Independent Civil Service Employee Union Headquarters (CSIF)
- Representative from the “Comisiones Obreras” Union
- Representatives from the Unified Civil Guard Association (AUGC)
- Representatives from the Spanish Association for International Human Rights Law (AE-DIDH)
- Representative from the “Unión General de Trabajadores” Union of Prison Employees



The Acting Ombudsman received representatives from the Neighbor Human Rights Watch Brigades



Meeting with the Autonomous Community of Madrid Minister of Social Affairs, Salvador Victoria

Ombudsman’s Office is preparing on this subject. June 16th.

- Meeting with representatives from the “Union General de Trabajadores” Union to learn of their work combatting human trafficking with a view to the monographic report which the Ombudsman’s Office is preparing on this subject. June 27th.
- Meeting with the Director General of University Student Assistance, Participation and Employability of the Ministry of Education to deal with the subject of the University entrance examinations. July 14th.
- On the occasion of the presentation of the first National Preventive Mechanism Against Torture Report on July 20-22, the Acting Ombudsman promoted meetings with all of the professional working in the field of the prevention of torture to give them a copy of the report in person. For this reason, the following persons and groups accepted the invitation and came to this Institution to receive the report individually from the hands of the Ombudsman:
 - Virgilio Valero, Director General of Territorial Coordination and Open Environment of the Ministry of the Interior

- Representative from the Civil Guard Officers’ Union
- Representative from the Spanish Police Confederation
- Representative from District Neighborhood Coordinator
- Meeting with representatives from the Association of Early Retirees due to Industrial Reconversion. September 7th.
- Meeting with representatives from the Association of Members of the Alcalá de Henares Court Duty Attorneys (ACATO) to set out the situation in which the court duty attorneys in Alcalá de Henares are finding themselves. September 13th.
- Meeting with representatives from the Committee Against the Smoking Habit regarding what is referred to as the “Anti-Tobacco Law”. September 19th.
- Meeting with the President of the Spanish Healthcare Law Association. September 19th.
- Meeting with Autonomous Community of Madrid Minister of Social Affairs, Salvador Victoria. October 3rd.
- Meeting with National Association of the Unemployed (ADESORG) to analyze the situation of the unemployed in Spain. October 11th.

- Meeting with the Association of Those Affected by the Mirador de Valdetorres del Jarama to put forth the drinking water-related problems of this development complex. October 11th.
- Meeting with the Patient Defense Association. October 11th.
- Meeting with representatives from the Unified Civil Guard Association (AUGC) to petition the filing of an appeal against the violation of constitutional rights against the legal reform prohibiting the right to protest of Civil Guard officers. October 18th.
- Working meeting with Pedro González Trevijano, Chancellor of the Rey Juan Carlos University. October 19th.
- Meeting with the Association of Parents in Action (PAMAC) to deal with matters concerning the regulations governing the break-up of couples with children living together. November 10th.



150th anniversary of the Mortgage Law

- Meeting with representatives from the Spanish Catholic Commission of Migrations Association (ACCEM). November 21st.

■ Meetings, official acts and tributes

- The Acting Ombudsman attended the investiture ceremony for the new Constitutional Court Judges (Adela Asúa Batarrita, Francisco José Hernando Santiago, Luis Ignacio Ortega Álvarez, Francisco Pérez de los Cobos Orihuel). Constitutional Court Building. January 12th.
- The Ombudsman attended the Santillana Publishing House's 50th Anniversary Celebration presided by the Prince and Princes of Asturias. Casa de América. January 18th.
- The Acting Ombudsman attended the ceremony commemorating the 150th anniversary of the enactment of the Mortgage Law, organized by the Official Association of Property

and Commercial Registry Registrars of Spain. Madrid Property Registry Headquarters, February 8th.

- The Ombudsman attended the World Rare Disease Day Commemoration in Spain. During this act, there was a reading of the Declaration for Equal Opportunities and the FEDER Awards Ceremony. March 3rd.
- The Ombudsman took part in the meeting of the "ONCE" Foundation for the Blind's Discapnet Awards Panel, afterward attending the awards ceremony which were held on March 10th at the Palace of the Duke and Duchess of Pas-trana, March 2nd.
- The Acting Ombudsman attended the commemoration of the VII Anniversary of the 11-M Terrorist Attacks. Organized by the Autonomous Community of Madrid Ministry of the Presidency. Main Entrance of the Royal Post Office. March 11th.
- The Ombudsman attended the floral tribute and reading of the manifest "In Defense of the Truth, Memory, Dignity and



World Rare Disease Day Commemoration

Justice". Organized by the Victims of Terrorism. Forest of Remembrance, Retiro Park. March 11th.

