



ANNUAL REPORT 2016

ABSTRACT

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Social vulnerability, territorial sustainability and basic supplies focus the attention of the Catalan Ombudsman in 2016

- In 2016 more than 38,000 people contacted the Ombudsman, over 18,000 complaints were handled and 281 ex-officio actions were initiated
- Shortcomings in regulations and excessive procedures prevent the exercise of rights in social matters
- The numerous complaints about urban projects show that measures, regulations and transparency need to be implemented to preserve the sustainability of the territory
- Rafael Ribó alert about several situations that can be interpreted as attacks on freedom of expression and other fundamental rights and freedoms

On 1st February, the Ombudsman of Catalonia, Rafael Ribó, submitted to the President of the Catalan Parliament, Carme Forcadell, the Annual report 2016 and a summary of all resolutions issued, which are available on the Ombudsman's website www.sindic.cat.

Beyond the figures (38,261 people attended, more than 281 ex-officio actions and 18,000 complaints), this report contains a qualitative sample problems and specific situations that require special attention from the Administration.

One of the outstanding data regarding the efficiency of the institution is the reduction of the resolution time of complaints, which stood at 123.4 days, compared to 132.6 days in 2015. The degree of acceptance of resolutions for the first time exceeded 99%.

The work done by the Ombudsman's itinerant office, which in 2016 celebrated its 20 years anniversary since the first visit, is also noteworthy. Throughout the year it has made 113 departures, which resulted in 1,620 personal visits.

Complaints and ex-officio actions initiated according to topic

	2016	
	N	%
Social policies	3.486	33,9
Education and research	1.081	10,5
Children and adolescents	704	6,8
Healthcare	814	7,9
Social services	745	7,2
Labour and pensions	91	0,9
Discrimination	51	0,5
Public administration and taxes	1.894	18,4
Public administration	1.443	14,0
Taxes	451	4,4
Territorial policies	2.370	23,0
Environment	824	8,0
Urban planning, mobility and housing	1.546	15,0
Consumption	1.778	17,3
Public safety and justice	709	6,9
Culture and language	57	0,6
Total	10.294	100

Thus, more than 33% of the complaints and ex-officio actions initiated by the Ombudsman during 2016 are related to issues regarding social policies. This is a higher percentage than in the previous year and follows the dynamics of recent years in which social rights were the main focus of the activities of the Ombudsman.

In this regard, while in macroeconomic terms it seems that Catalonia is emerging from the economic crisis of the recent years, many families still find themselves in vulnerable situations. This requires the commitment of the authorities to prioritize social policies affecting social services, public health and education or access to housing, among others.

The 2016 report also highlights the shortcomings in regulations and the excessive procedures that prevent the full exercise of rights in several areas.

The Ombudsman has recommended, for example, that the process of accessing to benefits regarding energy poverty, minimum income and dependency law be simplified. The difficulties and the lack of administrative procedures also affect the fulfilment of rights in terms of citizen participation on public projects or access to social housing.

Social vulnerability

The need for a bank account to receive the benefit of the minimum income should be reconsidered

This year, among other things, the need for a bank account to benefit from the minimum income has been dealt with. The regulations of this benefit contain no specific provision regarding the method of payment.

Given that the minimum income is a benefit aimed at individuals and families with no economic means to cover basic needs, the cost of a bank account can be inconvenient.

Therefore, beneficiaries should not be prevented from using other forms of payment and, if necessary, appropriate legislative changes should be implemented to make it possible.

Vulnerability of children

In 2016 131 ex-officio actions related to children and adolescents have been initiated. Some of these actions have been highlighted by the gravity of the facts analysed, such the case of sexual abuses in a religious school.

In recent months the complaints received by the Ombudsman and the actions carried out have also focused on the conditions of the unaccompanied migrant children in foster care homes.

The problem of bullying, discrimination and violence affecting adolescents LGBT (homosexual, transsexual) in schools has also been handled.

