



The Ombudsman

Summary of the Report to Parliament for 2006
June 2007



The complaints handled by the Ombudsman grew 65.71% in 2006

The number of people who contacted the Ombudsman also grew parallel to the number of complaints that were processed by this Institution. These are two of the main data that sum up the activity of the Ombudsman in 2006: a year in which 89,518 people —49,908 more than in 2005— submitted complaints, and in which 31,443 complaints were processed, compared to 18,975 from the previous year.

Citizens who, either individually or collectively, have lodged claims, complaints or requests with the Ombudsman during 2006 reached a total of 89,518, a figure that surpasses by far the 39,610 manifestations of disagreement or complaints received in 2005.

As a consequence of these petitions, a total of 31,443 complaints have been processed, an amount which comprises individual, collective and ex-officio cases. Taking into account that the previous year 18,975 cases had been processed, this supposes an increase of 65.71% with respect to the previous year. This amount of complaints with the logical exception of those initiated internally, naturally corresponds to the initiative

of the 89,518 citizens mentioned who, one way or another, submitted their complaints.

Almost all of the complaints (98.90%) came from national territory, and only 345 complaints from residents in other countries were received. As is often the case year after year, the factor of population has been critical with respect to the geographical origin of the complaints in national territory: the complaints from citizens of the autonomous communities of Madrid (9,692), Andalusia (3,841) and Catalonia (3,692) were the most numerous. The increase in the number of complaints coming from the last two communities is particularly noteworthy because they practically doubled with



On the left, presentation of the 2006 annual report to the president of Congress, Manuel Marín, on May 29th. From left to right, the Secretary General to the Ombudsman, María del Mar España; the Second Deputy to the Ombudsman, Manuel Aguilar; the President of Congress, Manuel Marín, and the Ombudsman, Enrique Múgica. On the right, the Ombudsman, Enrique Múgica, presents the 2006 report to the President of the Senate, Javier Rojo on May 29th, accompanied by the Coordinating Board of the Ombudsman. From left to right, the Secretary General to the Ombudsman, María del Mar España, the First Deputy to the Ombudsman, María Luisa Cava de Llano; the Ombudsman, Enrique Múgica; the President of the Senate, Javier Rojo; and the Second Deputy to the Ombudsman, Manuel Aguilar. (Photos Povedano)

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respect to 2005. In the following list of Autonomous Communities the number of complaints from the Community of Valencia (2,772) and from Castilla-La Mancha (2,567) are noteworthy.

Logically, telephone calls, visits to the headquarters, or mere requests for information or orientation are counted apart from the complaints lodged because they are considered outside the typical «actions» of complaint, follow-up, and investigation, although their handling requires a significant investment in time and work. Along these lines, in 2006, 6,971 visits were received in the Ombudsman's consultation room, 7,900 ordinary telephone calls were handled, and 4,039 requests for information or consultation through the «900 line» were taken.

With respect to activity sectors, this year, continuing a tendency already established in previous years, the greatest number of complaints have been concentrated in areas related to economic administration (a total of 17,220 cases), due fundamentally to the problem related to certain financial investment firms. Complaints related to the areas of education and culture, health services, social policy and staff at the service of the administrations have been particularly numerous.

Processing status

The rate of admission for the processing of complaints was 45.40% with respect to complaints submitted individually, and 93.88% with respect to complaints presented collectively. This offers an average rate of 72.59%.

At the end of the year, 3,644 complaints submitted individually, and 14,613 complaints submitted collectively were in being processed, while 2,202 individual cases and 331 collective cases had already been concluded.

Efficacy in supervision

As a result of the investigations carried out in the different complaint cases, 2006 saw the adoption of 309 resolutions, among recommendations, suggestions, and notifications of legal obligation. Of the 99 recommendations made, 39 were still awaiting replies from the different administrations as of December 31, and 51 had been explicitly accepted. As for suggestions, a total of 135 were resolved, of which 66 had not been attended to by the end of the year by the organizations to which they had been addressed.

The percentage of resolutions «attended to» by the administrations up to the end of the year, that is, those responded to either accepting the terms expressed in them or arguing their reasons for disagreement with what was proposed in them, is 55.13%, that is, a similar level to previous years.

Administration of Justice

Excessive and undue delays in judicial proceedings continue to characterize the kind of activity carried out by the



The president of Congress, Manuel Marín, greets the Second Deputy to the Ombudsman, Manuel Aguilar, in presence of the Ombudsman, Enrique Múgica, on the day the 2006 Ombudsman's Annual Report was presented to parliament. (Photo Povedano)

Ombudsman in this regard. Once again, the persistence of problems in certain tribunal courts along with many single-person judicial bodies should be highlighted. As a result, it is possible to consider that the measures taken by the General Council of the Judiciary have not yet produced the desired results.

In 2006, in the area of criminal justice, a response was received to the Ombudsman's recommendation to the Ministry of Justice to proceed to study a legislative initiative that would fully incorporate into our legal system the concept of a second criminal court in accordance with a United Nations Human Rights Committee decision. This case was concluded awaiting information regarding the changes in legislation that would bring about the aforementioned reform.

As for civil justice, one relevant action by the Ombudsman consisted of monitoring of the activity of psychosocial teams used by the family courts, an investigation which resulted from the complaints received. It seems clear that certain aspects, such as the certification of the appropriate professionals may be subject to substantial improvements, and the corresponding reports from the administrations concerned, both central and autonomic, remain pending.

Domestic violence has not shown an improvement, at least in statistical terms, during the last year, as seen in the slight increase in the incidence of death of women at the hands of their partners or ex-partners. This is a huge problem that also seriously affects minors who become caught up in the violence. As a consequence of an investigation, for example, it has been possible to detect an insufficient coordination in cases where court and administrative cases originate in several different autonomous communities, an item communicated to the administrations responsible for the protection of minors who become victims of crimes.

The investigation of the insufficiencies in the organization of the Civil Registry have continued in 2006, in the hope that the new measures announced last year will begin to show results.

Penitentiary administration

Unfortunately, 2006 has seen the highest number of prisoners in our country since the arrival of democracy. The inmate population in the month of December reached 64,383 people. The problem of overcrowding continues to be, thus, one of the biggest challenges faced by the penitentiary system. On the other hand, other common indicators, such as prison deaths, have improved in the last year, particularly in the number of suicides.

With respect to health care in penitentiary centers, the implementation of the so-called «telemedicine» has not yet been developed on a homogeneous basis throughout all of the autonomous communities. Moreover, a worrisome report has been produced regarding the insufficient human and material resources affecting the psychiatric-penitentiary hospital of Fontcalent.

Elsewhere, continued delays in the construction and opening for service of various penitentiary infrastructures should be pointed out, affecting both the creation of new centers as well as the inauguration of maternity units for female inmates who are also mothers with children.

Citizens security and road safety

With respect to crime, throughout 2006 certain types of complaints have continually been handled which are similar to those from previous years, (*continued on p. 84*).

STATISTICS

The number of citizens who have filed complaints with the Ombudsman has grown by 126%

In 2006 the number of people who have filed complaints, both collectively as well as individually, with the Ombudsman has risen significantly. This remarkable 126% increase is related to several incidents during the course of the year which affected large numbers of citizens —such as the Afinsa case among others (see Table 1).

TABLE 1

Number of citizens who have filed collective as well as individual complaints during 2006 as compared to 2005

Citizens	2005	2006
Total	39,610	89,518

During the course of the year a total of 31,443 complaint forms were submitted, which includes both complaints filed externally as well as those which were initiated by the Ombudsman's Office itself. Compared to the 2005 data, there was a 65.71% increase in the total number of complaints filed in 2006. Within this overall percentage increase the rise in the number of complaints that were filed collectively is particularly significant at 236.51%, compared to a more moderate rise in the number of complaints filed individually (6.74%) and by ex-officio enquiries (1.43%) (see Table 2).

TABLE 2

Complaints filed in 2006 versus those filed in 2005

	2005	2006
Collective	4,873	16,398
Individual	13,962	14,903
Ex-officio	140	142
Total	18,975	31,443

It is interesting to highlight the rise in complaints filed by women in 2006, which showed a 120.10% increase compared to 2005, comparatively more than those filed by men, which only registered a 61.48% increase —although the latter still represent the majority (see Table 3).

TABLE 3

Complaint forms filed by gender, since 1999

	1999	2000	2001	2002	2003	2004	2005	2006
Men	7,589	14,194	7,873	12,879	9,854	15,355	11,089	17,835
Women	4,905	11,568	4,164	7,292	6,539	11,932	6,118	13,466
Total	12,494	25,762	12,037	20,171	16,393	27,287	17,207	31,301

Distribution of complaints filed by geographical area of origin

The 31,301 complaints filed in 2006, not counting those filed by ex-officio enquiries, can be displayed according to their geographical area of origin. The first division that should be made is

between the 30,956 complaints of national origin (98.90%) as opposed to the 345 originating abroad (1.10%). In the following graphs and tables a clearer picture of the real situation can be seen.

GRAPH 1
Breakdown of complaints by autonomous community: 2006

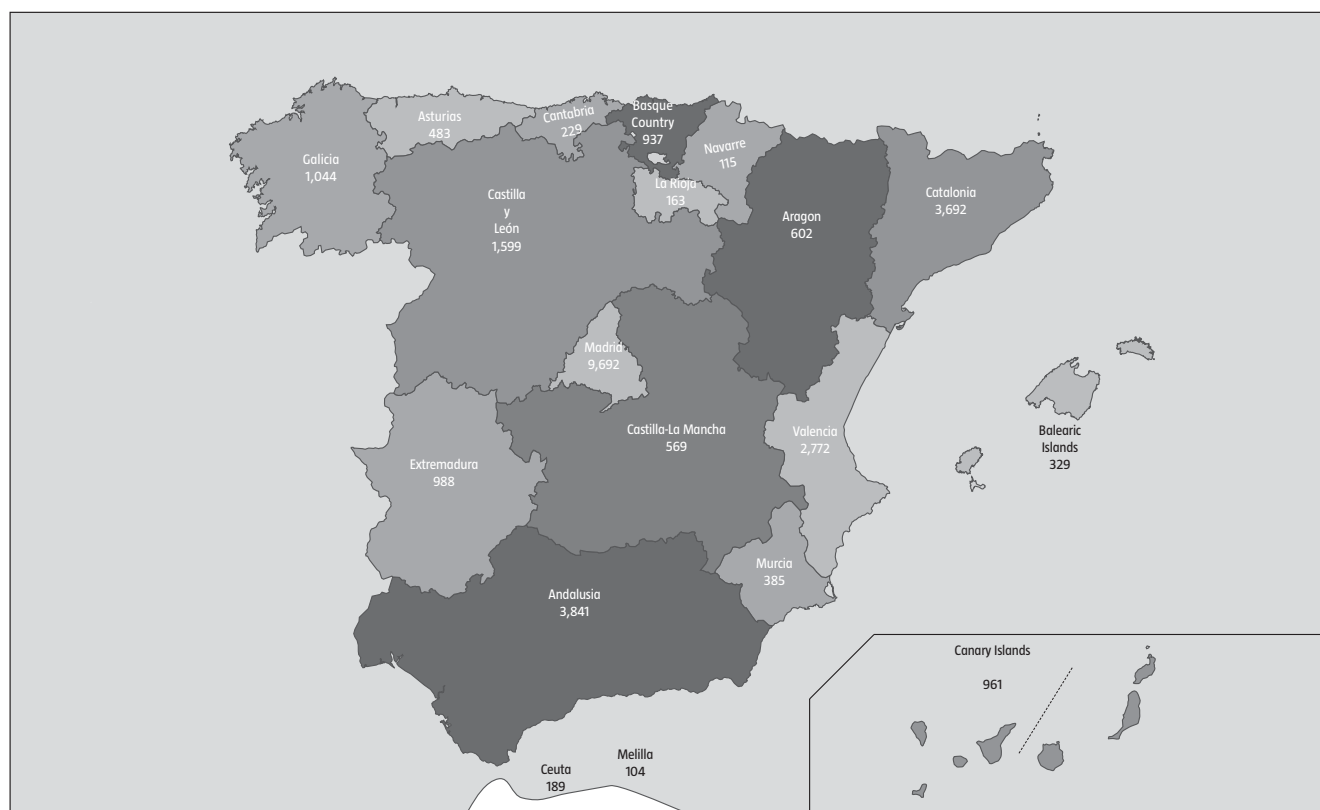


TABLE 4
Breakdown of complaints of national origin, by province and autonomous community: 2005-2006

Provinces and autonomous communities	Number		% of Community		% of total	
	2006	2005	2006	2005	2006	2005
Basque Region						
Álava.....	68	49	7.26	16.07	0.22	0.27
Guipúzcoa	131	84	13.98	27.54	0.42	0.45
Vizcaya	738	172	78.76	56.39	2.39	0.93
Total	937	305	100.00	100.00	3.03	1.65
Catalonia						
Barcelona.....	3,048	1,328	82.56	78.63	9.85	7.19
Girona	313	131	8.48	7.76	1.01	0.71
Lleida	94	101	2.54	5.98	0.30	0.55
Tarragona	237	129	6.42	7.64	0.77	0.70
Total	3,692	1,689	100.00	100.00	11.93	9.15
Galicia						
A Coruña	527	354	50.48	49.65	1.70	1.92
Lugo.....	75	81	7.18	11.36	0.23	0.44
Ourense	96	59	9.20	8.27	0.31	0.32
Pontevedra.....	346	219	33.14	30.72	1.12	1.19
Total	1,044	713	100.00	100.00	3.37	3.86

TABLE 4 (continued)
Breakdown of complaints of national origin, by province and autonomous community: 2005-2006

Provinces and autonomous communities	Number		% of Community		% of total	
	2006	2005	2006	2005	2006	2005
Andalusia						
Almería	273	100	7.11	5.98	0.88	0.54
Cádiz	395	295	10.28	17.65	1.28	1.60
Córdoba	509	152	13.25	9.10	1.64	0.82
Granada	396	179	10.31	10.71	1.28	0.97
Huelva	252	130	6.56	7.78	0.81	0.70
Jaén	424	142	11.04	8.50	1.37	0.77
Málaga	893	345	23.25	20.65	2.89	1.87
Seville	699	328	18.20	19.63	2.26	1.78
Total	3,841	1,671	100.00	100.00	12.41	9.04
Asturias						
Total	483	374	100.00	100.00	1.56	2.02
Cantabria						
Total	229	288	100.00	100.00	0.74	1.56
La Rioja						
Total	163	80	100.00	100.00	0.53	0.43
Murcia						
Total	649	385	100.00	100.00	2.10	2.08
Valencia						
Alicante	1,240	1,339	44.73	46.88	4.01	7.25
Castellón	175	202	6.31	7.07	0.56	1.09
Valencia	1,357	1,315	48.96	46.04	4.38	7.12
Total	2,772	2,856	100.00	100.00	8.95	15.46
Aragón						
Huesca	120	105	19.93	23.70	0.39	0.57
Teruel	41	36	6.81	8.31	0.13	0.19
Zaragoza	441	302	73.26	68.17	1.42	1.63
Total	602	443	100.00	100.00	1.94	2.40
Castilla-La Mancha						
Albacete	196	104	7.64	18.28	0.63	0.56
Ciudad Real	521	159	20.30	27.94	1.68	0.86
Cuenca	398	44	15.50	7.73	1.29	0.24
Guadalajara	112	75	4.36	13.18	0.36	0.41
Toledo	1,340	187	52.20	32.86	4.33	1.01
Total	2,567	569	100.00	100.00	8.29	3.08
Canary Islands						
Las Palmas	627	287	65.24	44.57	2.02	1.55
Santa Cruz de Tenerife	334	357	34.76	55.43	1.08	1.93
Total	961	644	100.00	100.00	3.10	3.49
Navarra						
Total	115	153	100.00	100.00	0.37	0.83
Extremadura						
Badajoz	730	143	73.89	49.31	2.36	0.77
Cáceres	258	147	26.11	50.69	0.83	0.80
Total	988	290	100.00	100.00	3.19	1.56

TABLE 4 (continued) Breakdown of complaints of national origin, by province and autonomous community: 2005-2006

Provinces and autonomous communities	Number		% of Community		% of total	
	2006	2005	2006	2005	2006	2005
Balearic Islands						
Total	329	313	100.00	100.00	1.06	1.69
Community of Madrid						
Total.....	9,692	6,504	100.00	100.00	31.31	35.19
Castilla y León						
Ávila	122	52	7.63	4.68	0.40	0.28
Burgos	221	153	13.82	13.76	0.71	0.83
León	261	282	16.32	25.36	0.84	1.53
Palencia	102	108	6.38	9.71	0.33	0.58
Salamanca	206	150	12.88	13.49	0.67	0.81
Segovia	180	70	11.26	6.29	0.58	0.38
Soria	87	27	5.44	2.43	0.28	0.15
Valladolid	356	207	22.26	18.62	1.15	1.12
Zamora	64	63	4.00	5.67	0.21	0.34
Total	1,599	1,112	100.00	100.00	5.17	6.02
Ceuta						
Total	189	37	100.00	100.00	0.61	0.20
Melilla						
Total	104	55	100.00	100.00	0.34	0.30
GRAND TOTAL	30,956	18,481				

It is becoming quite common to see a significant number of complaints, both individual as well as collective, which originate in the Community of Madrid, followed by the Communities of Valencia, Catalonia, and Andalusia (see Table 5).