- The Acting Ombudsman presented the "Silver Cuffs" Award. Organized by the Association of Juridical Communicators and Informers (ACIJUR). Press Association of Madrid. March 17th.
- The Ombudsman attended the ceremony awarding the University of Alcalá Medal of Honor to the President of Ireland, Mary McAleese. March 22nd.
- The Second Deputy attended the presentation of the Good Practices Guide on the access and safeguard of the rights of persons with disabilities and their relations with the Justice Administration and the fourth "Forum, Justice and Disability" Awards Ceremony organized by the Forum and the Governing Body of the Spanish Judiciary. Headquarters of the Governing Body of the Spanish Judiciary, March 24th.
- The Ombudsman attended the awards ceremonies for the King of Spain International Journalism Awards and the Don Quijote Journalism Award. Casa de América, April 4th.

- The Acting Ombudsman attended the XXVIII Edition of the 2011 Ortega y Gasset Journalism Awards organized by the “El País” Newspaper. Madrid Fine Arts Society, May 4th.
- The Ombudsman attended the Investiture of the President of the Autonomous Community of Madrid, Esperanza Aguirre. Autonomous Community of Madrid Headquarters, June 16th.
- The Second Deputy attended the swearing-in ceremony of the “50th Public Prosecutor Graduating Class”. Complutense University, June 16th.
- The Ombudsman attended the session in remembrance and tribute to the Victims of Terrorism. Congress of Deputies, June 27th.
- The Acting Ombudsman attended the official formation of the Island Government of Eivissa and the investiture of the President, Vicente Serra Ferrer. Eivissa, July 1st.
- The Ombudsman attended the investiture of the President of the Autonomous Community Government of Aragón,
- The Ombudsman attended the formal dinner commemorating the XXV Anniversary of the journal “Expansión”. Madrid. September 7th.
- The Acting Ombudsman attended the opening of the Judicial Year. Supreme Court Building, Madrid, September 15th.
- The Acting Ombudsman took part in the IV Editions of the National Organization for the Blind (ONCE) Day. Eivissa, October 1st.
- The Ombudsman attended the tribute to the Nation’s Flag and the Military Parade. Madrid, October 12th.
- The Acting Ombudsman attended the awards ceremony for the XVI Tiepolo Award given by the Italian Chamber of Commerce. Embassy of Italy. Madrid, October 17th.
- The Ombudsman attended the III International “The Gateway to Memory Award given by the International Victims of Terrorism Monitoring System of the San Pablo CEU University Foundation. Casino de Madrid, October 26th.



ACIJUR “Cuffs” awards ceremony

- Luisa Fernanda Rudi. Palacio de la Aljafería, Zaragoza, July 14th.
- The Acting Ombudsman attended the awards ceremony for the Posidonia Awards to Excellence in Entrepreneurship given by the Eivissa Chamber of Commerce. Santa Eulalia Convention Center, Eivissa, July 29th.
- The Ombudsman attended the awards ceremony for the “Illes Pitiüses” awards given by the Ibiza Newspaper “Diario de Ibiza”. Club Diario de Ibiza, Eivissa, August 4th.
- The Ombudsman took part in the ceremony for the award of the Gold Medal of the City of Eivissa to the Ex-President of the Island Government Antoni Mari Calbet. Municipal Government of Ibiza Cloister, August 5th.
- The Acting Ombudsman delivered the Opening Speech at the Saint’s Day Festivals in the towns of Gargantilla de Lozoya and Pinilla de Buitrago. Gargantilla de Lozoya, Madrid, August 20th.
- The Ombudsman attended the Eucharist celebrated by His Holiness Benedict XVI on the occasion of the Closing Ceremony of the 2011 World Youth Conference. Cuatro Vientos, Madrid, August 21st.