The Ombudsman has also led the fight against school segregation and has submitted two reports that show that this phenomenon erodes the principle of equity. This work

culminated in 2017 with a joint approach of the Ombudsman, the Catalan Department of Education, the Parliament and the educational community to implement measures in order to address it.

The complaints about discrimination have tripled

The complaints about possible discrimination, although they are still insignificant quantitatively, have tripled from previous year (14 to 51). This certainly cannot be attributed to a worsening of the situation compared to other terms, but to a greater awareness of the Ombudsman as guarantor of equal rights.

In the field of gender equality, on the other hand, the Ombudsman has dealt with complaints regarding the behaviour of private entities as well as administrations.

Territorial sustainability

The right to rest

The intervention of the Ombudsman in handling complaints has actively contributed to an improvement. But there are still shortcomings and room for improvement. The complaints regarding the noise caused by nightlife have increased and were the object of a monographic report.

Among others, the main recommendation of the report is that the right of residents to rest and live without excessive noise and nuisance should be leading the public policies and actions of the authorities in the field of leisure and tourism.

Legal instruments that guarantee the right to a real second chance and an adequate response to social emergencies should be implemented

Faced with the decision of the State Government to bring an action of unconstitutionality against certain provisions of Law 24/2015, of 29 July, on urgent measures to deal with the emergency in the field of housing and energy poverty,

the Ombudsman initiated an ex-officio action.

Given the current situation, the Ombudsman reiterates the need of legal instruments that allow, on the one hand, the right of overindebted people to a second chance, real and effective; and, on the other hand, an immediate response before social and economic emergencies regarding housing, which necessarily should include the resettlement of the affected people, their social support and the need to promote their labour reinsertion.

The excess of slurry has led to environmental degradation, affecting aquifers and springs that are contaminated by nitrates

The contamination of water by excess nitrates from slurry is a complex problem. In a report submitted to Catalan Parliament, the Ombudsman has issued some recommendations such as to apply a moratorium to the granting of authorizations to install new pig farms in counties with nitrate saturation if the new regulations are not approved within a six-month period.

Also an action plan should be drafted in which the sector and affected administrations take part with the objective of immediately recovering the contaminated aquifers.

It is urgent to establish the appropriate legal framework for municipalities to regularize illegal housing developments

One of the complaints raised by people living in illegal housing developments is the impossibility of formalizing permanent supply contracts.

In urban residential areas with deficits is essential to take measures to facilitate the solutions and provide local councils with appropriate legal framework to enable them to address the regularization of these sectors.

The administration should ensure transparency in the process of urban planning

When it comes to the processing of urban plans, the transparency and the participation

of both local authorities and affected individuals should be strengthened.

It must be born in mind that these planning figures are intended to facilitate the urban implementation of territorial policies. In this regard, it is obvious that it has implications for the environment, the quality of life, the landscape, resources, among others.

However, there are not co-operation means such as participation programmes or advisory boards for local urban planning schemes. In this sense, the Government Administration should be especially careful to inform thoroughly, allow the contribution of suggestions and proposals, evaluate them adequately and, if necessary, create monitoring committees made up of experts, associations, organizations and representatives of the authorities concerned.

Legislation to protect natural areas must be reviewed

Following the works of paving and settlement of a track in the Montseny park, which would complete the second phase of the plan promoted by the town of Montseny connecting the roads BV-5301 and BV-5114, the Ombudsman has recommended that a discussion be held in parliament on the real protection of natural areas through legislation.

To achieve a greater guarantee of safeguard of specially protected areas, the Parliament of Catalonia should revise the legislation on national parks and protected areas and the Government should be the only one authorizing projects that directly affect the protected area.

Priority should be given to the rehabilitation of most degraded areas

The lack of resources from public and private administrations during these years of economic crisis has had an impact on conservation, maintenance and improvement of the cities, which has resulted in the deterioration of the environment.