TABLE 5
Individual and collective complaints filed by autonomous community: 2005-2006

Autonomous communities	Individual complaints				Collective complaints			
	Number		% of total		Number		% of total	
	2006	2005	2006	2005	2006	2005	2006	2005
Basque Country	313	253	2.14	1.86	624	52	3.81	1.07
Catalonia	2,455	1,598	16.83	11.74	1,237	91	7.56	1.87
Galicia	637	654	4.36	4.80	407	59	2.49	1.21
Andalusia	1,716	1,394	11.76	10.24	2,125	277	12.99	5.69
Asturias	382	342	2.62	2.51	101	32	0.62	0.66
Cantabria	189	233	1.29	1.71	40	55	0.25	1.13
La Rioja	91	75	0.62	0.55	72	5	0.44	0.10
Murcia	363	344	2.49	2.53	286	41	1.75	0.84
Valencia	1,485	1,620	10.17	11.90	1,287	1,236	7.87	25.38
Aragón	366	337	2.51	2.48	236	106	1.44	2.18
Castilla-La Mancha	396	411	2.71	3.02	2,171	158	13.27	3.25
Canary Islands	626	538	4.29	3.95	335	106	2.05	2.18
Navarre	90	115	0.62	0.84	25	38	0.15	0.78
Extremadura	310	278	2.12	2.04	678	12	4.15	0.25
Balearic Islands	288	288	1.97	2.12	41	25	0.25	0.51
Madrid	3,881	4,154	26.59	30.52	5,811	2,350	35.52	48.26
Castilla y León	907	891	6.21	6.55	692	221	4.23	4.54
Ceuta	34	32	0.23	0.24	155	5	0.95	0.10
Melilla	69	55	0.47	0.40	35	-	0.21	-
Total	14,598	13,612	100.00	100.00	16,358	4,869	100.00	100.00

Complaints originating abroad

In 2006 there were a total of 345 complaints which originated abroad. This figure shows a slight decline with respect to the previous year, 2005, and it maintains the downward trend that was established in that year (see Table 6).

TABLE 6
Breakdown of complaints originating abroad, by country: 2003-2006

Country of origin	2006	2005	2004	2003
Albania	---	---	1	---
Algeria	8	7	5	1
Andorra	3	---	3	---
Argentina.....	32	40	62	83
Australia	---	3	1	5
Austria	---	1	3	---
Belgium	10	10	13	17
Benin	---	---	---	---
Bolivia	3	6	2	3
Bosnia-Herzegovina..	2	---	---	---
Brazil	6	13	16	9
Bulgaria	---	1	2	---
Cameroon.....	---	---	---	1
Canada	2	1	4	3
Cape Verde	---	---	1	---
Chile	5	6	11	5
Colombia	6	24	14	8
Costa Rica	4	2	3	4
Cuba.....	8	18	14	5
Czech Republic	2	---	6	4
Denmark.....	---	1	---	2
Dominican Republic .	2	3	1	5
Ecuador	9	5	11	6
Egypt	---	---	1	2
El Salvador.....	1	---	1	---
Equatorial Guinea .	---	4	---	---
Finland	---	1	2	1
France	59	38	32	43
Germany.....	20	12	25	26
Ghana	---	---	---	1
Greece	1	---	1	---
Guatemala.....	---	---	1	---
Holland.....	2	5	3	8
Honduras.....	---	1	3	8
Hungary.....	1	1	---	---
India	---	1	---	---
Indonesia.....	---	---	1	---
Ireland	3	4	1	2
Israel	---	1	2	1
Italy	9	6	9	13
Japan	---	---	4	---
Jordan.....	1	---	---	---
Lebanon.....	---	1	---	---
Lithuania.....	---	2	---	---
Luxemburg	---	1	---	1
Malta	1	---	2	---
Mauritania	---	1	---	---
Mexico	9	14	12	16
Morocco.....	24	26	27	20
Namibia	---	---	1	---
New Zealand	---	1	---	---
Nicaragua	1	4	---	3
Norway	---	---	1	---
Oman	---	---	1	---
Pakistan	1	1	---	---
Panama	2	---	---	3
Paraguay	---	---	---	1
Peru	17	11	8	6
Philippines	---	---	1	---
Poland	1	---	---	2
Portugal.....	14	11	9	4
Puerto Rico	---	---	1	1
Russia	---	1	---	1
Santo Tomé & Príncipe...	---	---	1	---
Senegal.....	---	1	---	---
Serbia & Montenegro..	---	---	1	1
Slovakia	3	---	---	---
Slovenia	---	---	1	---
South Africa	1	---	1	2
South Korea	---	---	---	1
Sweden	1	6	3	3
Switzerland	7	7	12	4
Thailand	---	---	---	1
Turkey	1	---	1	---
Ukraine	1	1	---	---
United Kingdom	28	15	32	24
United States.....	18	15	26	20
Uruguay	5	7	7	5
Venezuela	11	13	17	14
Zambia	---	---	---	1
Total.....	345	354	424	401

Breakdown according to the method of filing complaints

Complaints can also be categorized depending on which method was used to submit them to the Ombudsman's office. This information is detailed in Tables 7, 8, and 9.

TABLE 7

Breakdown of complaints submitted, by filing method:
2006

Filing method	Number	% of total
Direct (individuals and collectively) ..	29,579	94.50
Via Ombudsmen in Autonomous Parliaments	1,678	5.36
Via other organisms and entities of the Administration	44	0.14
Total.....	31,301	100.00

TABLE 9

Complaints received through diverse entities
and organizations: 2005-2006

Origins	2006	2005
National organisms	1	2
Constitutional Tribunal.....	2	3
Parliament	4	1
Presidency of the Government.....	3	6
Government Delegations	---	1
International Organizations	2	---
Professional associations and advisory groups.....	---	1
Other autonomous organizations...	1	3
Municipal Ombudsman offices	7	---
Municipal Consumer Information Offices.....	5	---
Foreign Ombudsman	19	9
Total	44	26

TABLE 8

Complaints received via Ombudsmen of autonomous
communities: 2005-2006

Origins	2006	2005
Arateko, Basque Country	87	82
Síndic de Greuges, Valencia	365	277
Valedor de Pobo, Galicia.....	65	60
Ombudsman of Andalusia	370	330
General Procurer of Asturias	6	---
Síndico de Agravios, Valencia.....	175	328
Justicia de Aragón	140	143
Ombudsman of Castilla-La Mancha....	28	56
Diputado del Común, Canary Islands..	156	263
Ombudsman of Navarre	33	53
Procurado del Común, Castilla y León ..	253	419
Total	1,678	2,011

Breakdown of complaints by sector

Table 10 shows data relating to the specific subject matter of complaints filed in 2006, broken down into the eight management areas used by the Ombudsman's office and according to the subject matter which received the highest number of complaints in each.

TABLE 10

Breakdown of complaints filed in 2006 by management area and subject matter

Sectors	Individual	Collective	Ex-officio	Total
Civil Servants and Public Employment	1,187	1,358	27	2,572
Civil servants from general administration, Social Security, and autonomous and local administrations	335	268	5	608
Personnel from the armed forces and security corps	220	775	2	997
Defense and Home affairs	1,628	244	20	1,892
Prison administration	336	---	7	343
Citizens security.....	181	50	4	235
Roads security.....	679	194	2	875
Justice and Domestic Violence	1,765	---	6	1,771
Justice Administration	904	---	1	905
General Registry Office	524	---	---	524
Economic Administration	2,875	14,316	29	17,220
Industry and Commerce	358	---	---	358
Telecommunications and services.....	857	---	12	869

TABLE 10 (continued)
Breakdown of complaints filed in 2006 by management area and subject matter

Sectors	Individual	Collective	Ex-officio	Total
Land Management.....	1,549	479	4	2,032
Zoning.....	250	---	2	252
Housing.....	392	101	---	493
Environment.....	525	---	1	526
Health and Social Issues.....	2,017	---	21	2,038
Health and Consumer Affairs.....	1,080	---	18	1,098
Social policy.....	307	---	2	309
Social Security.....	559	---	---	559
Immigration and Foreign Affairs	1,312	---	14	1,326
Foreign Affairs and immigration	886	---	9	895
Education and Culture	2,570	1	21	2,592
Data protection	121	---	---	121
Bilingual issues	806	---	---	806
University degrees and con-validations	558	---	---	558
Education activities and services	161	---	---	161
Total.....	14,903	16,398	142	31,443

Taking into account the individual complaints received, the most significant number are directed toward the Economic Administration, followed by those concerning education and culture or health and social policy. As for collective complaints, the order of

magnitude is very similar to that of individual complaints.

The greatest number of ex-officio enquiries were those related to telecommunications, health concerns, education, foreign affairs and immigration.

Complaint processing status at the end of 2006

The data in Table 11 show the processing status as of December 31st for complaints filed in 2006.

TABLE 11
Processing status as of December 31 for complaints filed during 2006

	Ex-officio		Individual		Collective		Total	
	Number	%	Number	%	Number	%	Number	%
Admitted for processing	140	100.00	5,724	45.40	14,944	93.88	20,808	72.59
Suspended	1	0.71	17	0.113	---	---	18	0.06
Being processed	102	72.86	3,542	28.10	14,613	91.80	18,257	63.69
Concluded.....	37	26.43	2,165	17.17	331	2.08	2,533	8.84
Not admitted for processing	---	---	6,883	54.6	974	6.12	7,857	27.41
Total	140	100.00	12,607	100.00	15,918	100.00	28,665	100.00

It is noteworthy to explain what happens to complaints that are not accepted for processing. Each case is considered carefully as soon as it is filed. The only cases that are rejected are those that incur in one or more of the legal justifications for rejection as outlined in the *Organic Law 3/1981* which regulates the Ombudsman's office. Nevertheless, information is promptly sent to the citizen, in accordance with article 17 of the aforementioned law.

It may seem that the number of complaints not accepted for processing is high year after year, and this may be due to both the uncertainty of citizens with respect to the scope of the Ombudsman's Office, as well as the high level of confidence that this institution inspires among the population—which is why problems are entrusted to the Ombudsman or why the Office is asked for the best way to go about resolving them.

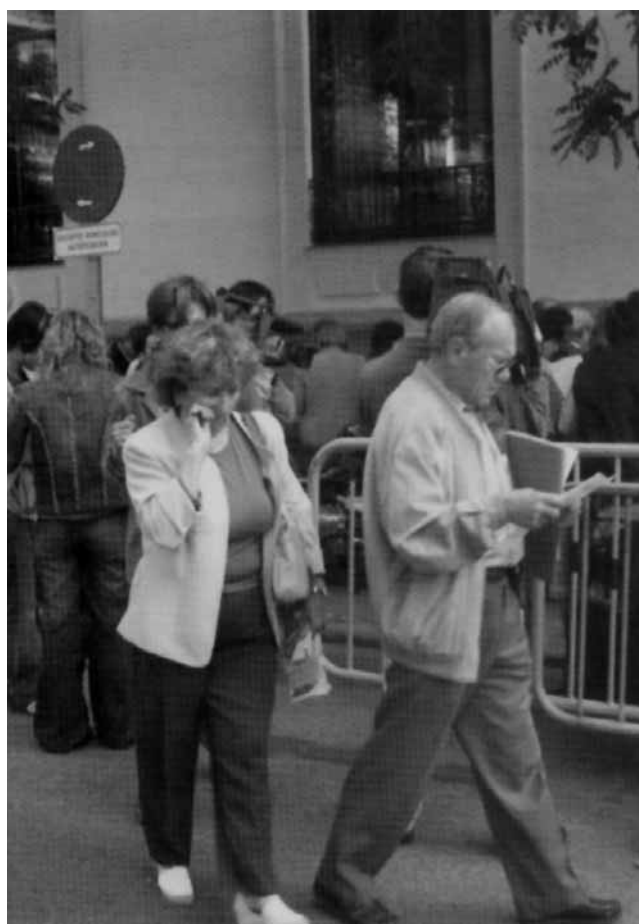
TABLE 12
Status on December 31, 2006 of pending complaint cases

	Ex-officio		Individual		Collective		Total	
	Number	%	Number	%	Number	%	Number	%
Pending information lacking from filer of complaint..			516	22.48			516	18.57
Pending processing or study	2	100	1,774	77.26	480	100	2,256	81.21
Pending due to error in format.....			6	0.26			6	0.22
Total	2	100	2,296	100	480	100	2,778	100

The causes for rejection of individual complaints in 2006 are shown in Table 13.

TABLE 13
Causes for rejection of individual complaints: 2006

Causes of non-admission	Number
Administrative authority regarding issues within its own jurisdiction	19
Lack of basis.....	213
Inexistence of claim	13
Judicial intervention	718
Bad faith.....	3
No previous administrative action	1,012
No action involving public authorities	557
No answer to resolvable defects	56
No answer to requests for information.....	212
No formal complaint, information sent	218
No formal complaint, information requested	230
No evidence of administrative irregularity ..	2,470
No legitimate interest.....	34
Other motives for non-admission	796
Period over a year	15
Anonymous complaint.....	1
Resolved without Ombudsman's intervention .	120
Irreversible sentence	181
Damage to third parties	5
Intervention of Autonomous Ombudsman .	10
Total	6,883



Submission of collective complaints at the Ombudsman's Office Headquarters.

Individual complaint cases

With respect to individual and ex-officio enquiry complaints the greatest number were those filed with the General State Administration followed by those filed with local government (see Table 14)

TABLE 14
Individual and ex-officio enquiry complaints filed with Administrations in 2006

Administrations	Being processed	Concluded	Suspended	Total
General State Administration	1,077	817	3	1,897
Self-governing Community Administration	305	229	---	534
Local Administration	450	248	3	701
Attorney General's Office	102	66	---	168
Other public entities	70	98	---	168
Miscellaneous administrations	189	40	---	229
Investigation unnecessary	1,451	704	12	2,167
Total	3,644	2,202	18	5,864

Those referred to as «investigation unnecessary» are complaints which, having been accepted for processing, had already been investigated with respect to other cases which had presented similar problems. Tables 15 and 16 detail complaints from 2006 that were processed respectively by the General State Administration and by organizations under

autonomous community administrative bodies. Once again, the majority of complaints processed were those received by the Ministry of the Interior, whose functions include supervision of penitentiary services. The Prime Minister and the Ministries of Housing and Culture received the fewest complaint cases.

TABLE 15
Breakdown of complaints presented to the General State Administration: 2006
Individual and ex-officio enquiry complaints

Ministries	Being processed	Concluded	Suspended	Total
Prime Minister	---	1	---	1
Prime Minister's Office	2	---	---	2
Ministry of Public Administrations	11	11	---	22
Ministry of Agriculture, Fishing, and Food	1	5	---	6
Ministry of Foreign Affairs and Co-operation	94	37	---	131
Ministry of Culture	1	2	---	3
Ministry of Defence	17	13	---	30
Ministry of Economy and Finance	80	64	2	146
Ministry of Education and Science	45	53	1	99
Ministry of Public Works	117	108	---	225
Ministry of Industry, Tourism, and Trade	55	23	---	78
Ministry of the Interior	199	170	---	369
Ministry of Justice	191	134	---	325
Ministry of the Environment	18	11	---	29
Ministry of Health and Consumer Affairs	15	11	---	26
Ministry of Labour and Social Affairs	47	84	---	131
Ministry of Housing	---	1	---	1
Peripheral administrations	148	77	---	225
Miscellaneous administrations	36	12	---	48
Total	1,077	817	3	1,897

TABLE 16
Breakdown of case processing handled by the Autonomous Community Administrations: 2006
Individual and ex-officio complaints

Autonomous Communities	Being processed	Concluded	Suspended	Total
Catalonia	26	19	---	45
Basque Country	3	1	---	4
Galicia	12	6	---	18
Cantabria	12	5	---	17
Asturias	13	13	---	26
Andalusia	32	17	---	49
Murcia	9	6	---	15
Aragón	6	4	---	10
Castilla-La Mancha	11	13	---	24
Valencia	23	21	---	44
La Rioja	3	6	---	9
Extremadura.....	10	5	---	15
Canary Islands	18	9	---	27
Castilla y León	19	17	---	36
Balearic Islands.....	14	7	---	21
Madrid	87	75	---	162
Navarre	2	4	---	6
Ceuta	2	---	---	2
Miscellaneous administrations	3	1	---	4
Total	305	229	---	534

The term **Correct action** is used once an investigation carried out by the Ombudsman has determined that the action taken by the Administration complies fully with current legislation. **Solution provided** is used to indicate that the Administration has modified incorrect behavior following

intervention by the Ombudsman's Office. When the Administration continues to act in a way that does not comply with current legislation brought to light by the Ombudsman, the term **Solution not provided** is used (see Tables 17, 18, and 19).

TABLE 17
Types of conclusions in individual and ex-officio enquiry cases, by administration: 2006

Administrations	Correct action	Solution provided	Solution not provided	Other	Total
General State Administration	473	253	34	57	817
Autonomous Community Administrations	86	53	22	68	229
Local Administrations.....	138	79	11	20	248
Attorney General's Office	50	11	2	3	66
Other public entities.....	50	39	4	5	98
Miscellaneous administrations	22	9	4	5	40
Investigation unnecessary	59	57	39	549	704
Total	878	501	116	707	2,202

TABLE 18

Breakdown of types of conclusions for individual and ex-officio complaints presented to the General State Administration: 2006

Ministries	Correct action	Solution provided	Solution not provided	Other	Total
Prime Minister	1	--	--	--	1
Prime Minister's Office	--	--	--	--	--
Ministry of Public Administrations	5	3	1	2	11
Ministry of Agriculture, Fishing, and Food	4	1	--	--	5
Ministry of Foreign Affairs and Co-operation	28	7	--	2	37
Ministry of Culture	2	--	--	--	2
Ministry of Defence	6	4	--	3	13
Ministry of Economy and Finance	35	21	3	5	64
Ministry of Education and Science	18	29	1	5	53
Ministry of Public Works	58	35	14	1	108
Ministry of Industry, Tourism, and Trade	21	1	--	1	23
Ministry of the Interior	132	25	5	8	170
Ministry of Justice	71	57	3	3	134
Ministry of the Environment	8	3	--	--	11
Ministry of Health and Consumer Affairs	2	2	1	6	11
Ministry of Labour and Social Affairs	37	29	5	13	84
Ministry of Housing	1	--	--	--	1
Peripheral administrations	37	33	--	7	77
Miscellaneous administrations	7	3	1	1	12
Total	473	253	34	57	817

TABLE 19

Breakdown of types of conclusions for individual and ex-officio complaints received by the Autonomous Community Administrations: 2006

Autonomous Communities	Correct action	Solution provided	Solution not provided	Other	Total
Catalonia	9	4	1	5	19
Basque Country	---	---	1	---	1
Galicia	3	---	---	3	6
Cantabria	2	---	2	1	5
Asturias	5	5	---	3	13
Andalusia	5	4	1	7	17
Murcia	1	3	---	2	6
Aragón	1	---	---	3	4
Castilla-La Mancha	5	3	2	3	13
Valencia	5	6	---	10	21
La Rioja	2	---	---	4	6
Extremadura	2	2	---	1	5
Canary Islands	5	2	---	2	9
Castilla y León	9	5	1	2	17
Balearic Islands	3	2	1	1	7
Madrid	29	16	12	18	75
Navarre	---	1	1	2	4
Ceuta	---	---	---	---	---
Miscellaneous administrations	---	---	---	1	1
Total	86	53	22	68	229

16,398 Collective Complaints

The collective complaints processed in 2006 have generated a total of 16,398 cases. Complaints made by a significant number of citizens along with the concise content of their corresponding files are briefly described below:

- 472 Civil Guard officers manifest their disagreement with certain aspects of the current legal framework regulating personnel.