Swearing-in ceremony of the new Constitutional Court Judges

- A plaque was presented to the Ombudsman by the University of Cordoba in recognition of the measures taken thereby in defense of bees and other pollinators. Cordoba, November 15th.
- The Ombudsman attended the ceremony for the award of the Pelayo award to the President of the Council of State, Francisco Rubio Llorente. Casino de Madrid. November 17th.
- The Ombudsman took part in the Spanish Constitution Day organized by the Autonomous Community of Madrid. Royal Post Office Building. Madrid, December 1st.
- The Second Deputy attended the awards ceremony for the “CERMI.es” awards on the occasion of International Day of Persons with Disabilities. Madrid, December 1st.
- The Ombudsman took part in the commemoration of the 33rd Anniversary of the Spanish Constitution organized by the Presidents of the Congress of Deputies and of the Senate. Congress of Deputies. Madrid, December 6th.
- The Ombudsman attended the investiture of the Deputy Prime Minister the Government and Minister of the Presi-

dency, Soraya Sáenz de Santamaría. Madrid, December 22nd.

- The Ombudsman attended the investiture of the Minister of Health, Social Services and Equality, Ana Mato. Madrid, December 22nd.
- The opening session of the Tenth Legislature of Spanish Parliament. Congress of Deputies. Madrid, December 27th.

Institutional collaboration

- Meeting with Leonardo Velásquez, representative from “A Roof for My County”, the organization awarded the 2011 King of Spain Human Rights Award. April 28th.
- XXI Attorney’s Conference on Immigration and Asylum Law organized by the Madrid Bar Association and the General Council of Spanish Bar Associations. Participation of the Acting Secretary General in one of the round table discus-

□ Ninth Course for Parliamentary Advisors organized by the Congress of Deputies. March 1st.

□ Closing address by the Ombudsman at a conference on the impact of the crisis on the Administration of Justice organized by the Concepción Arenal Judges’ Association, Hotel Vincci Soma. Madrid, March 10th.

□ Address by the Acting Secretary General at the XII Chief Commissioner Promotion Course. National Police Force Promotion Center. Madrid, March 25th.

□ Keynote address by the Second Deputy at the “X National Congress of Senior Citizen Organizations” organized by the Spanish Confederation of Senior Citizen Organizations (CEOMA). Albacete, April 12th.

□ Closing address by the Ombudsman at the Conference-Debate on “The Role of the Healthcare Foundations. Citizen: Present and Future”. Organized by the Spanish Cardiology Society. Casa del Corazón. Madrid, April 13th.



The Institution hosted the reading of the conclusions of the XXI Attorneys’ Conference on Immigration and Asylum Law



Press conference for the presentation of the report “Children or Adults? Age assessment Procedures”

sions. The closing ceremony and presentation of conclusions additionally took place at the Ombudsman Headquarters, June 4th.

- Meeting with members of the University of Alcalá de Henares Human Rights Department. June 29th.
- The Acting Secretary General took part in the meeting of the panel of judges of the XII Edition of the Human Rights Awards given by the General Council of Spanish Bar Associations. General Council of Spanish Bar Associations Headquarters. Madrid, July 21st.

Institutional dissemination and outreach

- Group of students from the XIII Master on Applied Political Studies (MEPA), organized by the FIIAPP. February 15th.
- Lecture by the Acting Ombudsman on the Ombudsman concept. Colegio Mestral. Eivissa, February 17th.

□ Participation of the Ombudsman as the Sponsor of the graduates. Pablo de Olavide University Campus. Seville, May 20th.

□ Address by the Ombudsman at the “First Conference on the Gypsy Community, Civic Responsibility and Diversity”. Organized by the Secretariat Foundation. Casa Encendida. Madrid, May 24th.

□ Participation of the Second Deputy in the course on “Legal Aspects of the Social Intervention in the Primary Care Social Services” organized by the Regional Administration of Cantabria studies center. Santander, May 24th.

□ Keynote address by the Ombudsman at the Patient Complaint Forum. Organized by the European Institute of Health and Social Welfare. Institute Headquarters. Madrid, June 15th.

□ Keynote address by the Acting Ombudsman at the Second National Court Duty Attorneys’ Congress. Organized by the association of attorneys for merited court duty (ALTOD). Barcelona Cultural Center. Barcelona, June 16th.

□ Visit by students and professors from De Paul University in Chicago. Ombudsman Headquarters, June 27th.