In a context of economic recovery, the government should concentrate its efforts on rehabilitation, regeneration and urban

renewal, and intervene to ensure the quality of life and social welfare through an appropriate environment. The actions of recovery and improvement should be especially intense in the most degraded, obsolete or vulnerable urban areas.

A thousand complaints from the Citizen Platform Trens Dignes Terres de l'Ebre-Priorat

Train Platform Terres de l'Ebre-Priorat raised nearly a thousand complaints that demanded improvements in regional services (lines R15 and R16) of the Terres de l'Ebre Priorat.

Complaints demanded a reduction of tariffs, which was implemented in January 2016, and improved frequencies, which has resulted in the inclusion, since 6th September 2016, of a new train R16 from Tortosa to Barcelona.

Also, since 12 November 2016 eight Euromed train services stop at the station of L'Aldea.

Basic supplies

Measures to ensure supplies to vulnerable people

The conference on basic supplies hosted by the Ombudsman showed the need to find solutions in this area. One of the conclusion was the lack of a legal definition of vulnerable consumer, which should take into account the parameters of consumption, housing and social indicators, and companies should be coordinated with social services, apply social tariffs and report anomalous consumption.

Discount rate for butane gas consumption

The Ombudsman has suggested that a discount rate in butane gas consumption be established for consumers in vulnerable situations.

In this regard, the institution has asked the Spanish Ombudsman to resume the actions initiated at the request of the Catalan Ombudsman before the General Directorate

of Energy and Mines to establish a discount rate in butane gas for consumers in a vulnerable situation.

Reduction of VAT in funeral services

Regarding the funeral services sector, the Ombudsman has proposed that the a legislative amendment that reduces VAT of funeral services be undertaken by the Government.

The proposal to establish a basic funeral service at a fixed price and the promotion of mediation and arbitration to resolve conflicts with the users are also noteworthy elements that funeral services enterprises have committed to undertake, in order to allow a better guarantee of the rights of individuals, especially those groups considered needing a special protection for their vulnerability.

Interadministrative meetings to handle street selling

The Ombudsman, following a report on the situation of street selling, has hosted interadministrative meetings with the participation of several municipalities. Within the framework of these meetings, it was stressed that the coordinated intervention of the tax administration and the security forces of the Catalan Government and state was crucial. The Catalan ombudsman wants to facilitate the search for solutions coordinated by the authorities and, therefore, there was an emphasis on the importance of campaigns to raise awareness of consumers, in line of the proposals included in the report.

Democratic expressions

In July 2016 it was 80th anniversary of the start of the Spanish Civil War, an event that has served to revive democratic political memory that had been languishing in recent years. The Ombudsman opened an ex-officio action, based on the report of the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-repetition, and asked both Catalan and Spanish government public policies and

measures to be taken for reparation, such as annulments of judgments taken in violation of fundamental principles of law and due process or the removal of monuments and symbols of the dictatorship in the Catalan territory.

At this point, it should be welcomed the initiative of three departments of the Catalan Government to launch a program of genetic identification of remains of missing people during the Civil War and Francoism. However, there has been no answer from the Spanish the Ministry of Justice, which in any case will be receiving the suggestions that the Ombudsman deems appropriate. The Office of the High Commissioner for Human Rights of the UN has been informed about all these actions.

Some legislative changes adopted in 2015 at a state level, such as the Spanish organic law

of public safety or the reform of the Spanish organic law of the Constitutional Court, have generated numerous situations that can be interpreted as attacks against freedom of expression and other fundamental rights and freedoms and the failure of compliance with the European principles regarding freedoms and social rights.

Many of these cases have taken place in Catalonia, so the Ombudsman will write a report in terms of rights and freedoms to determine, according European standards, if the situation can be described as regressive in this matter. This concern is not only related to Catalonia and Spain, but also to Europe. In this sense, the international seminar organized by the Catalan Ombudsman to be held in Barcelona in April 2017 will be focusing on the regression of rights and the role of the Ombudsman.

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