- 224 temporary workers report discrimination with respect to other employees of the City Hall of Madrid.

- 662 workers of the Central Traffic Headquarters report discrimination with respect to their exclusion from the various objective-based, productivity schemes that are currently being set up in the organization.

- 266 people manifest their disagreement with the regulations governing the promotion from sub-officer to officer in the *Ejército del Aire* (Spanish Air Force).

- 187 Madrid residents manifest their disagreement with the enlargement of the regulated parking system zone agreed upon by City Hall.

- 14,288 Madrid residents show their opposition to the assessment of an eco-tax set by the City Hall.

- 167 residents of Helechosa (Badajoz), headed by their mayor, protest the frequent and prolonged power outages.

- 394 residents of the Aldaia municipality (Valencia) demonstrate their opposition to the PGOU (General Plan of Urban Zoning) of said town with respect to the loss of land resulting from the re-zoning of the L'Horta park to make space for projected cultural facilities.

- 101 residents of Los Olivos residential area in Madrid complain about the renovation work carried out by the City Hall as a consequence of the serious state of disrepair of their residences.

- 14,167 investors in the philatelic products of certain entities protest their situation after said entities were subjected to judicial proceedings.

- 182 temporary civil servants from the Justice Administration question the current selection and rejection process that they are subject to by the Department of Justice and the Interior of the Community of Madrid.

- 108 civil servants of the State Civil Administration of the Autonomous Community of the Balearic Islands express their disagreement with the health services provided by MUFACE, as a result of the reduced selection of doctors that they have at their disposal.



Investors affected by the judicial proceedings of Afinsa and Fórum Filatélico submitted a collective complaint to the Ombudsman's Office.



Madrid City Hall. (Photo: www.munimadrid.es)

- 251 people submit a complaint related to various issues affecting personnel who work at the Zaragoza Air Base.

- 1,001 Gregorio Marañón hospital workers (Madrid) protest the lack of career opportunity due to the policies of the Public Health Council of the Autonomous Community of Madrid.

- 1,929 workers submit a complaint because of the Community of Madrid's failure to meet deadlines for the incorporation of civil servants into this autonomous community.

- 375 residents of Peñíscola (Castellón) object to the inconveniences caused by the bollards installed by the City Hall in the historical center of the city.

- 6,001 citizens request a regulation that lengthens imprisonment periods and eliminates the possibility of early parole for those who cause traffic accidents under the influence of alcohol.



More than a thousand workers at the Gregorio Marañón Hospital in Madrid have complained about the lack of opportunity in their professional careers. (Photo: munimadrid.es)

- 8,107 citizens from Santa Cruz in Tenerife request the review of a judicial proceeding due to alleged irregularities.
- 9,005 people request support for an official pardon for a citizen.
- 111 people lodge a complaint about the construction of a gas plant in the estuary of El Ferrol (A Coruña).
- 1,001 residents of Cadalso de los Vidrios (Madrid) protest the cases of threats and violence against health professionals at the local health care center.
- 300 citizens of Andalusia object to the reauthorization of suspended work and residency permits issued to immigrants during a regularization process that began in May 2005.
- 486 citizens complain about the co-official language regulation set forth in the Autonomy of Catalonia's Statute.
- 451 citizens complain about the process established by the Educational Administration of Andalusia for obtaining access to semi-private high schools.
- 1,006 residents of Candás (Asturias) express their disagreement with the PGOU (General Plan of Urban Zoning) due to the allegation of several irregularities.
- 102 citizens of Cartagena (Murcia) express their disagreement with the renovation of the Plaza de la Merced.
- 167 workers from the Catalanian Institute of Health present a complaint because they are not entitled to the partial retirement detailed in the Framework Statute for Health Professionals.
- 3,001 residents of Moguer (Huelva) complain about the City Hall's failure to respond to their requests for the construction of a public library in Mazagón.
- 4,121 residents of Gijón (Asturias) object to the location of the conservatory in their town.
- 529 Malaga airport workers protest the increase in airport parking fees.
- 115 people demand attention for a citizen suffering sudden brain damage and request that he be transferred from Palma de Mallorca to Barcelona for medical care.
- 1,475 residents of Blanca (Murcia) protest the environmental pollution caused by the activity of several businesses in the town's industrial park.
- 320 residents of St. Antoni de Vilamayor complain about deficiencies in the local postal service.
- 218 residents of the Municipality of Parcent (Alicante) complain about the local PGOU (General Plan of Urban Zoning) due to unsustainable urban growth which lacks guarantees for the supply of basic services.
- 264 residents of Madrid complain about the dumping of rubbish by a neighborhood school.

TABLE 20
Breakdown of collective complaint processing
as of December 31, 2006

Situation	Number	%
Admitted.....	14,944	91.13
Being processed .	14,613	89.11
Closed.....	331	2.02
Not admitted	974	5.94
Pending processing .	480	2.93
Total	16,398	100.00

The reason why certain collective complaints were rejected is shown in Table 21.

TABLE 21
Breakdown of the causes for rejection of collective
complaints: 2006

Motives for non-admission	Number
Judicial intervention.....	162
Inaction of public authorities.....	54
No evidence of administrative irregularity...	492
Other reasons for non-admission.....	266
Total	974

As with individual complaints, the collective complaints handled in the various public administrations are presented in Tables 22, 23, 24, and 25, broken down by organization and public entity. On this occasion, it was autonomous and local administrations who handled the majority of complaints processed.

TABLE 22
Collective complaints processed by the Administration:
2006

Administrations	Being processed	Concluded	Total
General State Administration	302	47	349
Autonomous Community Administrations	397	167	564
Local Administrations	375	67	442
Miscellaneous administrations	1	50	51
Investigation unnecessary	13,538	---	13,538
Total	14,613	331	14,944

TABLE 23
Breakdown of collective complaints presented to the General State Administration:
2006

Ministries	Being processed	Concluded	Total
Ministry of Education and Science	29	---	29
Ministry of the Interior	68	7	75
Ministry of Justice	---	27	27
Ministry of the Environment	43	---	43
Ministry of Health and Consumer Affairs	162	---	162
Ministry of Labour and Social Affairs	---	13	13
Total	302	47	349

TABLE 24
Breakdown of collective complaints presented to the Autonomous Community Administrations:
2006

Autonomous Communities	Being processed	Concluded	Total
Murcia	2	---	2
Valencia	394	---	394
Extremadura	---	167	167
Madrid	1	---	1
Total	397	167	564

TABLE 25
Types of conclusions, by administration:
2006

Administrations	Correct action	Solution provided	Solution not provided	Other	Total
General State Administration	7	40	---	---	47
Autonomous Community Administrations	167	---	---	---	167
Local Administrations	18	---	49	---	67
Miscellaneous administrations	50	---	---	---	50
Total	242	40	49	0	331

142 Ex-Officio Complaints

During 2006 the Ombudsman handled 142 ex-officio enquiry complaints. As its name indicates, these are actions that the Ombudsman's Office carries out on its own initiative if it discovers facts that it deems worthy of investigation. One good source of information is the media. A breakdown of these actions, which are carried out under the auspices of article 12.1 of the Organic Law 3/1981 (April 6) is shown in the following Table, which also specifies the status of each action as of December 31, 2006 as well as the Administration that processed them.

TABLE 26
Ex-officio enquiry complaints processed by the administration: 2006

Administrations	Being processed	Concluded	Suspended	Total
General State Administration	43	9	---	52
Autonomous Community Administrations	31	26	---	57
Local Administrations.....	3	---	---	3
Attorney General's Office	1	---	---	1
Miscellaneous administrations	17	2	---	19
Investigation unnecessary	7	---	1	8
Total	102	37	1	140*

*Complaints still pending processing or scrutiny should be added to these complaints.

Ex-officio enquiry complaints have to do with current events, especially those that raise public alarm or are suspected of violating basic rights.

Financial issues

In 2006 one of the issues that raised the greatest level of public alarm was the judicial intervention of the Afinsa and

Fórum Filatélico partnerships. This led to the opening of two ex-officio enquiry complaints by the Ombudsman's Office, before the Secretary of State for Economy and Finance. The objective of these complaints was to determine why partnerships such as these, which invest in tangible goods, are exempt from the protection that is offered to investors in financial investment entities.

At the same time, the Ombudsman wanted to ascertain why there was a lack of adequate regulation with regard to what is known as «debt consolidating firms», which led to the presentation of a ex-officio enquiry complaint before the Ministry of Economy and Finance.

In addition, various ex-officio enquiry complaints were initiated due to the fact that those affected by the collapse of the Carmel subway tunnel had to pay tax on the public aid they received, and also due to an increase in certain taxes resulting from the restructuring of property values and the enlargement of areas zoned for urbanization. These complaints were presented to the Secretary of State for Finance.

Basic services

Thirteen of the ex-officio enquiries initiated by the Ombudsman were related to the supply of basic services such as telephony, mobile and land, broadband, gas, and electricity. The causes were related to problems with the cancellation of telephone service contracts; to the transfer of electricity or gas service contracts from one company to



The Ombudsman, Enrique Múgica, and the First Deputy María Luisa Cava de Llano meet in June 2006 with the members of the AUSBANC Association to deal with the Afinsa and Fórum cases.

another without prior client notification; to the lack of adequate legislation governing SMS services for mobile telephony; to the insufficient coverage for mobile telephony in certain areas, and to the inadequate growth in broadband service in Spain (Internet ADSL).

Moreover, an ex-officio enquiry was initiated by the Ombudsman as a result of the numerous complaints received by citizens who were concerned about the abusive practices being carried out by certain companies in the telecommunication sector, or regarding truthfulness in the advertising of special offers by certain firms. Citizens have also complained about complications of transferring their telephone number upon changing from one telephone service provider to another. Although these types of complaints are not normally processed, they point out the kinds of problems that citizens face, the difficulties involved in resolving them, as well as the lack of measures taken by the public administrations to try to resolve them.

Furthermore, an ex-officio enquiry was presented to the Secretary of State for Telecommunications and to the Information Society of the Ministry of Industry, Tourism and Trade, due to the fact that it was impossible to tune into the «Sexta» television channel when it broadcast a sports event of general interest —the World Cup of Soccer.

Finally, a professional enquiry was initiated to analyze the measures taken by the public administration to avoid the practice of «phishing» (the sending of fraudulent emails to personal email accounts to entice recipients to go to false banking websites in an attempt to glean passwords and other personal information from users).

School Violence

In 2006 many public enquiries were initiated with the Ministry of Education and Science and with the Boards of Education of all of the autonomous communities to collect data on cases of school «bullying». The objective was to conduct a new investigation into school violence in order to complete a monographic report made public in 2006. Moreover, bullying in the classroom was the subject of another ex-officio enquiry initiated as a result of media attention given to the case of a 12 year old who had been bullied by a group of his classmates, ranging in age from 12 to 16 years old, at the «Diego De Siloé» Secondary Education Institute in Burgos.

Civil Servants

Last year six ex-officio enquiries were initiated with respect to civil servants in the public administration. Cases were opened, for example, to investigate the reasons for staff layoffs at the Traffic Subdivision of Badajoz; to clarify allegations of sexual discrimination against female staff with respect to the number of posts offered for the Penitentiary Institution's Auxiliary Corps as well as the feasibility as to whether the two ranks of this corps may be merged, and to examine the allegedly unhealthy working conditions for police officers working for the Superior Police Headquarters 091. Additionally,

other studies conducted include: the difficulty that General State Administration civil servants have in obtaining a transfer to another location or town for health and rehabilitation, related reasons that affect either themselves or their family members; the alleged deficiencies in the selection process to obtain a post in the Auxiliary Corps for the Community of Madrid, and the drawing up of a statute to regulate the rights of interns at the Ministry of Culture.

Infrastructures

Various accounts reported in the media resulted in the opening of several ex-officio enquiries relating to problems with infrastructure. Such is the case of the ex-officio enquiry presented to the Ministry of Industry as a result of the opposition of several watchdog groups to the projected construction of a gas pipeline between the Spanish peninsula and the Balearic Islands. Similarly, another case was opened before the Madrid City Hall due to the protest of 500 citizens regarding the «administrative delays» involved in the construction of 15,000 planned residences in southeastern Madrid.

Ex-officio enquiries were also initiated with respect to the fact that the airports of Madrid and Barcelona occupy, respectively, the first and the fifth ranking in terms of delayed flights among all of the European Union airports, as well as the complaints filed with respect to the breach of contract between Air Madrid and its passengers.

Furthermore, the subway accident that occurred in Valencia on July 3, 2006 and the train accident that happened on the Vigo-Hendaya railway line resulted in the opening of many ex-officio enquiries with the Infrastructure and Transport Board of the Community of Valencia and with the Ministry of Public Works, respectively.

The actions of several city halls have also led to ex-officio enquiries. This is the case, for example, with the Torrelodones Town Council's plan to re-zone lands that fall within the boundaries of the Upper Manzanares River Valley Regional Park for development. The actions carried out by the Alicante Land Survey Management Office with respect to the redrawing of the municipal boundaries of Benissa also led to an ex-officio enquiry.

Finally, the situation of roadways led to the processing of three ex-officio enquiries.

Prisons

The deaths of prisoners, due to illness or suicide, in the penitentiary centers of Pamplona, Zuera (Saragossa), Albolote (Granada), and the Psychiatric center of Fontcalent (Alicante), resulted in various ex-officio enquiries initiated by the Ombudsman's Office. Moreover, another ex-officio enquiry was opened with respect to the situation of the prison in Ceuta; and another was opened with respect to the health issues suffered by minor residents in the Department of Mothers in the Soto del Real Penitentiary Center (Madrid), apparently due to inadequate heating. Furthermore, the Ombudsman's Office investigated the possible stepping up of what are known



Photograph of the institution-wide campaign against child abuse.

as «respect modules», whose objective is to promote positive values cohabitation, responsibility and respect, based on the experiment conducted at the penitentiary center of León.

Possible Police Abuse

The deaths of certain prisoners while in police detention were the focus of investigations carried out by the Ombudsman. Thus, the following led to the opening of various ex-officio enquiries: the death of a Belgian citizen during his arrest by the local police of Marbella; the death of a Moroccan immigrant due to an asthma attack while in the National Police Corps detention center at the border control station in El Tarajal (Ceuta), and the death of a citizen in the jail of the Superior Police Headquarters in Asturias.

Moreover, ex-officio enquiries were opened to investigate the following: judicial and disciplinary actions taken with respect to the implication of various police officers assigned to the Internment Center for Foreigners in Malaga in crimes involving sexual abuse of female inmates, as well as the various cases of torture and other crimes allegedly committed by local police officers of the city hall of Torrevieja (Alicante).

Also, ex-officio enquiries were opened to investigate alleged cases of corruption involving several Civil Guard officers assigned to the Customs Office at the Malaga airport and to the border crossing station at Beni Enzar (Melilla).

Gender Violence

The Ombudsman opened an ex-officio enquiry after media reports that a municipal councillor on the Lucmajor town council

had included in the website of his ASI party (Independent Social Association) a game that showed as many as twenty different ways to kill a woman. In addition, another case was processed to investigate various news reports in the media that 1,700 people convicted of gender violence crimes were not receiving the rehabilitation treatment that had been judicially imposed on them.

Minors

The serious injuries inflicted on a minor at the hands of an intimate acquaintance of the child's mother led to the opening of an ex-officio enquiry to determine if delays in the investigation had hindered the timely punishment of the perpetrator as well as the adequate protection of the victim. A third case was opened after a child who had allegedly been beaten by his parents was taken to hospital in a coma.

Internment Centers

In 2006 an investigation was carried out with all of the autonomous communities and the autonomous cities of Ceuta and Melilla in order to determine the number of existing youth internment and therapeutic centers, their location, how they are managed, number of spaces available, and other relevant information, in order to update the files that the Ombudsman maintains in this area.

Moreover, in Malaga, the border facilities at the Pablo Picasso airport as well as the Internment Center for Foreigners were visited. Other Internment centers for foreigners were inspected in Valencia, Algeciras and on the Palomares Island in Tarifa. In Algeciras, the «Nuestra Señora del Cobre» Center for Foreign Minors was also visited.

Finally, the death of a Gambian citizen who was being held in the «Hoya Fria» Internment Center for Foreigners (Santa Cruz, Tenerife) was also investigated.

Public Health

In the Public Health sector, ex-officio enquiries were initiated with all of the autonomous communities to study the feasibility of establishing protocols or action guidelines for the treatment of Fibromyalgia Syndrome and Chronic Fatigue Syndrome, the setting up of at least one unit of reference in a hospital for patients suffering from one of these illnesses who need special care, and the development of training programs for health professionals involved in the treatment of these illnesses.

Moreover, an investigation was opened with the Ministry of Health and Consumer Affairs concerning the real situation with respect to epidemiology and health aspects as regards diseases classified as rare, which affect several million people in Spain.

Ex-officio enquiries were also carried out with the National Institute for Health Management, the Ministry of Health and Consumer Affairs, and the Boards of Health of the different autonomous communities, regarding the need to protect health professionals from violence and attacks by patients and their family members.

Traffic

Ex-officio enquiries were initiated in two areas: firstly, the overcrowding of the only office in Madrid to resolve any and all administrative business related to the Regulated Parking System, and, secondly, regarding the issue of responsibility for identifying the driver of any vehicle involved in a traffic violation if the vehicle had previously been entrusted to a garage for repairs. Under such circumstances, the garage owner would be responsible, not the vehicle owner, provided that the vehicle owner can show proof that the vehicle was actually in the garage for repairs at the time the traffic violation took place.

Foreign affairs

The Ombudsman opened an enquiry to find out the legal consequences of the death of a Spanish relief worker in Maputo (Mozambique).