- Second Deputy participated in the lecture series on innovation and strategies combatting cancer, “Advances in Cancer Care Management” organized by the Bamberg Foundation. Barcelona, July 4th.
- Second Deputy participated in the expert seminar on the amendment of the early childhood protection legislation organized by the Comillas Pontifical University and the Early Childhood Platform. Madrid, July 6th.
- Press conference for presenting the Ombudsman’s Monographic Report on Age assessment Procedures. Ombudsman Headquarters, September 28th.
- The Acting Secretary General took part in the IV National Local Ombudsmen Conference. Granada, October 5th.
- Keynote address by the Acting Ombudsman at the XVIII National Healthcare Law Congress. Madrid Bar Association Headquarters. Madrid, October 20th.
- Address by the Ombudsman at the VIII University of Alcalá Master’s Degree Program on International Protection of Human Rights. University of Alcalá Chancellor’s Office, November 30th.
- Address by the Acting Secretary General at the XXI Commission Promotion Course. National Police Force Promotion Center, Madrid, December 12th.
- Keynote address by the Ombudsman at the II National Immigration and Citizenship Congress. Granada, December 15th.
- Address by the Acting Secretary General at the commemoration of the Tenth Anniversary of the Barcelona Bar Association’s Alien Affairs Commission. Barcelona, December 15th.
- The Second Deputy took part in the “Conference on the Follow-up of the Convention of Children’s Rights in Spain”. Madrid, December 15-16.



The Ombudsman with the students of the VIII International Human Rights Protection Master's Degree Program



The Ombudsman with children from the Sagrado Corazón School in Madrid

- Participation in the course on “Human Right to Development” organized by the University of Alcalá Democracy and Human Rights Department, Madrid, October 20th.
- The Ombudsman attended the conference-debate “Proposals for a new Code of Criminal Procedure”. Legal Studies Center. Madrid, October 25th.
- Address by the Acting Ombudsman at the X Congress National Attorneys’ Congress. Intervention in the round table discussion “Free Justice and Court Duty: 24/7, 365 days a year”. Cádiz, October 27th.
- Visit by students from the Administrative Proceedings Practice Course. Ombudsman Headquarters, October 27th.
- The Second Deputy attended the presentation of the annual report “Discrimination and the Gypsy Community 2011” organized by the Gypsy Secretariat Foundation. Madrid, November 8th.
- Address by the Second Deputy at the IV National Congress for the Rationalization of Spanish Time Scheduled organized by the Association for the Rationalization of Spanish Time Schedules (ARHOE) and the Autonomous Community of the Basque Country. San Sebastian, November 15-16.
- Keynote address by the Acting Secretary General at the “I International Congress on Public Safety Prevention”. Úbeda (Jaén), December 16th.

■ Cultural visits

- Oporto Cultural Association. February 9th.
- Group from the “Quinta del Berro” Cultural Association. February 16th.
- “El Torito” Cultural Association. February 17th.
- Group from the “Art and More” Cultural Center. February 22nd.
- Group from the “Cánovas del Castillo” Cultural Association of Madrid. February 24th.
- Students from the Center for Political and Constitutional Studies. March 1st.
- Group of members of the Iberia Veterans Association. March 2nd.

- Group of students from the Biscay Bar Association's School of Law Practice, March 3rd.
- Members of the "Arts Studio" Cultural Association. March 22nd, 24th, 25th and 30th and May 19th.
- Members of the "Fernando Lázaro Carreter" Cultural Center. March 23rd.
- Students from the Sagrado Corazón School in Madrid. March 24th.
- Arganzuela District Municipal "Casa del Reloj" Senior Citizen Center, April 6th.
- "Volturno" Cultural Center, April 7th.
- "Creativity Workshops" Sociocultural Center. April 12th.
- "Nicolás Salmerón" Cultural Center, April 13th.
- "Know Madrid" Association. April 13th and May 4th, 5th and 17th.
- Students from the Public Administration and Management Master's Degree Program, April 28th.
- "Eduardo Chillida" Cultural Center. May 4th.

representatives from the organization to which the award was presented, the organization's President, Christian del Campo and its Social Director, Maximiliano Pérez. Also in attendance was a representative of the Embassy of Chile in Spain.

On this same date, the public presentation of the award was held at the Ombudsman Headquarters and a reception in honor of the awardees was also held at the headquarters of the Institution.

■ International Activity

Bilateral meetings and international collaboration

- The Acting Ombudsman visited Thailand at the invitation of her fellow Ombudsman in Thailand to seek ways for colla-



Royal audience with the awardees of the IV King of Spain Human Rights Award



The Ombudsman Headquarters hosted the ceremony honoring the awardees of the IV King of Spain Human Rights Award

- "La Serna" Agricultural Training Center. May 10th.
- Castile-La Mancha Regional Culture Center, May 12th.
- "Neo Magerit" Cultural Center. May 13th.
- Iberia Cultural Center. May 13th, 17th and 18th.
- Treasures of Madrid. May 20th.
- "Clara del Rey" Cultural Center. June 8th.
- "El Sol" School. November 18th and 25th.
- Art and Culture Foundation. December 1st.
- Senióribus University (Senior Citizens' University). December 2nd.

■ IV King of Spain Human Rights Award

"A Roof for My Country" was the organization honored with the IV King of Spain Human Rights Award. His Majesty the King of Spain presented this award at an audience held at the Zarzuela Palace which was attended by the Acting Ombudsman, the Chancellor of the University of Alcalá and two repre-

boration between these two institutions. During the trip, Cava de Llano also met with Taejing Siripanich of Thailand's Human Rights Commission and with the President of the Senate, Prasasook Boondech. February 21-24.

- The Acting Ombudsman took part in the presentation of the twinning project among the Ombudsman of Spain, the Médiateur of the French Republic and the Ombudsman of the Former Yugoslavian Republic of Macedonia. European Union Delegation Headquarters in Skopje, March 28-30.
- Participation in the seminar organized by the Legislative Development Division of the Egyptian National Human Rights Council. Cairo, April 7th-9th.
- Visit by the Official Ombudsman's Association of Thailand to familiarize themselves with the work being done by Spanish's Ombudsman. Ombudsman Headquarters, May 4th-8th.
- The Second Deputy took part in the closing of the cooperation project among the Médiateur of the French Republic, the Ombudsman of Spain and the Ombudsman of Armenia. Yerevan, May 11th.

Visit by the Macedonian Ombudsman Ixet Memeti and representatives from his office. Ombudsman Headquarters. May 23rd-27th

- Meeting with the Ombudsman of the province of Santa Fe (Argentina), Edgardo José Bistoletti. Ombudsman Headquarters, May 25th.
- Visit by representatives from the Ombudsman of Peru to familiarize themselves with our Institution's experience in its NPM facet. Madrid, June 27th-July 1st.
- Technical assistance of the Office of the Ombudsman of Perú, requested and funded by the Spanish Agency of International Cooperation for Development (AECID). Lima, August 29th-September 1st.
- Meeting with chief of the Portuguese "Gabinete del Provedor de Justiça", Mariana Sotto Maior. September 23rd.

on the occasion of the review of the 18th-20th periodic reports from Spain. Geneva, February 23-24.

- Participation in the "Security and Dignity in Places of Deprivation of Liberty" Workshop organized by the Council of Europe within the framework of the European NPM Project. Paris, March 14-15.
- Participation in the round table of queries organized by the Independent United Nations Expert for the Right to Access to Quality Water. Geneva, March 14-15.
- Attended the Spanish National Human Rights Institute Gender Workshop on "The Role of NHRs in the Promotion and Protection of Women's Rights and Gender Equality". Prague, March 29th.
- Meeting for follow-up on the work carried out by the Secretary General of the International Ombudsman Institution under the charge of the Council of Austrian Ombudsmen. Vienna, April 4th.



International "Protection of Human Rights by the Ombudsmen's Offices" Congress



V Association of Mediterranean Ombudsman Conference

- The Second Deputy took part in the technical assistance to the Egyptian National Human Rights Council carried out by the Spanish Agency for International Cooperation for Development (AECID). Cairo, October 8-10.
- Visit by the Ombudsman of Georgia, George Tudushi, with members of his office. December 22nd-23rd.