Nazi Racism

Xenophobic violence led to the processing of two cases: one to shed light on the actions of the public administrations in the case of a Colombian citizen, a minor residing in Castellar del Vallés (Barcelona), who left Spain as a consequence of the harassment he was subjected to by neo-Nazi youths in his neighborhood; and another to oversee the team put together to follow up on the announcement of a demonstration and a meeting where the participation of neo-Nazi groups was predicted.

Immigration

Conditions at the refitted Tenerife military base, along with other primary refugee aid services in the Community of the Canary Islands, to accommodate those persons who reach the Spanish coast on small boats were investigated, along with human and material resources in border control installations at the airports of Girona, Tarragona, and Reus. Moreover, an ex-officio enquiry was opened into the death of a foreign citizen, and into the injuries sustained by another person in an attempt to enter the country illegally by crossing the border of Melilla on July 3, 2006.

Education

Ex-officio enquiries focusing on educational issues dealt with the following: conditions of school facilities, such as those of the «Cuba» Public School, located in the Latina district of Madrid; the situation of Spanish researchers abroad who want to return to Spain; the creation of an authority with full independence of the Executive Power, whose function would be to protect the rights of all media users, and especially those of young people and children.

The following issues were also investigated by the Ombudsman's Office through several ex-officio enquiries: deficiencies in the public postal system, pensions, crime and security issues, difficulties in applying for a national ID card, the possibility of establishing an action plan for the various public administrations with respect to sexual harassment in the workplace.

51 recommendations and 42 suggestions accepted

As a result of the processing of complaints investigated during 2006, a total of 309 resolutions were made for the various Public Administrations (Table 27).

TABLE 27
Resolutions presented to Public Administrations, by type and situation on December 31, 2006

Resolutions	Accepted	Rejected	Pending	Total
Recommendations	51	9	39	99
Suggestions	42	27	66	135
Reminders of legal duties	---	---	---	75
Warnings	---	---	---	---

TABLE 28
Recommendations, by Public Administration to which they were presented. situation on December 31, 2006

Administrations	Presented	Accepted	Rejected	Pending
General State Administration.....	49	22	5	22
Autonomous Community Administrations	25	15	2	8
Local Administrations	20	11	1	8
Miscellaneous administrations.....	5	3	1	1
Total	99	51	9	39

TABLE 29
Suggestions, by Public Administration to which they were presented, status as of December 31, 2006

Administrations	Presented	Accepted	Rejected	Pending
General State Administration	55	19	11	25
Autonomous Community Administrations	19	7	4	8
Local Administrations.....	57	13	12	32
Miscellaneous administrations	4	3		1
Total	135	42	27	66

TABLE 30
Reminders of legal duties sent in 2006, to the Public Administration to which they were presented

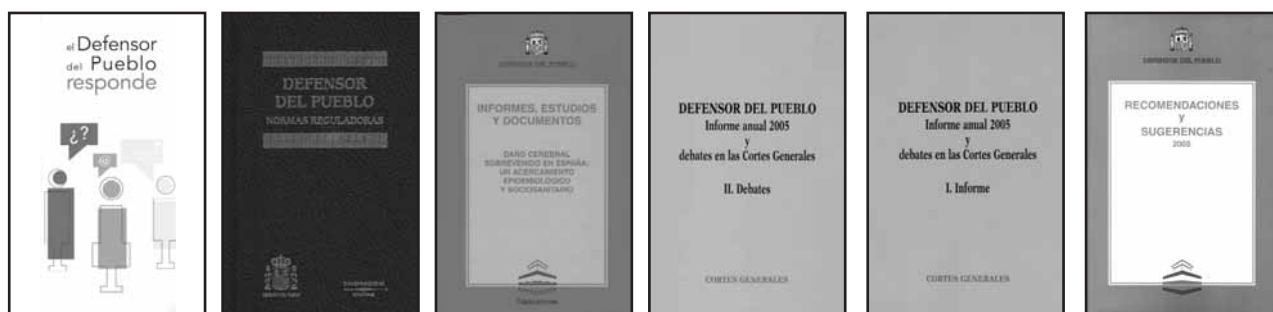
Administrations	Total
General State Administration.....	21
Autonomous Community Administrations	14
Local Administrations	39
Miscellaneous administrations.....	1
Total	75

OMBUDSMAN PUBLICATIONS IN 2006

Recommendations and Suggestions 2005 was published in 2006, as well as a special report on Traumatic Brain In-jury in Spain: An Epidemiological and Social Health Approach. The covers are shown below, as well as the 2005 Report and its parliamentary

debates, the book Defensor del Pueblo. Normas reguladoras and Ombudsman brochure El Defensor del Pueblo responde. These publications may be acquired at: P^o Eduardo Dato, 31, 28010 Madrid, or ordered on the Internet at:

publicaciones@defensordelpueblo.es



99 recommendations, 135 suggestions

During 2006, the Ombudsman made a total of 99 recommendations and 135 suggestions. At the close of the annual report, 51 recommendations and 42 suggestions had been accepted, as seen in Tables 27, 28, and 29. Moreover, the Ombudsman sent 75 follow-up notices of legal obligation. No warnings were made. A summary of the recommendations and suggestions that were accepted can be found below. Rejected and pending cases can be found in the full report published on the Ombudsman's website at: www.defensordelpueblo.es.

Note: In the summary of the resolutions in the report personal data that would identify those affected by an investigation has not been included in order to guarantee confidentiality as required by the Organic law that regulates the Ombudsman's actions.

Description of accepted recommendations

General State Administration

Ministry of Public Administration

To the Government Delegation in the Community of Madrid in order that the applications of citizens be received and processed normally until a resolution is reached, as required by law.

Ministry of Education and Science

To the National Secretary of Universities and Research for the establishment of criteria regarding grade transferability of all standardized university studies.

A recommendation was also made to the Directorate General of Universities with respect to the fulfilment of the basic requirements of the Séneca Aid Programme for student mobility.

Moreover, a recommendation to the National University for Distance Education regarding a reduction in working hours that affected some professors. Likewise, several recommendations were made regarding the inappropriate suspension of the processing of cases.

Ministry of the Interior

To the Directorate General of Penitentiary Institutions regarding the modification of their internal regulations and to attend to the requests for copies of documents.

Likewise, various recommendations were made to the Directorates General of the Police and the Civil Guard. For example, one recommendation stated that when investigating the responsibility of National Police officers accused of committing a crime, if the accusers or witnesses are themselves involved in an illicit administrative offence, measures should not be taken that would prevent them from attending trial. Further recommendations were made as follows: to eliminate the police report requirement for legal adults applying for EU residency permits; to permit

the arrival of family members of EU citizens on national territory, unless there is evidence that the documentation presented is false, or unless the individual's behavior constitutes a real, grave, or imminent threat to public order, health and security; to resolve failures in the negotiated national ID card-passport office at the local police department in Alcobendas (Madrid); and to open up new staff positions in the offices responsible for the issuing and renewal of national ID cards and passports at the local police departments of Santa Engracia and Pío XII (Madrid).

Furthermore, two recommendations were made to the Directorate General of Traffic: one to accelerate the revision of the General Traffic Regulations, in which the appropriate responsibilities and obligations are set forth to guarantee the safety of minors travelling in autotaxi vehicles, and another to proceed to cover examiner staff vacancies at the Provincial Head of Traffic of Guipúzcoa.

Ministry of Justice

To the Ministry of Justice regarding legislative reforms with respect to traffic accidents.

Recommendation to the Secretary of State for Justice for the reform of the Organic Law for the Protection of Witnesses and Experts in Criminal Proceedings.

Recommendation to guarantee the payment of professional fees to experts appointed by judicial bodies, when insolvency is declared while work is being carried out.

Ministry of the Environment

Various recommendations were made to the Directorate General of Water and the Hydrographical Confederation of the Júcar River regarding sanctioning procedure and the access to any documentation contained in the files of any completed administrative procedure, whether or not it resulted in the assessment of a sanction.

Recommendation to the Hydrographic Confederation of the Duero River regarding the lack of a resolution of a case involving tax liabilities.

Ministry of Labor and Social Affairs

To the Directorate General of Public Service for State Employment regarding the feasibility of creating a job bank to cover the temporary leave of civil servants at the State Employment Office. The bank would include applicants who have already passed one or more civil servant exams in the selection process, except for those who expressly decline to participate.

Autonomous administration

Principality of Asturias

To the Board of Health and Medical Services regarding the need to revise the leaflets published and distributed within the framework of the Zona Clave program in order to adapt the content to the objective criteria accepted by the scientific community—emphasizing the harmful effects related to drug use.

Autonomous Community of Castilla-La Mancha

To the Board of Education and Science regarding the boundaries of authority of the School Boards in the Autonomous Community.

Autonomous Community of Castilla y León

To the Board of Education regarding receiving personal communications in educational centers.

Autonomous Community of Catalonia

To the Department of Innovation, Universities and Business with respect to modifying the entrance examination calendar to access universities in Catalonia.

Also, a recommendation was made to the Department of Land Policy and Public Works regarding the conditions for taking measures against noise pollution.

Autonomous Community of Extremadura

To the Tax and Budget Board regarding the unclear explanation given about an Autonomous regulation on public university tuition, with reference to tuition waivers.

Autonomous Community of Galicia

To the Presidential Council regarding the identification of civil servants.

Autonomous Community of the Balearic Islands

To the Department of Agriculture and Fishing regarding authorization to intervene in cases of sanctioning.

Community of Madrid

To the Board of Education regarding the adoption of measures that will enable all applicants to take independent knowledge accreditation exams in the Community of Madrid. Moreover, this Board was advised to notify the Colmenarejo Town Council of an irregularity in its application of admission criteria which does not comply with regulations in force.

Recommendation to the Department of Family and Social Affairs that foreign minors under the guardianship of public Administration be given legal aid when making asylum applications.

Recommendation to the Department of Health and Consumer Affairs regarding the convenience of urgently adapting medical transport resources to the needs of the resident population of the Community of Madrid. Meanwhile, a recommendation was made to the Vice-counsel of Health Assistance and Infrastructure regarding the motivation of administrative acts.

Recommendation to the Directorate General for the Madrid Health Services that the considerable delay in the application of treatments carried out in the Pain Management Unit in the Alcorcón Hospital Foundation be reduced.

Murcia Region

To the President of the University of Murcia regarding the content of the aptitude tests given at the University of Murcia to standardize degrees.

Local Administration

El Viso City Hall (Córdoba): regarding the need to respect the principles of equality, merit, capacity and publicity with respect to access to the civil service.

Fuenlabrada City Hall (Madrid): regarding the opening of a disciplinary case against officers who have reportedly been involved in incidents that would qualify for disciplinary action, which may not be suspended until a firm sentence is issued.

Galapagar City Hall (Madrid): regarding the resolution of specific appeals

Lugo City Hall: regarding the approval of the employment position list.

Mérida City Hall (Badajoz): regarding the lack of response to a request for information from the neighbors association.

Mont-roig del Camp City Hall (Tarragona): Regarding conditions to resume a seasonal activity which causes annoyance.

Puentes Viejas City Hall (Madrid): regarding the resolution of specific appeals.

Puerto de la Cruz City Hall (Santa Cruz de Tenerife): so that disabled parking spaces are situated in the space closest to the disabled person's place of residence.

Tarragona City Hall: so that Spanish-language versions of documents issued by the City Hall be made available to any citizens who request them.

Burgos Provincial Council: regarding the resolution of specific appeals.

Jaén Provincial Council: regarding the need to guarantee access for disabled applicants to the civil service under conditions of equality, merit, and capacity.

Others

Melilla Bar Association: that in deportation proceedings the concerned party may make use of his or her right to legal council, and that effective and personalized service be delivered during each phase of the proceedings.

General Council of the Judiciary and the Attorney General's Office: to preserve the right to privacy of minors affected in cases of separation or divorce.

Suggestions accepted

General State Administration

Ministry of Public Administration

To the Minister, regarding the allowance for temporary incapacity.

To the Government Delegation in the Autonomous Community of Andalusia to appeal the decision to reject an application for permanent residence due to errors in the interested party's criminal record.

To the Government Delegation in the Community in Madrid in order to delay the expulsion of a Nigerian citizen until the conclusions of her internal appeal are issued, opposing the inadmissibility of the application for legal status submitted on her behalf; to freeze the deportation of a Nigerian citizen and to effect her immediate release from detention until the Administration has resolved the application for legal status submitted on her behalf; and to proceed to annul a deportation case affecting a citizen of the Dominican Republic, once his marriage to a Spanish national can be confirmed.

To the Government Delegation in the Autonomous City of Melilla that it nullify a resolution rejecting the issuance of an ID card to a family member of an EU resident.

To the Sub-delegation of the Government in Granada that they confirm that the notification of expulsion of a Romanian citizen was carried out in accordance with the Law on the Legal System applicable to State Administration and with Common Administrative Procedure Law and that they correct the expiry date of the case.

To the Sub-delegation of the Government in Málaga that they nullify the deportation order issued against a Ukrainian citizen, who is the unmarried partner of an EU citizen.

Ministry of Foreign Affairs and Cooperation

To the Directorate General of Consular Assistance and Affairs that they revoke the resolution denying an application for family reunification, processed with the Spanish General Consulate in Lima, since regulations governing the processing

of foreign persons were not fulfilled. Also, to proceed with the prompt resolution of an internal appeal which was brought against the rejection of an application for family reunification by the Spanish Consulate in Dakar.

Ministry of Education and Science

To the National University of Distance Education regarding the reduction of working hours for professors.

Ministry of the Interior

To the Minister, that in the next meeting of the National Commission for the Coordination of Judicial Police, the reasons for the delay in investigating the mistreatment of a minor be studied. The objective of this study would be to establish guidelines and procedures necessary to improve coordination among the different authorities comprising child protection services and the various police forces, and between the latter and judicial actions nationwide.

To the Directorate Generals of the Police and the Civil Guard, that they provide flameproof pads to the local police station in Algeciras and to all those who do not have them. Likewise, that they should notify the local police station in Algeciras of the observations made in the Ombudsman's report. The aim of this is to allow them to correct the deficiencies referred to in the report, and, in so doing, to provide detainees with a minimum standard of hygiene and cleanliness. Another suggestion was made regarding the treatment of personal data; and another to initiate an exclusive investigation to shed light on the deficient actions taken to identify a foreign person, and the undue initiation of a process of expulsion.

To the Directorate General for Traffic regarding the written reply to a document presented to them.

Ministry of the Environment

To the Hydrographic Confederation of the Duero River, regarding the lack of a clear resolution to a request for information made by the concerned party.

Prime Minister's Office

To the General Technical Secretary regarding the streamlining of administrative steps to proceed toward approval of a bill on the use of organic waste, produced by farms and ranches, as fertilizer.

Ministry of Labor and Social Affairs

To the Undersecretary, so as to include unfilled posts in competitions for civil service job vacancies at the Public Service for State Employment.

Autonomous administration

Autonomous Community of Andalusia

To the Department of the Environment, regarding the lack of a clear resolution to a request for information made by the concerned party.

Cantabria

To the Department of Health, Consumer Affairs, and Social Services regarding the convenience of including a female citizen, who had been excluded from the list of candidates for the «intracytoplasmic spermatozoid injection technique» on account of already having a biological child, on the corresponding waiting list for the application of this assisted human reproduction technique.

Autonomous Community of Catalonia

To the Department of the Interior, Institutional Relations and Participation, to notify the civil servants who committed an act, and also to notify their superiors, of the contents of the Ombudsman's report so that they would be able to take the appropriate measures to ensure that their behavior in the future complies with the basic principles established by the Security Forces and Corps.

A suggestion was also made to the Department of Land Policy and Public Works regarding an appraisal payment for a residence.

Autonomous Community of Galicia

To the Department of the President, Public Administrations and Justice, regarding the express reply to submitted documents and certification of the instatement of a civil servant.

Community of Madrid

To the Department of the President, regarding the process leading up to incorporation for civil service, in order to streamline the competition for transfers and specific professional training for staff as described in the Collective Bargaining Agreement.

To the Carlos III University in Madrid, regarding access to civil service exams to reach the grade of administrative assistant at that university.

Local Administration

Alcalá de Henares City Hall (Madrid): Regarding guaranteeing the use of a parking space for a disabled person.

Almàssera City Hall (Valencia): Regarding fees for the right to sit examinations.

Cercedilla City Hall (Madrid): Regarding the explicit reply to documents submitted.

Chera City Hall (Valencia): Regarding the covering of vacant posts with temporary staff.

El Hoyo de Pinares City Hall (Ávila): Regarding the request for collaboration to other administrations to guarantee the supply of basic services in the municipality.

Madrid City Hall: Regarding the demand for responsibility with respect to property development irregularities; regarding the use of noise measurement technology to study private behavior, regarding the need to respect the principles of awareness, efficiency, transparency and participation in the drawing up of the competition rules.

Montoro City Hall (Córdoba): Regarding the offer of public employment and the composition of the selection panels.

Oviedo City Hall (Asturias): Regarding the need to determine the potential tax liability of the Administration.

Pedrajas de San Esteban City Hall (Valladolid): Regarding sanctioning and provisional measures with respect to environmental concerns.

Salt City Hall (Girona): Regarding the refund of the 2001 Tax on Economic Activities, paid erroneously by the president of a homeowners' association.

San Vicente de la Barquera City Hall (Cantabria): Regarding the need to require and obtain the regulation of classified activities.

Others

General Council of the Judiciary and the Attorney General's Office: that in the next meeting of the National Commission for the Coordination of Judicial Police, the reasons for the delay in investigating the mistreatment of a minor be studied. The objective of this study would be to establish guidelines and procedures necessary to improve coordination among the different authorities comprising child protection services and the various police forces, and between the latter and judicial actions nationwide.

State Telephone and Telegraph Company, Inc.: Regarding the explicit resolution of a document presented by various civil servants.

Reminders of Legal Duties

During 2006, the Ombudsman issued 21 Reminders of Legal Duties to the General State Administration, 14 to the Autonomous Administrations and 40 to local and to other organizations (see Table 30).

General State Administration

Ministry of Public Administrations

To the **Government Delegation in Madrid**, regarding its legal obligation to respect the provision that, after a three-month period from the date of application for renewal of a residency or work/residency permit, said permit must be granted regardless of whether or not an explicit resolution has been issued. The delegation was also reminded of its duty to respect what is set forth in article 158 of the Regulations for Foreign Persons, so that, in the event that an application for renewal should be denied, they do not initiate an undocumented alien deportation process until such time as the concerned party is notified of the corresponding resolution and the grace period for obligatory expulsion has expired.