International meetings

- Attended the round table on detention conditions in the European Union. Brussels, January 25th.
- Participated in the working group promoted by the European Group of National Human Rights Institutions. London, January 28th.
- Attended the Meeting with the European Group for the purpose of dealing with a permanent Secretariat being set up therein. Geneva, February 21st.
- Participation in the 78th period of sessions of the United Nations Committee for the Elimination of Racial Discrimination

- Annual meeting of the European Fundamental Rights Agency (FRA) with the representatives from the National Human Rights Institute European Group. Vienna, April 5th.
- Meeting with a delegation of judges and magistrates from Ukrainian to familiarize themselves with the authorities of the Ombudsman in relation to the Administration of Justice and this Institution's work as a NPM. Ombudsman Headquarters, May 4th.
- Round table of inquiries sponsored by the Council of Europe and the Greek Ombudsman concerning the role of the Council proper in the protection of the human rights of immigrants. Athens, May 5-6.
- XXIV Annual Meeting of the International NHRI Coordination Committee organized by the United Nations High Commissioner for Human Rights. Geneva, May 16-20.
- V Association of Mediterranean Ombudsmen Conference on the theme of "Ombudsmen and the Consolidation of Good Government and Democracy". Spain's Ombudsman took part in the opening ceremony and gave the speech

"The Ombudsman Within the Context of Social and Economic Changes". The Second Deputy took part, in turn, in a round table discussion. Malta, May 30-31.

- The Ombudsman and Second Deputy took part in the International Congress "The Protection of Human Rights by Ombudsmen". Alcalá de Henares, June 1-3.
- Participation in a NPM workshop organized by the Council of Europe. Tallin, June 14-16.
- Attended the III Summer Course of the AlKhaima Association for Professionals Working with Minors in Spain and Morocco. Tangiers, June 27-July 1. The Acting Ombudsman took part in the Seminar on "Analysis of the Constitutional Reform" organized by the National Human Rights Commission of Mexico. Mexico, D.F., July 6th.
- The Ombudsman took part in the closing ceremony of the judicial colloquium on the effective implementation of the provisions of Article 3 of the Children's Rights Convention

- Second Deputy took part in the 6th Session of the U.S. Committee for the Rights of Persons with Disabilities for the review of the first report presented to this Committee by Spain. Geneva, September 19-20.
- At the invitation of the Mediator of the Kingdom of Morocco, participation in the act parallel to the XVIII session of the United Nations Human Rights Council to deal with putting into practice United Nations Resolution A/RES/65/2007 concerning the role of the Ombudsmen. Geneva, September 26th.
- The Second Deputy attended the seminar "The Application of the Charter of Fundamental Rights: processing citizen petitions and complaints related to fundamental rights" organized by the European Commission and the European Parliament Petitions Committee. Brussels, October 6th.
- Attended the meeting of representatives of the National Human Rights Institution European Group communication departments. Vienna, October 13th.



Meeting with the European Human Rights Commissioner, Thomas Hammarberg



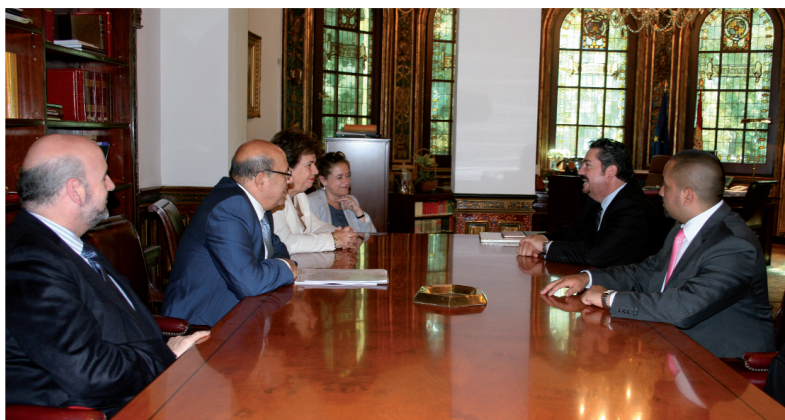
Reunión con el Secretario General del Consejo de Europa, Thorbjorn Jagland

in the regulation of situations which have a bearing on migrating minors, particularly unaccompanied migrating minors. Organized by the Regional European Office of the United Nations High Commissioner for Human Rights. Barcelona, July 8th.

- Participation in the conference organized by the Council of Europe within the framework of the European NPM Project, Inter NPM thematic discussion on monitoring Deportations". London, July 12th.
- Attended the seminar on Universal Periodic Review organized by the United Nations High Commission for Human Rights in cooperation with the Diplomatic School of Spain. Madrid, September 6-7.
- Meeting with a delegation from South Korea comprised of the Ombudsman and several Korean government representatives. Ombudsman Headquarters, September 7th.
- Follow-up meeting with members of the European Human Rights Group, September 20th.