To the **Government Delegation in the Autonomous City of Melilla**, regarding its legal obligation to ensure that deportation proceedings be carried out in accordance with the provisions of the current Alien Law, including respect for adversarial principles, the right to hearings, and the finding of resolutions.

To the **Government Sub-delegation in Malaga**, regarding the legal obligation to issue an explicit resolution for all proceedings and appeals that it handles.

To the **Government Sub-delegation in Toledo**, regarding the legal obligation that the Industry and Energy Area has to inform and orient citizens about the legal and technical requirements with respect to proposed projects, actions and requests.

Ministry of Foreign Affairs and International Cooperation

To the **Directorate General of Consular Assistance and Affairs**, regarding the need to fulfill the legal obligation to issue an explicit resolution in appeals brought by the concerned party; regarding the legal obligation that Consulates and other Spanish representation abroad must fulfill the provisions of the law on the Legal System for the Public Administrations and of the Common Administrative Procedure Law and consequently to issue an explicit resolution for visa applications in the appeals brought by the concerned party.

To the **General Consulate of Spain in Quito**, regarding the legal obligation to issue an explicit resolution for the withdrawal of proceedings in cases for which a requirement to rectify a visa application has not been carried out by the established deadline.

Ministry of Defence

To the **Undersecretary**, regarding the legal obligation of the Administration to serve the best interests of its citizens so that they are not adversely affected by deficiencies in administrative actions, harming their legitimate rights. Rather, its actions should be governed by the criteria of efficiency and service to its citizens.

To the **General Technical Service Department**, regarding its legal obligation to resolve all complaints and requests they receive from citizens as and when required.

To the **General Staff Department**, regarding its legal obligation to resolve, as and when required, all complaints and requests received from citizens, and a reply must be made for each case.

Ministry of Finance

To the **Directorate General of State Property**, regarding the legal obligation which requires Public Administrations to protect and defend public assets.

To the **Regional Economic and Administrative Tribunal of Andalusia**, regarding their legal obligation to resolve all complaints and requests they receive from citizens as and when required.

To the **Regional Economic and Administrative Tribunal of Aragón**, regarding their legal obligation to resolve all complaints and requests they receive from citizens as and when required.

To the **Regional Economic and Administrative Tribunal of Catalonia**, regarding their legal obligation to resolve all complaints and requests they receive from citizens as and when required.

To the **Regional Economic and Administrative Tribunal of Extremadura**, regarding their legal obligation to resolve all complaints and requests they receive from citizens as and when required.

Ministry of Education And Science

To the **National University of Distance Education**, regarding their legal obligation to strive to fulfill the applicable legal and constitutional precepts during the review of enrolment applications for a student.

Ministry of Public Works

To the **General Transport Registry**, regarding the legal obligation of all public authorities to issue explicit resolutions.

Ministry of the Interior

To the **Secretary of State for Security**, regarding its legal obligation to ensure that deportation proceedings be carried out in accordance with the provisions of the current Alien Law, including respect for adversarial principles, the right to hearings, and the finding of resolutions.

To the **Directorate Generals of the Police and the Civil Guard**, regarding their legal obligation to resolve all complains and requests they receive from citizens as and when required.

Ministry of Labor and Social Affairs

To the **Directorate General for Social Security**, regarding the legal obligation to issue instructions to insurance companies so that they resolve claims made to them by affected policyholders. The options to file complaints with the insurer and also to initiate legal action with the appropriate court within an established timeframe must be explicitly included in such resolutions.

Autonomous Administrations

Principality of Asturias

To the **Ministry of Housing and Social Welfare**, regarding the legal obligation of all public administrations to resolve all complains and requests they receive from citizens as and when required.

Cantabria

To the **Department of Culture, Tourism and Sports**, regarding the legal obligation of all public administration officers and staff, whose duties include the processing and resolution of cases, to adopt the appropriate measures to remove any impediment to the exercise of citizens' rights and respect for their legitimate interests, making available whatever tools are needed to avoid any irregularity in the processing of cases.

Autonomous Community of Catalonia

To the **Directorate General of Motorways**, regarding the legal obligation to adopt measures for forecasting, reduction of noise pollution, and coverage for damages and injury, avoidable or not, even when the claims arise due to constructions built subsequent to the most modern installations, whose acoustic features, if not officially declared, may not be taken as general limitations of non-compensatory property, but rather, as singular features which in the final analysis may be compensatory. Additionally, regarding the legal duty to protect the establishment of aid and subsidies to minimize the acoustic impact of buildings situated in noisy areas.

Autonomous Community of Extremadura

To the **Board of Education**, regarding the legal obligation to objectively serve the public interest and to act in accordance with the principles of efficiency and cooperation.

Autonomous Community of The Balearic Islands

To the **General Office of Consumer Affairs**, regarding the legal obligation of all public administration officers and staff, whose duties include the processing and resolution of cases, to adopt the appropriate measures to remove any impediment to the exercise of citizens' rights and respect for their legitimate interests.

Community of Madrid

To the **Department of Families and Social Affairs**, regarding the legal obligation to issue the mandatory resolutions for the applications that are submitted by concerned parties to the corresponding department, making available the option of appeal to the appropriate judicial authority within the established time framework.

To the **Department of the Environment and Land Management**, regarding the legal obligation deduced from article 103 of the Spanish Constitution and article 3 of Law 30/1992, November 26, of the Law on the Legal System Applicable to Public Administration and Common Administrative Procedure Law; regarding the legal obligation deduced from article 7 of Law 30/1992, November 26, of the Law on the Legal System Applicable to Public Administration and Common Administrative Procedure Law, related to article 4 of Royal Decree 208/1996, February 9, which regulates Administrative Information Services and Citizen Services. These laws establish the right to request from the Administration information and advice on procedures, requirements, and documentation for proposed projects and actions, or to have open access to public services in order to benefit from their use.

To the **Directorate General of Housing and Architecture**, regarding the legal obligation governing preliminary proceedings in the investigation of infractions of government-subsidized housing regulations; regarding the legal obligation concerning the availability of the administrative measures needed to fully enforce Madrid Assembly Law sanctioning regulations as regards government-subsidized housing in the Community of Madrid.

To the **Canal de Isabel II Board**, regarding the legal obligation to issue an explicit resolution for any requests and appeals that are presented to them by concerned parties.

Region of Murcia

To the **University of Murcia**, regarding its legal obligation to ensure strict compliance with the mandatory rules and regulations that govern its activities.

Valencia

To the **Board of Business, Universities, and Science**, regarding the legal obligation of all public administration officers and staff, whose duties include the processing and resolution of cases, to adopt the appropriate measures to remove any impediment to the exercise of citizens' rights and respect for their legitimate interests,

making available whatever tools are needed to avoid any irregularity in the processing of cases.

To the **University of Jaume I de Castellón**, regarding its legal obligation to guarantee access to environmental information. As such, when the university denies a request for access it must do so from the basis of a reasoned decision with succinct reference to facts based on law, since such resolutions are subject to administrative appeal.

Local Administration

Alcorcón City Hall (Madrid): Regarding the legal obligation to issue and communicate, as and when required, an explicit, reasoned resolution with respect to requests made by concerned parties.

Álora City Hall (Málaga): Regarding the legal obligation of all public authorities to provide the Ombudsman with preferential and urgent assistance in its investigations.

Bunyola City Hall (Balearic Islands): Regarding the legal obligation imposed by the legal system to issue and communicate, as and when required, an explicit, reasoned resolution with respect to requests made by concerned parties.

Burgos City Hall: Regarding the legal obligation imposed by the legal system to issue and communicate, as and when required, an explicit, reasoned resolution with respect to requests made by concerned parties.

Burjassot City Hall (Valencia): Regarding the legal obligation imposed by the legal system to issue and communicate, as and when required, an explicit, reasoned resolution with respect to requests made by concerned parties.

Cambados City Hall (Pontevedra): Regarding its legal obligation to respect and enforce the law. As such, the selection processes it convenes in the future must comply with the legal system, and measures must be taken to avoid situations such as the one that gave rise to this complaint.

Carbayosa de la Sagrada City Hall (Salamanca): Regarding the legal obligation imposed by the legal system to issue and communicate, as and when required, an explicit, reasoned resolution with respect to requests made by concerned parties.

Carballo City Hall (A Coruña): Regarding the legal obligation of the local government to ensure the compliance with urban development legislation, which includes the obligation to inspect illegal construction work, and to issue instructions to ensure that they are brought up to a standard which conforms with current regulations in force.

Castrillón City Hall (Asturias): Regarding the legal obligation imposed by the legal system to issue and communicate, as and when required, an explicit, reasoned resolution with respect to requests made by concerned parties.

Coca City Hall (Segovia): Regarding the legal obligation to resolve applications for building permits, submitted in accordance with applicable rules, with due respect for the legal system and the regulatory hierarchy. As such, taking into account the circumscribed nature of permits for new buildings, obligatory verification that the building fulfills all of the conditions required in the building permit and that the building meets all health and safety conditions required for residential use must be established prior to the granting of said permits.

El Sauzal City Hall (Santa Cruz de Tenerife): Regarding the legal obligation imposed by the legal system to issue and communicate, as and when required, an explicit, reasoned resolution with respect to requests made by concerned parties.

Ezcaray City Hall (La Rioja): Regarding the legal obligation to reach an explicit and reasoned resolution to an internal appeal presented by concerned parties as regards special tax contributions, with subsequent notification as required.

Herrerías City Hall (Cantabria): Regarding the legal obligation imposed by the legal system to issue and communicate, as and when required, an explicit, reasoned resolution with respect to requests made by concerned parties.

Las Palmas de Gran Canaria City Hall: Regarding the legal obligation imposed by the legal system to issue and communicate, as and when required, an explicit, reasoned resolution with respect to requests made by concerned parties.

Las Rozas City Hall (Madrid): Regarding the legal obligation to issue a reasoned resolution in which all questions posed by concerned parties are addressed, along with all those arising from their processing, within the established time framework; regarding provisional or precautionary measures; regarding the legal obligation to guarantee effective participation of the citizenry in the drawing up and implementation of planning instruments, as the public information process and the right of public access to urban planning data are considered to be essential aspects of citizen participation in the process of building a city.

Las Torres de Cotilla City Hall (Murcia): Regarding the legal obligation to adopt the measures necessary to prevent detected urban planning infractions from becoming legal by mere virtue of the passage of time, resulting in the non-compliance of a legal mandate which assigns municipal governments the urban planning legislation to inspect, preserve and re-establish the infringed urban area, acting with due diligence and preventing offenders from benefiting from the delay in administrative action to the detriment of other citizens.

Leganés City Hall (Madrid): Regarding the legal obligation of all public administration officers and staff, whose duties include the processing and resolution of cases, to

adopt the appropriate measures to remove any impediment to the exercise of citizens' rights and respect for their legitimate interests, making available whatever tools are needed to avoid any irregularity in the processing of cases.

Madrid City Hall: Regarding the legal obligations as a consequence of having granted itself a building permit for works included in the basic project for the rehabilitation of buildings without respecting the established minimum distances.

Regarding the legal obligation by which the suspension of administrative acts be governed by the following general rules. Likewise, it must be remembered that the revoking of grave or unfavourable acts by public administrations is only possible if said revoke does not constitute a dispensation or waiver which is not permissible by law or which would contravene the principle of equality, the public interest, or the legal system.

Regarding the legal obligation with respect to the evaluation and management of ambient noise; and on which it is incumbent to reduce damages resulting from noise pollution, originating in the roadway infrastructure under its responsibility, regarding, as the case may be, the need to declare areas of protection or of special acoustic consideration; that existing noise be examined, controlled and measured, and that it is always obligatory for those who build roadways to constantly oversee the environmental quality of the infrastructure in such a way that, as necessary, the impact of ambient noise can be studied or analyzed again if the previous study turns out to be defective or incomplete.

Regarding the legal obligation to guarantee the right of everyone to enjoy an acceptable environment, and in order to guarantee this the public authorities must protect certain natural resources, which includes the protection and improvement of quality of life, and also to defend and restore the environment when there is not a rational usage of it, including cases involving a quiet atmosphere, particularly in residential areas.

Regarding the legal obligation with respect to injunctions to initiate conservation works for buildings where such orders may only be handed down to a sole titleholder, obliged to suffer the consequences that may arise from his or her negligence.

Regarding the legal obligation imposed by the legal system to issue and communicate, as and when required, an explicit, reasoned resolution with respect to requests made by concerned parties.

Montserrat City Hall (Valencia): Regarding the legal obligation to issue an explicit, reasoned resolution for each request made by concerned parties.

Oviedo City Hall: Regarding the legal obligation to explicitly resolve each request, claim and appeal presented by citizens.

Paracuellos de Jarama City Hall (Madrid): Regarding the legal obligation to guarantee the effective participation of the citizenry in the drawing up and processing of planning instruments, as provided by current law which considers the

processing of public information to be essential to this process, taking the measures necessary to guarantee the legitimate exercise of the right of citizens to obtain whatever information and copies of documents they deem necessary and indispensable to make their allegations, regardless of whether or not city hall staff is present in the municipal offices at the time the effective exercise of such rights is attempted.

Pontevedra City Hall: Regarding the legal obligation to re-establish an infringed legal order, remembering at the same time that urban planning is a public function whose obligation and responsibility correspond to public administrations, particularly to city halls, which are bestowed of the necessary mechanisms to exercise authority, including the imposing of fines.

Rivas-Vaciamadrid City Hall (Madrid): Regarding the legal obligation which requires the coherent resolution of requests for information and administrative action made by citizens.

Santa Pola City Hall (Alicante): Regarding the legal obligation imposed by the legal system to issue and communicate, as and when required, an explicit, reasoned resolution with respect to requests made by concerned parties.

Sarrià de Ter City Hall (Girona): Regarding the legal obligation of the public administration to translate into Spanish any documents, files or sections of text which would be effective outside the territory of the autonomous community along with whatever documents requested as such by concerned parties.

Toledo City Hall: Regarding the legal obligation to explicitly resolve each request, claim and appeal presented by citizens.

Torrejón de Velasco City Hall (Madrid): Regarding the legal obligation to adopt the measures necessary to prevent detected urban planning infractions from becoming legal by mere virtue of the passage of time, resulting in the non-compliance of a legal mandate which assigns municipal governments the urban planning legislation to inspect, preserve and re-establish the infringed urban area, acting with due diligence and preventing offenders from benefiting from the delay in administrative action to the detriment of other citizens.

Torrevieja City Hall (Alicante): Regarding the legal obligation to resolve applications for building permits, submitted in accordance with applicable rules, with due respect for the legal system and the regulatory hierarchy. As such, taking into account the circumscribed nature of permits for new buildings, obligatory verification that the building fulfills all of the conditions required in the building permit and that the building meets all health and safety conditions required for residential use must be established prior to the granting of said permits.

Valencia City Hall: Regarding the legal obligation imposed by the legal system to issue and communicate, as and when required, an explicit, reasoned resolution with respect to requests made by concerned parties.

Island Council of Fuerteventura: Regarding the legal obligation of all public administration officers and staff, whose duties include the processing and resolution of cases, to adopt the appropriate measures to remove any impediment to the exercise of citizens' rights and respect for their legitimate interests, making available whatever tools are needed to avoid any irregularity in the processing of cases.

Island Council of Tenerife: Regarding the legal obligation to resolve in the established timeframe, as set forth in article 13 of the procedural regulations for public administration regarding tax liability, approved by Royal Decree 429/1993, March 26.

Others

Attorney General's Office: so that within the framework of applicable legal precepts, the means be found and measures be adopted to find a solution for the homelessness of a citizen who is suffering declining mental and physical health.

Appeals of Unconstitutionality

The Ombudsman is authorized to impose appeals of unconstitutionality and legal protection, as expressed in the Organic Law of the Constitutional Tribunal. Thus, on September 19, 2006 the Ombudsman imposed an appeal of unconstitutionality against certain items in the Organic law 6/2006, regarding reform of the Autonomous Statute of Catalonia. Additionally, and with respect to requests for intervention, the Ombudsman did not find sufficient items of unconstitutionality in the 17 appeals that it was asked to formulate regarding various laws or concrete precepts in state and Autonomous legislation.

Requests for intervention

All filers are informed of the basic aspects of the resolutions adopted, whose entirety may be consulted in the full report which is published by the Ombudsman, and put on its website: www.defensordelpueblo.es and which is published as well by the Parliament.

The laws that the Ombudsman was asked to consider for appeal of unconstitutionality were the following:

- 1) Royal Decree-Law 13/2005, October 28, by which the Law 4/1986, January 8, regarding the disposal of accumulated union assets is modified.
- 2) Law 22/2005 November 18, by which various EU directives are incorporated into the Spanish legal system in the area of taxation for energy products and electricity and of the common tax regulation applicable to the parent companies and subsidiaries of different member states, and by which the tax system for cross-border pension funds in the EU are regulated.
- 3) Andalusian Law 13/2005, November 11, on measures for subsidized housing and land.
- 4) Law 10/2005, December 9, of the Generalitat Valenciana, on legal assistance to the Generalitat.
- 5) Law 28/2005 December 26, on health measures regarding tobacco use and rules governing sales, supply, consumption and advertising, and Royal Decree-Law 2/2006, February 10, by which tax rates on tobacco labor are modified, a complementary transitional phase for tobacco machines and stamp duty is established, and the Law 28/2005 is modified.

- 6) Law 22/2005, December 29, on Catalanian audio-visual communication.
- 7) Law of the Parliament of the Balearic Islands 13/2005, December 27, on tax and administrative measures.
- 8) Law of the Parliament of Catalonia 1/2006, February 16 on referenda
- 9) Law 1/2006, February 28, on child protection in La Rioja
- 10) Organic Law 2/2006, May 3, on education.
- 11) Law 5/2006, May 10, on the Fifth Book of Catalanian Civil Code, regarding royal rights.
- 12) Law of the Parliament of the Balearic Islands 6/2006, April 12, on hunting and river fishing.
- 13) Parliamentary pension regulations and other economic instruments for ex-parliamentarians, approved by the Chamber of Congress Bureau and the Senate in their meeting on July 11, 2006.
- 14) Law 8/2006, July 5, on measures for the conciliation of personal, family and work life for staff at the service of the Public Administrations of Catalonia.
- 15) Law 23/2006, July 7, regarding the modification of the reworked text of the Intellectual Property Law, approved by Royal Legislative Decree 1/1996, April 12.
- 16) Law 29/2006, July 26, on guarantees and the rational use of medicine and health-related products.
In this particular case the Ombudsman states «it is necessary to wait until the law is developed», since the legislation contains several, legally indefinite concepts.
- 17) Law 33/2006, October 30, regarding the equality between men and women in the order of succession of noble titles.

Appeals presented

Organic Law 6/2006, July 19th, Reform of the Statute of the Autonomy of Catalonia

The Ombudsman, in exercise of the power attributed by articles 62.1 of the Spanish Constitution, 32.1 of the Organic Law of the Constitutional Tribunal and of the Organic Law of the Ombudsman, having attended the meeting of the Coordination and internal Regime Board of the institution, session which took place on September 18, 2006, presented an appeal of unconstitutionality against a series of precepts of the Organic law 6/2006, of July 19th, regarding reform of the statute of autonomy of Catalonia. This decision was taken after analyzing the text published in the Official State Gazette, to determine its scope, while bearing in mind, as the only and exclusive criterion for action, the objective and the *raison d'être* as regards its Constitutional function.

Judicial Needs

FIRST. National sovereignty. The origin of the Generalitat's power as proclaimed in the Statute (the people of Catalonia and the historical rights of the Catalan people) expresses a clear distinction with regard to the principle of national sovereignty that, according to the Constitution, resides in the Spanish people. Said distinction gives rise, therefore, to evident inequalities for a part of the Spanish citizens. The preamble of the Statute has substantial political content, especially in its references to the «historical rights of the Catalan people as a basis for self-government of Catalonia and the naming of it as a nation. Both expressions exceed the limits of the function that the Constitution reserves for Autonomic Statutes, and they are in clear conflict with the basic laws, for which there is no other nation than the Spanish Nation, «common and indivisible homeland of all the Spanish», in whose «indivisibility» they are rooted (article 2), with no other source of legitimacy for all State authority than the national sovereignty, which «lives in the Spanish people» as a whole (article 1.2). The word nation in the Catalanian Statute, not only contains an inherent unconstitutionality, but as source of numerous precepts, invalidates a great part of the statutory regulation, while, at the same time, it serves as a model to be followed for other Statutes, foreshadowing the weakening of the State of Autonomous Regions conceived by the Constitution.

SECOND. Rights and duties. The inclusion in the Autonomic Statute of Catalonia of Title 1 in which the recognition is discussed of an extensive list of rights and duties and an additional series of regulatory principles that limit or orient the future activity of the Catalan public authorities, can scarcely be considered a mere set of rules that make up the

proper or natural content of an Autonomic Statute. Autonomic Statutes are not Constitutions, nor is a State of Autonomies a Federal State. The referral to comparative rights, therefore, is not valid to justify the inclusion of a proper bill of rights in the Statute. Nor is the fact that this declaration widens the basic rights recognized by Title 1 of the Constitution justifiable. The problem that the inclusion of this declaration poses is of another type. It concerns the function that the Constitution assigns to the Autonomic Statutes, which does not consider by any means the task of granting the citizens of each autonomous region rights which are different from those that are guaranteed by basic Spanish law, but, rather, simply to organize the Autonomous Community internally and to define the corresponding authorities within the limits imposed by article 149 of the Basic Law. The totality of rights and regulatory principles contained in the Statute in Title 1 remain completely blocked before any initiative of the State Legislature in an expropriation of its jurisdiction realized via the Statute that derives from the illegitimate employment of this special type of law for an end not contemplated in the Constitution. Therefore, this institution believes that the content of the title 1 of the Autonomic Statute of Catalonia exceeds Constitutional limits that affect these special types of rules, which implies the infringement of article 147 of the Constitution, as well of article 66.2, the latter for the illegitimate restriction that it supposes on the free exercise of State legislative power.

THIRD. Linguistic regulations. Another core of unconstitutionality that, from the Ombudsman's point of view, is particularly important considering complaints received from citizens in Catalonia, refers to the co-official treatment languages and to the linguistic regulations contemplated in the Autonomic Statute. In this regard, the statutory stipulation that imposes the general obligation to be versed in the Catalan language, which translates to the practical elimination of the co-official Castilian language in citizen relations with the Administration, in the educational system and in the toponymy. Moreover, the extending of the obligation to be versed in Catalan to business relations limits the freedom of linguistic choice, and with that the freedom of speech, even so far as to infringe on business freedoms. Although it is considered legitimate to promote the use of the Catalan in certain public areas, not only because of its character as the mother tongue of Catalonia but also because of the duty of public authorities to promote and encourage its learning and use. This more favorable treatment cannot be accorded without due consideration; nor should it result in the exclusive usage of only one of the two co-official languages, and the corresponding preterition of

the other jeopardizing its co-official status. The co-official concept requires that both languages be used indistinctly and in a normal and habitual way in public areas; and it is the duty of public authorities to guarantee this normal and habitual use. Moreover, the exclusion of Castilian Spanish, as it is the only official language of obligatory knowledge for all Spanish citizens, jeopardizes not only the regulations governing co-official linguistic status (Article 3 points 1, 2 and 3 SC) but also the rights of those who do not have the duty to know another co-official language that is used to the exclusion of all others. Additionally, and in the opinion of this Institution, the Constitutional provision requiring knowledge of Castilian Spanish by all Spaniards guarantees them the communication and the attendant exercise of their rights with any public authority located anywhere in national territory. Also, the right to linguistic choice that originates for the citizens in certain Autonomous Communities whose Autonomous Statutes grant co-official status to another language apart from Castilian Spanish, originates as an individual and subjective right linked to that region. Thus it is contemplated in the Constitution in article 3.2, where co-official linguistic matters are linked to the territory. This is why the Ombudsman considers that article 33.5 of the Autonomous Statute of Catalonia infringes on article 3.2 of the Constitution, as well as other precepts of the Supreme Law, which establishes reserves in favor of the ordinary legislator or the organic legislator for the regulation of Constitutional bodies, or bodies of Constitutional relevancy, such as Congress, the Senate, the Government, the General Council on the Judiciary, the Ombudsman, The State Advisory Board, the Tribunal of Accounts, and for State Jurisdictional organisms, like the Supreme Court of the National Criminal Court.

FOURTH. The regulation of the Síndic de Greuges. Particularly significant to the Ombudsman is the core of unconstitutionality that affects the regulation of the Síndic de Greuges in the Statute. The exclusive character attributed to the supervision of the Síndic with regard to the Generalitat Administration's activity, supposes a clear limitation to the guarantee that is offered, via the Ombudsman, by the Constitution to all citizens to ensure the full enjoyment of the rights and freedoms proclaimed in Title I. As the Ombudsman must not be alienated from possible infringements that the above-mentioned rights might suffer as a consequence of the activity developed by any administration, according to the contents of article 54 of the Constitution, no limitation may be imposed on it as a consequence of the creation of other similarly created institutions either by Statutes of Autonomy, or by ordinary laws, because the Ombudsman's role is to guarantee the fundamental rights of all Spaniards established in the title I. of the Constitution, over and above the territorial organization of State, and the political and administrative authorities and the different bodies that make them up.

FIVE. The Council of Justice of Catalonia. Additionally, the precepts of the Statute referring to Judicial Power, the

Administration of Justice, and other state organizations, with respect to their relationship with the Generalitat, have a considerable impact on the system of constitutional guarantees. In a unique way, this sector of discrepancy includes what is laid out regarding the Council of Justice of Catalonia, which acts in a nonaligned way with respect to the General Council on the Judiciary and administers civil service examinations to cover vacancies for judge and magistrate posts.

This appeal does not oppose the existence of government judicial bodies at the autonomic level. This is the case for the National Councils of the Judiciary of the Superior Courts of Justice; or others with the appellation «Council» or whichever other is preferred as the case may be. What is impugned is the changing of the nature and jurisdictions of the General Council of the Judiciary that goes through the Council of Justice of Catalonia via an inappropriate law to do so, or, even, to try to do so. Since this appeal claims that it is not in keeping with what is set forth in the Constitution to establish in an Autonomous Statute implicit duties leading to the fact that the State «should» modify laws, such as the Organic Law of the Judiciary or others, *a fortiori*, those precepts that explicitly establish a presumed State duty of legislative modification within its jurisdiction should be impugned. Thus, as has been repeatedly argued, because it is not appropriate that the very rigidity of an Autonomy, that, even being an Organic Law, may not be reformed by Parliamentary initiative or, at least, without the consent of the Autonomous Parliament, limits the legislative power of Parliament (article 66.2 of the Constitution) precisely in the area of jurisdictions thereof.

SIX. Jurisdictional Shielding. This consists, firstly, in specifying the content and clauses to a much greater degree to what has been specified in the past in the Autonomous Statutes, through the specification of a series of sub-clauses. In this way, the margins of interpretation which the State would have been able to enjoy on setting up its system of jurisdictions may be reduced, with the backing of the Constitutional Tribunals. Secondly, this shielding consists of a general classification of the different types of jurisdictions, whose aim is nothing more than to delimit, by exclusion the presence of the State of Catalonia, determining which will be the fields of authority for the different types of jurisdictions attributed to the Generalitat. Thus, the reform of the Autonomous Statute of Catalonia attempts to reform the correlation of titles of authority, transferring from the Statute the field of authority for the corresponding jurisdictional titles attributed to the State by the Constitution. It seems clear that this implies a tacit reform of the Constitution that may only be carried out by constituents, who must do so, moreover, via a legally contemplated procedure for constitutional reform.

SEVEN. Principle of Bilateralism. Finally a grouping has been made which contains a nucleus of the

statutory precepts, deemed unconstitutional by the Ombudsman—those that regulate the relations between the State and the Generalitat of Catalonia through what has been called the principle of bilateralism. A principle that affects the equality among territories, and, hence, the equality among those citizens who reside in them, mainly due to the imposition of a mechanism of determined collaboration, establishing a Bilateral Generalitat-State Committee and a Mixed State-Generalitat Committee on Economic Affairs and Tax Matters. This impact on the principles of equality fundamentally explains why this reason is included in the appeal without even alluding to other precepts which are also subject to suspicions of unconstitutionality with respect to, for example, the General

Principles established in Title VIII of the Constitution, regarding the Territorial Organization of the State.

All of these background nuclei, as well as the antecedents and corresponding pleading provide structure to the appeal presented. The decision to lodge the appeal is due to the strict guarantees for basic rights and freedoms that the Constitution reserves for the Institution of the Ombudsman. On this occasion, taking into account the characteristics of meticulousness and complexity of the appealed law, it was necessary to act in this manner, outside the normal guidelines, according to which, in specific cases and affairs, the Ombudsman has failed to lodge appeals when these had already been lodged by entities authorized to do so.

Appeals for Legal Protection

During 2006 three requests were received which called for the intervention of a legal protection appeal. In all of these, the appeal requested corresponded to the type of those laid out in article 44 of the Organic Law 2/1979, of October 3, of the Constitutional Tribunal, regarding situations in which supposedly a violation of a basic right had occurred, and for which an immediate and direct judicial resolution was deemed appropriate.

The Ombudsman, referring to the Board of Coordination and Internal Regulations and in compliance with that which is set forth in Article 18.1.b) of the Regulation of Organisation and Operation of the Ombudsman's Office, April 6, 1983, adopted the agreement not to accede to the request of the interested parties reasoning that the recourse of legal protection would not be viable.

OMBUDSMAN'S OFFICE: FORTUNY, 22



Presentation of complaints:

- By Internet:
www.defensordelpueblo.es
registro@defensordelpueblo.es
- By telephone: (+34) 900101025 (free) and (+34) 914327900; Fax: (+34) 913081158
- Complaints may also be lodged in person at Zurbano, 42, corner of Pº Eduardo Dato, from Monday to Thursday, from 9 a.m. to 2 p.m. and 4 p.m. to 6 p.m., and Friday from 9 a.m. to 2 p.m. Closest underground stop: Rubén Darío, line 5; buses 40 and 147
- Complaints lodged by mail should be sent to c/ Zurbano, 42, postcode 28010, Madrid

Administrations that have failed to comply or have shown noteworthy delays in responding to the Ombudsman's investigation requirements

The organizations and units of the different administrations which have not given an adequate response to the requests and requirements made by the Ombudsman fail to comply with their obligation to cooperate with this institution with «preference and urgency» as mandated by article 19 in the Organic law 3/1981. Under such suppositions, article 18.2 of the aforementioned Organic Law authorizes the Ombudsman to declare the organization or administrative unit in question «hostile or uncooperative in its functions», with immediate notification of said conduct to the Parliament and inclusion in this annual report, or, as the case may be, in a special report. In application of the aforementioned precepts, the following represents a list of the negative actions that have occurred throughout 2006.

Uncooperative Administrations

General State Administration

— **Ministry of the Environment.** To the Hydrográfic Confederation of the Júcar river, regarding disagreement with water rights, related to the lack of response to a request for information on work carried out to establish an ecological riverbed for the Serpis-Polop river; regarding a request for environmental information and related to the request for information on a project.

Autonomous Administration

— **Principality of Asturias.** To the Department of the Environment and Territorial Organization and Public Works, regarding unprotected natural spaces and the suspected illegal cutting down of trees on a hill.

— **Community of Madrid.** To the Institute of Housing in Madrid (IVIMA), regarding the lack of granting of a contract for a parking space and regarding the delay in payment of invoices.

Local Administration

— **City Hall of Águilas (Murcia),** regarding the noise caused by a bus station.

— **City Hall of Alcanadre (La Rioja),** regarding a building without a permit.

— **City Hall of Alfaz del Pi (Alicante),** regarding the disturbances caused by a supermarket.

— **City Hall of Benalmádena (Málaga),** regarding the disagreement with the costs of the works carried out by the city hall to complete the sanitation of a residential area.

— **City Hall of Burgos,** regarding the disturbances caused by a clinic.

— **City Hall of Calviá (Balearic Islands),** regarding the conservation duties.

— **City Hall of Camargo (Cantabria),** regarding the formal complaint arising from the filling in of a property lot.

— **City Hall of Chiva (Valencia),** regarding failure to reply to successive requirements regarding the lack of signs on motorways.

— **City Hall of El Álamo (Madrid),** regarding mobile telephone stations.

— **City Hall of El Arenal (Ávila),** regarding the irregular granting of a new building permit.

— **City Hall of Favara (Valencia),** regarding undue noise from traffic islands on a motorway.

— **City Hall of Gozón (Asturias),** regarding the denial of an application to establish water supply to a property lot.

— **City Hall of Herrera de Pisuerga (Palencia),** regarding the overexploitation of an aquifer.

— **City Hall of L'Ollería (Valencia),** regarding the bothersome activity in a garage.

— **City Hall of La Carolina (Jaén),** regarding the dilapidated and unhealthy condition of a building.

— **City Hall of La Laguna (Santa Cruz de Tenerife),** regarding problems with access to certain residences.

— **City Hall of La Revilla y Ahedo (Burgos),** regarding the irregular processing of a building permit.

— **City Hall of La Unión (Murcia),** regarding the delay in resolving a request to open a place of business.

— **City Hall of Las Rozas (Madrid),** regarding municipal inaction with respect to illegal construction.

— **City Hall of Málaga,** regarding illegal constructions.

— **City Hall of Maside (Ourense),** regarding the bothersome activity in a corral.

— **City Hall of Méntrida (Toledo),** Regarding a formal complaint arising from the construction of a wall.

- **City Hall of Mérida (Badajoz)**, Regarding the abandoned state of a property lot.
- **City Hall of Montserrat (Valencia)**, regarding an express reply to documents presented and information with respect to an allegedly illegal installation.
- **City Hall of Murias de Paredes (León)**, regarding the blockage of access to a property.
- **City Hall of Navarrés (Valencia)**, regarding the delay in the demolition of a residential building in ruins.
- **City Hall of Navarrete (La Rioja)**, regarding the disturbances caused by a pottery shop.
- **City Hall of O Pereiro de Aguiar (Ourense)**, regarding the obligation to promote conservation.
- **City Hall of Orihuela (Alicante)**, regarding construction and demolition work, without permits, and the obligation to promote conservation.
- **City Hall of Palazuelos de Eresma (Segovia)**, regarding the granting of a license to open a bar in an area where it is not permitted by zoning laws.
- **City Hall of Pollença (Balearic Islands)**, regarding flooding resulting from deficiencies in infrastructures.
- **City Hall of Porto do Son (A Coruña)**, regarding allegations not incorporated into the general town planning.
- **City Hall of Real de Montroi (Valencia)**, regarding a complaint against illegal construction work.
- **City Hall of Ribadumia (Pontevedra)**, regarding the opposition to the demolition of a wall.
- **City Hall of Ronda (Málaga)**, regarding architectural barriers.
- **City Hall of San Andrés del Rabanedo (León)**, regarding illegal construction work that has not been demolished.
- **City Hall of San Cristóbal de Segovia (Segovia)**, regarding a stable situated in the city center.
- **City Hall of Santa Cruz de Tenerife**, regarding the disturbances caused by night-time businesses, infringing on quiet hours of residents throughout the night.
- **City Hall of Seseña (Toledo)**, regarding failure to reply to requests and appeals regarding rezoning concerns.
- **City Hall of Son Servera (Balearic Islands)**, regarding the bothersome activity of a laundry service.
- **City Hall of Soto del Real (Madrid)**, regarding the lack of construction of infrastructures.
- **City Hall of Turis (Valencia)**, regarding a bothersome act without a license.
- **City Hall of Valdescorriel (Zamora)**, regarding complaints involving constructions.
- **City Hall of Vilamarxant (Valencia)**, regarding the bothersome activity of a horse stable.
- **City Hall of Villanueva del Fresno (Badajoz)**, regarding a complaint of irregularities in the carrying out of construction works.
- **City Hall of Yaiza (Las Palmas)**, regarding opposition to a beach parking structure.
- **City Hall of Yeles (Toledo)**, regarding the delay in granting a new building permit.

Others

- **Community of Regantes Alicante-Norte**, regarding disagreement with an easement on real estate.
- **Community of Regantes de la Presa de la Tierra**, in Benavides de Órbigo (León), regarding a request for inclusion in said Community.