- Attended the meeting organized by the European Union Fundamental Rights Agency (FRA) with representatives from the National Human Rights Institution European Group communication departments. Vienna, October 14th.
- The Second Deputy attended the Meeting called by the Union of Cities and Local Governments (UCLG) concerning local Ombudsmen. Düzce, October 20th.
- The Acting Ombudsman attended the VIII Seminar of the European Network of National Ombudsmen, Copenhagen, October 20-22.
- Participation in the Conference on Legislations in the Democratic Transition Period organized by the Egyptian National Human Rights Council with the collaboration of the Spanish Embassy in Egypt. Cairo. October 23-24.
- The Spanish Ombudsman Institution took part in a world forum on torture prevention organized by the Association for the Prevention of Torture (APT). A meeting attended by over 200 participants from all continents. Geneva, November 10-11.

- The Acting Ombudsman took part in the round table on how to create the conditions necessary for the implementation of the NPM in Serbia, a conference sponsored by the European Commission. Belgrade, November 14th.
- Participation in the XVI Congress and General Assembly of the Latin American Federation of Ombudsmen. Spain's Ombudsman's panel presentation was "Eradication of the violence against women: advances, challenges and regional experiences". Buenos Aires, November 23-25.
- Participation in the meetings of persons in charge and contacts of NPM's in Europe and contacts of the National Human Rights Institutions at the invitation of the Directorate General of Human Rights of the Council of Europe. Ljubljana, December 5-7.
- Working meeting with the members of the Advisory Committee for the Council of Europe's Framework Agreement for the protection of national minorities. December 16th.
- Meeting with the Ambassador of the Republic of Guatemala in Spain. Institution Headquarters, April 18th.
- Meeting with the Ambassador of Bolivia in Spain, Carmen Almendras. Ombudsman Headquarters, April 26th.
- Meeting with the head of the delegation from the Committee for the Prevention of Torture, Mauro Palma, within the framework of the official visit to Spain by the aforesaid Committee. Ombudsman Headquarters, June 10th.
- Visit by the President of the Human Rights Commission of Bolivia in Spain, María Elena Paco. Ombudsman Headquarters, June 21st.
- Meeting with the Representative from the ICIC in Geneva, Katherina Rose. Ombudsman Headquarters, September 7th.
- Meeting with the Former Vice-President of the National Assembly of Ecuador in Spain; Aminta Bueaño. Ombudsman Headquarters, October 5th.



Meeting with the Baja California Prosecutor



Signing of the agreement with the University of Granada

Official meetings and visits

- Visit by a delegation for the Equality Directorate of the Ministry of Labor and Social Policy of the Republic of Serbia to familiarize themselves with the gender equality policies in Spain. Ombudsman Headquarters, January 20th.
- Meeting with the Secretary General of the Council of Europe, Thorbjorn Jagland, to gain a first-hand knowledge of the work being done by the Ombudsman Institution and the activities which are being carried out by the Council of Europe. Ombudsman Headquarters, February 2nd.
- Meeting with the European Human Rights Commissioner, Thomas Hammarberg, to familiarize him with the functioning of the Spanish Ombudsman's Office. Ombudsman Headquarters, April 4th.
- Meeting with the Baja California Human Rights Prosecutor, Heriberto Garcia, to study the ways of collaborating in different areas. Ombudsman Headquarters, April 14th.

■ Agreements

The following agreements were signed in 2011:

- Agreement between the Ombudsman and the University of Granada for the preparation of a study on the application of alternatives to prison sentencing in Spain. Madrid, July 20th.
- Agreement between the Ombudsman and the University of Málaga for a study to be conducted on "The Local Police in Spain: Analysis and Perspectives of the Internal Functioning Thereof". Madrid, October 25th.
- Madrid, 22 de November. Working agreement between the Ombudsman and the Rey Juan Carlos University for the creation of the "Ombudsman Studies Department". Madrid, November 22nd.
- Second addendum to the Working Agreement between the Ombudsman and the University of Alcalá for the development of a Regional Program for supporting the Latin American Ombudsman Offices (PRAPDI). Madrid,