Complaints for which no reply has been received in 2006, after the third request

General State Administration

— Ministry of Public Works

To the **Secretary General of Infrastructures and Planning**, regarding the elimination of access to estate numbers 51, 54, and 55 due to the construction of the Mediterranean-Málaga-Nerja National-340 motorway, in the Rincón de la Victoria section.

To the **Directorate General of Motorways**, regarding the delay in resolving a case of property liability, arising from a complaint on September 24, 2004 for damage caused to a vehicle as a result of works taking place in that period at the 93-95 kilometer point of the National I Motorway.

Regarding the delay in resolving a case of property liability arising from an automobile accident suffered by the concerned party as a result of deficient signage along the M300 route.

Regarding the delay in processing a property damage claim, submitted in writing to the Provincial Headquarters of Motorway Demarcation of Lugo on January 10, 2005, resulting from damage sustained in an accident that occurred while crossing a bridge over railway lines.

— Ministry of the Interior

To the **Directorate General of Traffic**, regarding the explicit resolution of two appeals for revision; regarding three traffic fine proceedings, and regarding the staggered payment of traffic fines.

— Ministry of the Environment

To the Hydrographic Confederation of the Duero River, regarding the granting of water for domestic use.

Autonomous Administration

— Autonomous Community of Aragón

To the **Department of Health and Consumer Affairs**, regarding the fact that within the framework of the Autonomous Community of Aragón, educational programs that would lead to professional training certificates for medical transport—as detailed under Health Professions in the national catalog of professional qualifications—have not been established.

— Principality of Asturias

To the **Department of Culture, Social Communication, and Tourism**, regarding the destruction of the Camino Real de Sotondrio to Labayos (Rey Aurelio), contained in the Archeological Charter of the municipality of Samartín, which has been covered with a layer of concrete.

To the **Department of the Environment, Land Management and Infrastructure**, regarding a complaint about illegal dumping.

To the **Department of Health and Health Services**, regarding the feasibility that the Department of Health and Health Services adopt pertinent initiatives toward the processing and granting of social assistance to non-hemophiliacs who have contracted hepatitis C as a result of having received treatment with concentrated coagulation factors in health centers under the administration's authority.

— Autonomous Community of Galicia

To the **Board of Education and University Organization**, regarding the lack of a resolution for an appeal against marking on the part of Provincial Educational Delegation in A Coruña.

— Community of Madrid

To the **Presidential Board**, regarding the disturbances caused as a result of the construction of the Palacio de Hielo (Ice Palace) in Madrid.

To the **IVIMA**, regarding the awarding of residence.

— Comunitat Valenciana

To the **Department of Agriculture, Fishing and Food**, regarding the failure to provide notification about the resolution denying aid for ecological agriculture. Also, a report was requested regarding the commercial trade of centuries-old olive trees.

Local Administration

— **City Hall of Alboraya (Valencia)**, regarding the actions in progress to obtain the terrain necessary to build the new installations for the Ausias March public school in that municipality.

— **City Hall of Alcázar de San Juan (Ciudad Real)**, regarding the failure to pay for carpentry works carried out.

— **City Hall of Almuñécar (Granada)**, regarding the failure to respond to a complaint presented to the city hall about the insufficient capacity of the drain installed in the works carried out along the street, which, according to the concerned party, could cause flooding in the event of torrential rains.

— **City Hall of Becerril de la Sierra (Madrid)**, regarding the delay in resolving a claim derived from the damage to property caused by a blocked drain in a house as a result of the defective repair of a sewer pipe carried out by the City Hall.

— **City Hall of Calasparra (Murcia)**, regarding the lack of an explicit reply to written documents submitted.

— **City Hall of Castro Urdiales (Cantabria)**, regarding failure to reply to various written documents requesting information and presenting allegations and appeals with respect to different projects, building permits and urban planning.

— **City Hall of Chinchón (Madrid)**, regarding the disturbances caused by a quarry.

— **City Hall of Chiva (Valencia)**, with respect to the functional deficiencies in the public postal service, since correspondence is received with significant delays, in some cases as much as twenty days.

— **City Hall of El Álamo (Madrid)**, regarding the denial of a parking permit for physically challenged persons, requested by the concerned person making the complaint on behalf of his father, who lived with him at the time and had an officially recognized degree of incapacitation of 80%.

— **City Hall of Fresnedoso de Ibor (Cáceres)**, regarding a complaint involving tax collection and management related to fees for garbage collection, sewer system and sanitation of potable water associated with an urban property located in this municipality.

— **City Hall of Fresno de Torote (Madrid)**, regarding the authorization given by the City Hall to Telefónica, S.A. for the installation of a mobile phone antenna in a residential area of the municipality and its possible relocation, pending publication by the Department of the Environment of the corresponding environmental impact; and regarding the poor state of maintenance of the motorways, lighting, green zones, and sewer systems of the Jardín de Serracines residential area, despite the existence of an agreement signed by the city hall for the provision of said services.

— **City Hall of Granada**, regarding the situation of the residents of Elvira Street, in Granada, as a result of the meeting, several times a week, of numerous groups of people who, in addition to consuming alcoholic beverages in public thoroughfares, get into fights and make transit through the neighborhood difficult or impossible.

— **City Hall of Hermandad de Campoo de Suso (Cantabria)**, regarding the lack of a minimum cleaning and maintenance service in the last section Coterillo street, to a point where it turns out to be the only section of street in the entire municipal district of Hoz de Abiada that has not been asphalted, and this despite the numerous complaints submitted both to the city hall of Hermandad de Campoo de Suso as well as to the district mayor of Hoz de Abiada.

— **City Hall of Las Palmas de Gran Canaria**, regarding failure to transfer to the Autonomous administration the report requested on the actions of this city hall with respect to a request for a building permit and/or an urban planning offence.

— **City Hall of Linares (Jaén)**, regarding the deficient installations of a livestock farm, specifically in that the protective fences do not comply with established safety conditions, allowing the exit of animals onto the roadway and/or public thoroughfares creating a serious danger to the residents of Linares and the outlying districts and villages.

- **City Hall of Lozoyuela (Madrid)**, regarding the opposition to works carried out in a fattening house.
- **City Hall of Mérida (Badajoz)**, regarding a complaint about a construction on public land.
- **City Hall of Muro (Balearic Islands)**, regarding the resolution of internal appeals brought in opposition to boat docking fees
- **City Hall of Nuevo Baztán (Madrid)**, regarding an illegal fence.
- **City Hall of Oviedo**, regarding the noise and air pollution caused by a distilling business.
- **City Hall of Pascualcobo (Ávila)**, regarding the request to remove a power line.
- **City Hall of Roturas (Cáceres)**, regarding the failure to pay a concerned party by the city hall for the installation of a coin-operated scale.
- **City Hall of Ses Salines (Balearic Islands)**, regarding a refund request for undue income in the form of taxes on the buildings of an estate, all of which, apparently, was due to the rezoning of a residential area for which an explicit reply to the concerned party was lacking.

- **City Hall of Torrevieja (Alicante)**, regarding the lack of lighting on the public thoroughfare where the concerned party who filed the complaint lives, and the lack of reply to numerous claims sent to the city hall on behalf of the concerned party.
- **City Hall of Valencia**, regarding two traffic fine proceedings so that the traffic authority itself should reply as the Ombudsman's original requests were directed to said authority.
- **City Hall of Yepes (Toledo)**, regarding traffic fine proceedings.

Others

- **Bar Association of the City of Burgos**, regarding the professional actions of a public defender who had been assigned to the concerned party.
- **Official Association of Customs Agents and Brokers of Santa Cruz de Tenerife**, regarding the lack of response to written documents presented, after the concerned party reported having approached said Association eleven times between 2002 and 2004 without receiving any reply whatsoever.

Administrations that replied after the third request

Due to lack of space we have not included here the list of Administrations which answered the Ombudsman's third request in 2004 or 2005. The majority of these Administrations responded over the course of 2006.

The list of Ministries, Autonomous Communities and Local Administrations, and other public organizations that fall into this category can be found in the complete version of this report.

Internet Access to the Ombudsman's Office

Our website
<http://www.defensordelpueblo.es>

QUEJAS POR INTERNET

Nombre _____ 1er Apellido _____ 2º Apellido _____

País: Provincia: Población: Código postal:

España elige una opción

Domicilio (Indica tipo de vía, nombre de la calle, número, piso, escalera, etc.):

Sexo * Nacionalidad * N.I.F. * Teléfono: Email *

Motivo de queja (describe de forma detallada las circunstancias de tu queja):

Who Can Present a Complaint?

Any natural or legal person who expresses a legitimate interest, regardless of nationality, place of residence, gender, age, legal incapacity, internment in a penitentiary centre or prison, or any special relationship of subjection to or dependence on an Administration or public authority.

The complaint must be presented within a year, starting from the moment when the claimant becomes aware of the situation originating it, without any impact on the time limits set by laws governing appeals, whether administrative or

legal, or on those for the execution of associated resolutions or actions.

How to Follow Up on Your Complaint

The receipt of your complaint and other communication from the Ombudsman's Office will be sent to the postal address that you provide on the complaint form.

However, should you wish to have information regarding the processing of your complaint, you may call (+34) 91 432 79 00.

First year as president of the Ibero-American Federation of Ombudsmen (known by its Spanish initials FIO) and the renovation work on the new headquarters is completed

In the international area, the naming of the Ombudsman as President of the FIO (Ibero-American Federation of Ombudsmen) for 2006-2007 is a significant event. The organization and celebration of the 9th Congress of the FIO in Buenos Aires (Argentina) from November 28, to December 1, 2006 are also noteworthy.

Equally important was the advice given in the Republic of Kazakhstan Aid Project with the Commissioner for Human Rights, the collaboration with the European Union Eurosocial-Justice program and the preparation of projects of international cooperation among the different Ombudsmen of the FIO (Paraguay and Guatemala).

In the framework of the promotion of cooperation with other institutions, the Ombudsman signed the following agreements in 2006:

- **Agreement with the University of Alcalá** for the development of activities promoting democratic freedom and human rights. The following activities may be highlighted:

- **The King of Spain Prize for Human Rights.** This year the collaboration of Inter-American Development Bank (known by its Spanish initials BID) was achieved. This bank will sponsor the Second Edition of the Prize with a contribution of 20,000 dollars.

- **The Master's Degree in Human Rights.** The number of full scholarships has been increased to 15, one for each Ombudsman of Latin-America.

- **Agreement with the General Foundation of the Complutense University** for the organization and teaching of a course entitled «The Ombudsman and the Protection of People in Situations of Social Exclusion».

- **Agreement with the Complutense University** for the development of Workshops on «Humanitarian Aid and Social Exclusion».

- **Agreement with the Defender of Patients of the Community of Madrid,** for the use of a computer management



Enrique Múgica was named President of the FIO for 2006-2007.

system in the handling of complaints directed toward the Ombudsman.

- **Agreement with the Spanish Committee of Representatives of Disabled Persons,** for the establishment of activities, workshops, and studies of interest to the group.

Public Assistance

To improve access of citizens to the Ombudsman, a leaflet has been published about the Ombudsman, its functions and activities.

In 2006, **158,842 documents** were registered, **11,939 telephone calls** related to the processing of complaints were received and nearly **7,000 visits from citizens** seeking information, either to find out the status of their complaint or to learn about the functions of the Ombudsman or the different Public Administrations.

TABLE 31. Number of calls and visits received in 2006 with the objective of offering services to citizens

	Jan.	Feb.	Mar.	Apr.	May.	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total
Office visits	177	184	199	197	1,221	2,508	1,111	161	193	189	195	636	6,971
Telephone consultations....	710	775	831	580	797	738	456	411	741	710	701	450	7,900
Free 900 number	353	308	319	280	348	355	366	322	341	401	313	333	4,039

The number of complaints received via the website has increased

The number of complaints received via the website has increased

Throughout the last year, the use of the Ombudsman's website has been on the rise, considering the increase in the number of complaints lodged via the website compared to 2005.

Nevertheless, it is worth noting that collective complaints, usually initiated through associations or other types of organizations, continue to use the traditional mail service instead of the website. A breakdown of how complaints were received is shown in Table 32.

TABLE 32
Breakdown of complaints according to the way in which they were received

Complaints received via:	2005	2006
E-mail	350	724
By post	13,587	21,157
Fax:		
Burofax	12	23
digital fax	1	---
printed fax	544	1,487
Web page:		
with certificate	78	167
without certificate...	3,709	6,821
In person	550	922
By telephone	4	---
Total	18,835	31,301

The Ombudsman's website received 47,645 direct visits, while the rest were made through a search engine. The second most visited page, after the home page, is the complaints form page, with 14,046 hits. As for the origin of visits by country, Spain, as one would expect, holds the highest percentage by far, at 90.90%, followed by France, Mexico, and the United States of America.

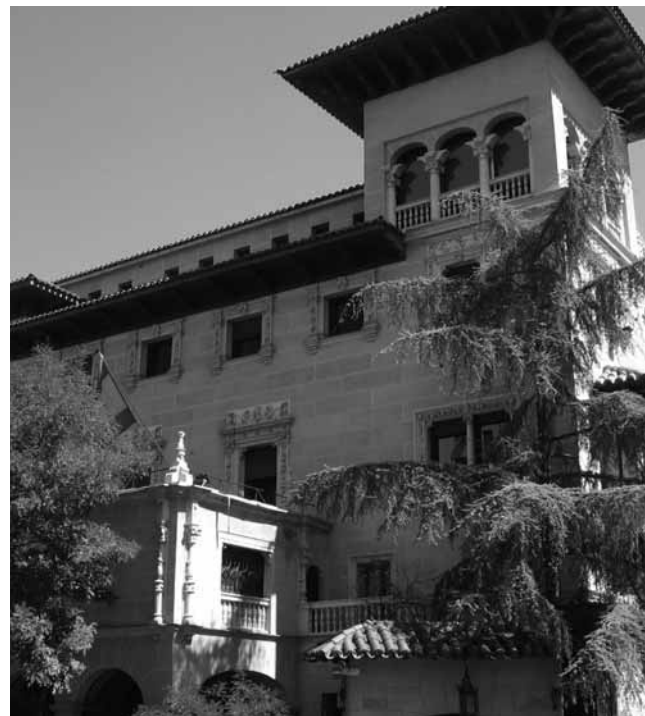
Among all visits made from within Spain, the Community of Madrid holds first place, followed by the Communities of Catalonia, Andalusia, and Valencia respectively.

TABLE 33
Visits to the Ombudsman's website: 2006

Pages visited	186,325
Visits	50,795

Computers and New Technologies

In 2006, the new version of the Complaint Files Management System (Spanish initials GEX 3) was implemented, new



Office of the Ombudsman in Madrid.

sections on the Ombudsman's website were created (FIO, people affected by Fórum-Afinsa, latest news, comparative statistics, updated complaints form...), and the Ombudsman's entire PC stock was replaced, including updating the operating system to Windows XP.

Economic and Budget Management

The implementation of 99.87% of the budget is noteworthy as one of the highest in the last few fiscal periods, as well as the continued financial solvency of the assets account of the Service 01 originating from 05, with a funding of 1,751,384.62€, which represents a 23% increase with respect to funding at the close of the 2005 fiscal year.

Improvement of Ombudsman Offices and Facilities

In November 2006 the remodeling of the main headquarters, at Eduardo Dato, 31, was completed, enabling the termination of a temporary rental agreement to accommodate Ombudsman staff during the renovation.

It is important to emphasise the containment of unusual expenses derived from the rental of workspace, from the move, and from installation back into the newly refurbished building after the works were completed, as these costs were absorbed entirely by the normal operating budget.

JUSTICE

Judicial proceedings continue to show a large backlog

The main challenge still facing the legal system in Spain continues to be the streamlining of judicial proceedings. This is one of the conclusions reached after analysis of a large number of complaints in this regard that the Ombudsman continued to receive in 2006. Moreover, among the complaints received, those that stand out have to do with basic rights and the right to family. With respect to domestic violence, it is noteworthy that the Ombudsman has continued to investigate, at times through internal enquiries and at others as a result of complaints received, the efficiency of the different measures applied by the public administrations.

Delays in Judicial Procedures

The Civil and Administrative Dispute Courtrooms of the Supreme Court have, lamentably, appeared constantly in the pages of the Ombudsman's annual report for many years due to the serious case backlogs they continually show. The various plans agreed by the General Council of the Judiciary do not seem to have been sufficient.

In this brief description, the Superior Court of Justice of Andalusia should also be mentioned as it has appeared in previous annual reports, and continues to show surprising delays in the handling of its caseloads and affairs. Specifically, the Administrative Dispute Courtroom of the Superior Court of Andalusia, with headquarters in Granada, shows a very high rate of new cases in the last five years, which has resulted in the huge backlog of cases inherited from the years before the creation of this jurisdictional body, which is impossible for the existing staff to handle. This has been occurring in spite of the enormous capacity of the magistrates to resolve cases.



Supreme Court.

Another of the judicial bodies reported for delays is the Superior Court of Justice of Castilla y León, particularly the Administrative Disputes Courtroom of the Superior Court of Justice of Valladolid.

Criminal Justice

The majority of complaints that are processed in the area of criminal justice refer to delays involved in the proceedings and also to disagreement with the judgments given in that area of law, knowledge of which the Ombudsman is not privy to.

Nevertheless, other complaints have been submitted with respect to basic rights, such as the right to personal and family privacy or the right to freedom. Thus, the mother of a defendant in a case involving a serious crime being investigated by the local criminal court in Madrid expressed to us her surprise and indignation because her son's confidential psychiatric reports had appeared in an issue of a nationwide publication. She stated that neither the defense attorney nor the young man's family had received any type of information on the psychiatric diagnosis, and, of course, they had never given consent for the publication of any such documents. This leads to the conclusion that the publication of such information could only have been possible due to a lapse in the duty of court officers who are entrusted with and have access to such documents to preserve and protect them.

Another citizen, who considered himself the victim of an illegal detention, stated that he was arrested, jailed, and placed at the disposition of the local criminal court of Badalona, by virtue of an arrest warrant issued by the Parole Court of Lleida that should have been revoked and nullified when the sentence handed down had been served by the concerned party. The detainee was freed 48 hours later and he initiated legal action with respect to his illegal detention, at the Superior Court of Justice of Catalonia, the file of actions being devoid of any demand for accountability regarding the illegal detention suffered. Upon request for information, the General Council of the Judiciary stated that in the legal proceeding legal conditions had not been met to

demand the disciplinary accountability of the judge responsible for the execution of sentences.

Moreover, as stated in article 406 of the Organic Law on the Judiciary, the penal responsibility of judges and magistrates for actions carried out in the exercise of their duties, when a third party is affected, can only be verified through legal action. Consequently the legal action was closed and the concerned party was informed that if he believed the magistrate to be criminally liable he would be entitled to present legal action directly to the corresponding court or to report the matter directly to the Attorney General. Furthermore, he could lodge a petition for indemnization directly with the Ministry of Justice.

A similar case to the previous one, but with a diametrically opposed result, occurred when a citizen was arrested in the Port of Algeciras because of a pending arrest warrant issued by the local criminal court of La Carolina, which should have been nullified a long time ago. Two days later he was placed at the disposition of the criminal court of Algeciras, who declared that he be freed because that very day the criminal court of La Carolina had waived the arrest warrant. This complaint was received in 2005 and by the day of its closure the report requested from the Attorney General's Office had not been received. In June 2006, the Attorney General stated that the Attorney General's Service of the Superior Court of Justice of Andalusia had brought legal action against the criminal court of La Carolina for the illegal and imprudent arrest they had issued. Thus, the issue was resolved.

Finally, with respect to criminal justice, one must remember that in the 2004 report a complaint was registered with respect to the lack of legislation in the legal system to effect compliance with article 14.5 of the International Covenant on Civil and Political Rights signed by our country, regarding the establishment of a second criminal court whenever, according to an opinion of the United Nations Committee on Human Rights, the criminal appeal regulated by our procedural law does not meet the requirements of this precept. In this case, the Ministry of Justice was requested to inform the Ombudsman regarding the plans of that Ministry to work toward full compliance with that obligation.

In February 2006, the Ministry of Justice stated that with respect to the establishment of a second criminal court in our legal system, a proposed bill was submitted for approval to Congress on December 26, 2005 to adapt legislation in the Organic Law 6/1985, July 1, in order that the appeals process be reformed and the second criminal court be established. As a consequence, the actions were considered closed and the case remained pending the approval of said legislative reform.

Civil Justice

Most of the complaints arising in the area of civil justice are related to family rights, in which the welfare of the children of a couple in conflict is especially affected.

During 2006, different citizens contacted the Ombudsman to express their disagreement with the actions of psychosocial teams that lend their services to the Family Courts in Spanish territory.



Family Court of Madrid.

For this reason it was resolved to request, from both the Central Government as well as the Autonomic Administrations with jurisdiction in the matter, reports to confirm the receipt of complaints, and, in such cases where deficiencies are identified in the actions of these teams, that the appropriate measures have been taken to rectify these problems. Likewise, the Ombudsman wanted to know the legal and professional certification required for the members of psychosocial teams that lend their services to the Family Courts and the procedures and protocols that govern these teams in their actions. Currently, the receipt of all of these requested reports is still pending.

Also numerous are the instances of citizens who manifest their concern and disagreement with the negative consequences arising out of the granting of custody of minors to one progenitor in legal separation cases, which they deem is not in the best interests of the minor.

In these instances, the intervention of the Ombudsman's Office is not possible given the fact that in most cases there is an underlying judicial procedure that has resolved the break up of a couple and has established visitation rights in cases where there are dependent children. The Ombudsman must show respect for the independence of the Legal System, as stated in article 117.1 of our Constitution.

Domestic Violence

We must not fail to point out that the data pertaining to the fight against gender-based violence have been frustrating in light of the expectations around the entry into force of the Organic Law 1/2004, December 28, regarding Measures of Complete Protection against gender-based violence.

Thus, according to a report made by the Queen Sofía Center, in 2006 there were 69 victim deaths attributed to gender-based violence, compared to 61 from the preceding year. Consequently, the increase in the number of women killed by their partner or ex-partner was 13.11% during the second year the law was in force.



Certain famous people lent their faces for a mistreatment awareness campaign. Photo: Institute for Women, Ministry of Labor and Social Affairs

70.59% of victims were of Spanish nationality, and 29.41% were from other countries. As for the murdering offenders, 76.81% were Spanish whereas 23.19% were foreigners.

If 44.93% of the fatalities, according to the report, had suffered abuse on previous occasions, and one in ten murderers had a restraining order at the time he committed the crime, we must ask ourselves why the legal measures established are ineffective in reducing or eliminating this social curse.

Nevertheless, after a lamentable murder has occurred, the State Security Forces can be praised for their performance, since 66.7% of the offenders were arrested after the crime was committed, and only 1.45% actually managed to escape. As for the rest, 21.74% committed suicide, and 10.10% attempted to commit suicide.

The Ombudsman has continued to investigate, sometimes internally and at other times in response to complaints submitted, the efficacy of the application of preventive measures designed to train, educate and promote respect in cohabitation, and generally concludes that abuse and murder of women in a relationship is an exception. Furthermore, the Ombudsman seeks to ensure that the Public Administration acts accordingly in response to denigrating attitudes toward women or vindication of the superiority of men.

Minors who become crime victims

A case that raised great social alarm at the beginning of 2006 was one involving the beating suffered by a child in Catalonia, which led to serious injuries.

In news broadcasts on March 7 and 8, 2006, judicial delays were reported regarding the investigation of the alleged beating, which had occurred on December 18, 2005. The Ombudsman, acting internally, initiated an investigation with the Office of the Public Prosecutor, the General Council of the Judiciary, the Ministry of the Interior and the Department of the Interior of the Generalitat of Catalonia.

In light of the information received, a lack of coordination was found between the administrations and public authorities involved in the case, despite the existence of procedural protocols in the territory of that autonomous community.

The Ombudsman concluded that it was necessary to establish instruments which would favor the coordination of all organizations nationwide, when, as in the case in point, or as when the people involved reside in different autonomous communities, or as when the suspicion or evidence of abuse arises in an autonomous community that is different from the one where the minor resides, different police forces or legal organizations intervene.

As a consequence, the Ombudsman recommended to the President of the General Council on the Judiciary, the Attorney General's Office the Ministry of the Interior, and to the Councillor of the Interior, Institutional Relations and Participation of the Generalitat of Catalonia, that the National Commission on Coordination of Criminal Police Forces study how to improve communication among all of the organizations with jurisdiction in the nationwide system for the protection of minors in order to avoid situations which are similar to the case in point. This suggestion was accepted and is now pending approval of the National Commission on Coordination of Criminal Police Forces.

Minors who commit crimes

The Ombudsman can be considered a privileged position to observe the conditions of internment centers nationwide and be able to evaluate the different management criteria as a whole, enabling us to draw comparisons and highlight their most positive aspects in reports to the different autonomous administrations. To this end, it was necessary that the Ombudsman had access to specific information regarding the existing centers currently in operation.

With the objective of updating the data we had, it was necessary to initiate an internal enquiry to find out the number of internment and/or therapeutic centers for minors that each autonomous community had in operation, their location, management scheme, occupancy, and any other pertinent information, such as, for example, the closure or opening of new centers. Thus, reports were requested from the corresponding departments of each of the different autonomous communities with jurisdiction in this matter, regarding the aforementioned aspects.

It should be pointed out that during the preparation of this report responses were received from all of the autonomous communities, resulting in a positive impact on the work being carried out by the Ombudsman's Office. We have also continued to make unannounced visits to internment centers, particularly to those who show the greatest deficiencies and others that have recently been opened.

During 2006, the following centers have been visited: «Els Tillers», in Mollet del Vallés (Barcelona); «Los Rosales», «El Madroño», y «Renasco», in Madrid; «Colonia San Vicente Ferrer», «Pi I Margall» y «Mariano Ribera», in Burjassot (Valencia); «San Miguel», in Granada; «La Biznaga» and «San Francisco de

Asís», in Torremolinos (Málaga); «Valle Tabares», in La Laguna (Tenerife); «Hierbabuina», in Güimar (Tenerife); «El Drago», in Santa Úrsula (Tenerife); «La Montañeta», in Las Palmas (Gran Canaria); «Amparo Rodríguez Pérez», in Galdar (Gran Canaria) and «Doramas», in Firgas (Las Palmas).

Deficiencies in the public judicial service

The complaints received by the Ombudsman's office during the period covered by this report with respect to the public judicial service confirm again this year the dissatisfaction of citizens with this service, pointing out the lack of adequate information on behalf of the civil servants of the Administration of Justice and the inefficient use of resources, both human and material, available to this administration.

The Ombudsman has continued to direct itself to the various authorities responsible in order to press for guarantees of progress toward the principles of efficacy, efficiency and service to citizens.

Complaints about the Civil Registry

In previous reports we have had the occasion to refer to the deficient service given by the Central Civil Registry, which led the Ombudsman to make a recommendation in which it was deemed necessary to establish a Special Plan to rectify all of the observed deficiencies. Irregularities included the inadequate layout of the building, insufficient staffing, lack of space and inadequate location of archives, among others.

The Ministry of Justice's report regarding the aforementioned recommendation was received at the end of 2005, and the actions taken by this department along with the measures that would be implemented in the near future were detailed in it. It stated that the Ministry of Justice was making a significant effort, taking into account budgetary concerns, to bring its organization and operations up to a standard required by the current demands of society. Nevertheless, to date, in spite of the



New Civil Registry headquarters in Madrid.

increase in means and investment carried out, it is not possible to state that the Civil Registry adequately meets the requirements of current social demand.

Numerous complaints have also been received regarding the poor operation and serious delays in the processing of cases in the consular civil registries, particularly those in Havana, Cuba and Santo Domingo, the Dominican Republic, which have led to the opening of respective enquiries.

Delays in the processing of applications for nationality

Delays in the processing of applications made prior to the granting of Spanish nationality are caused, on many occasions, by the delay in the issuance of reports and documentation from organizations outside the Ministry of Justice. The most significant case of delays in the issuance of reports are those deriving from the National Intelligence Center. In fact, in open investigations regarding complaints of this type, it has been possible to determine that the average time the National Intelligence Center takes to produce a report is between three and four years in spite of the fact that the request for reports is reiterated by the Ministry of Justice two or even three times during that period.

Lawyers and Solicitors

The relationship between the Ombudsman and the Bar Association for Lawyers and Solicitors continues, seeking to guarantee compliance with legal timeframes for the resolution of complaints and procedures deriving from professional actions. The greatest incidence occurs in cases with delays, which are sometimes unjustified, in the processing and resolution of cases brought as a consequence of complaints made by citizens.

Delays in the resolution of official pardons

Citizen complaints continue to be received regarding their concern about the delays in the processing of official pardons. In these instances, even though such cases do not fully comply with the requirements established in article 54 of the Constitution, related to the contents of the Organic Law of April 6, 1981, which regulates the Ombudsman's Office. Nevertheless, a report is always requested from the Ministry of Justice in order to ascertain the current situation in such cases involving a request for official pardon, as well as the expectations regarding their resolution.

Actions toward legislative reform

In this section, it is worth mentioning that modifications have been proposed regarding regulations involving protected witnesses and trial experts; regarding regulations involving the professional fees paid to experts designated in cases of social jurisdiction and criminal jurisdiction; and, finally,

regarding the recommendation to record visits in cases of criminal jurisdiction and child jurisdiction.

Spanish prisoners in foreign countries

According to data obtained in a report carried out by the Ministry of Foreign Affairs, which in turn contains reports submitted by Consular Offices up to July 2006, the number of Spanish detainees or prisoners in foreign countries is 1,489, of which 1,297 are men and 192 are women.

As has been the case over previous years, the most frequent cause of arrest is drug trafficking, for which 1,128 of the 1,489 people counted were arrested.

This group is distributed among 55 different countries, and, with respect to concentrations of prisoners, France is at the top (193), followed by Portugal (161), Italy (121), Germany (119), Peru (107), Brazil (92) Morocco (88) and Venezuela (80).

With respect to the number of complaints received this year by the Ombudsman, the majority come from prisoners who are serving their sentences in Morocco, and, basically, they refer to the poor living conditions in the prison, to the torture suffered by Spaniards at the moment of their arrest, and the difficulties in processing requests to be

transferred to Spain to serve out their sentences, due to the huge fines that are imposed in drug trafficking crime cases.

One noteworthy case came to our attention in a letter from a Spaniard in Morocco, regarding torture and mistreatment in prison. In light of these allegations, the Ombudsman initiated an enquiry with the General Department of Consular Affairs and Assistance, with the aim of ascertaining the personal, legal, and prison circumstances of the concerned party, as well as a report regarding the measures that were within their power to take in order to end the abuses that were continually being reported by Spaniards. In the report received, the actions of the consulate with respect to the situation of the prisoner were stated, listing the numerous visits he had received as well as the aid and actions carried out. Finally, recognizing the abusive situation suffered by many Spanish prisoners, it attested to the fact that all of the actions within the power of the appropriate authorities to put an end to such situations were being taken.

In light of the report received, and with reference to many other complaints involving similar situations, the Ombudsman, in its capacity as caretaker of basic human rights, has requested the collaboration of the Advisory Board on Human Rights in Morocco, having studied the «Annual Report on the Situation of Basic Rights. Outcome and Work Perspectives of the Board in 2004».

PRISONS

Prisons contain approximately 64,000 prisoners, with 3,000 new inmates in 2006

Last year, the penitentiary population grew in number and percentage with respect to the previous year. Throughout 2006, the number of inmates increased by 3,011 people, which represents an increase of 4.93%. Thus, after a more gradual increase in 2005, when the prison population grew by 2.72%, in 2006 we approached a rate of increase similar to that of 2004, when the percentage of prisoners reached 6.08%, that is, 3,405 people in absolute terms. Moreover, 2006 registered the highest number of prisoners in the democratic history of Spain, when 64,383 inmates were counted on December 8, 2006.

So far, no reply has been received from the Advisory Board on Human Rights.

The Ombudsman visited the penitentiary centers at Coruña, Albacete, Alcázar de San Juan, Castellón, Psychiatric Penitentiary of Sevilla, Logroño, Valdemoro, Aranjuez, Monterroso, Murcia, Soria, Villabona, Badajoz and Picassent.

Prison deaths

It should be pointed out that the number of suicides that occurred in prison declined in 2006. Specifically, the rate dropped from 0.63 deaths per thousand inmates in 2005 to 0.41 per thousand inmates in 2006. There had been 33 suicide deaths in 2005, whereas in the period comprising January to September 2006 (the latest data available), there were 18. The number of support inmates is currently 895. 82

training courses on the Suicide Prevention Program have been conducted for support inmates, two courses for officers of the Center for Penitentiary Studies and three decentralized courses in Santander, Pontevedra, and Alicante were given.

Nevertheless, an internal enquiry remains open on prison deaths in order to shed light on the results of the large amount of information kept in reserve regarding this question.

Physical and Mental Health of Prisoners

The Ombudsman has kept an enquiry open for many years in order to press for more action by the penitentiary administration regarding the treatment of drug-dependent inmates. This enquiry contains an increase in the number of training activities for civil servants in the area of the prevention of drug addiction, as per Royal Decree 194/1999.

With respect to mentally disabled inmates, among the normal follow-up actions carried out by the Ombudsman, information was requested as to the existence of a standardized protocol for the detection of cases of mental disability and as to the total number of mentally disabled inmates currently present in the centers. Also subject to enquiry was whether, when required, the processing of the appropriate certification of mental incapacity was being handled through the penitentiary social services. A report was also requested regarding the specific measures adopted so that this type of inmate might have the protective environment needed while in prison. Likewise, a report was requested regarding whether the application of article 60 of the Penal Code had been enforced, which permits the suspension of the punishment of incarceration and its substitution with a security measure. Finally, a report was requested with respect to the agreements signed by the various administrations, collaborating entities, and non-governmental organizations related to this area.

Another area of interest that has traditionally been analyzed by the Ombudsman penitentiary health care services is the implementation of telemedicine. The interest of the penitentiary administration to find new ways to promote easier access to health care is well known. Nevertheless, not all of the autonomous communities, authorities governing specialized health care service organizations, have the same level of development in the area of telemedicine implantation. Thus, from the information received, it can be seen that only the health services of the autonomous community of Extremadura make this service available. It is planned to provide the penitentiary centers of Cáceres and Badajoz with the technology needed to use telemedicine. Furthermore, information has been requested regarding the availability of telemedicine teams in the penitentiary centers of Madrid V,

Madrid VI, Tenerife, and Las Palmas, given the fact that the penitentiary administration plans to implant the aforementioned technique in these centers.

The Psychiatric Penitentiary of Fontcalent

In a case related to the Psychiatric Hospital-Penitentiary of Fontcalent a new communication was received from the complainants, accompanied by a document detailing the conditions at this facility. In this document, the severe lack of staff at this center was described, a fact which means that, occasionally, it can take a month for some patients to be examined by the psychiatrist, and apparently there are times during the day when there is not even one psychiatrist in the entire center to attend to the nearly 400 psychiatric patients it holds.

The Directorate General of Penitentiary Institutions states that there is a psychiatrist on the staff who, also holding the post of union representative, is authorized to dedicate a certain number of hours per week to the exercise of such functions. There are four more psychiatrists contracted externally, so each wing has one psychiatrist assigned to it. Each wing also has a general practitioner assigned to it. Nevertheless, the Directorate General recognizes that it is necessary to increase the number of psychiatrists and that the number of nurses and supervisors (seven and two, respectively) is clearly insufficient.

Women with dependent children in prison

An item of particular concern to the Ombudsman is that of women with dependent children under the age of three who are in prison. In this case, it has been observed that the required pre-construction paperwork has already been initiated for three of the five maternal units planned in the next few years. The other two, Valencia and the Canary Islands, are still seeking the land necessary for this purpose.

Regarding this subject, information has been requested regarding the organizational model for these units in order to determine if they may be considered dependent units, as well as how they should be classified. Information has also been requested regarding any new items that may arise regarding proposals for legislative reform with the aim that inmate mothers of dependent children be able to complete their punishment under conditions that are more favorable than those existing at the present time.

It will take at least two more years in order for most of the maternal units to be built and put into operation. Thus, the Ombudsman has continued to press for the better use of current facilities in order that the greatest number possible of minors be housed in existing maternal units, given that they currently represent a minority (approximately 15% of the total).



Inmates play with their children at the Alcalá de Guadaira prison. Photo courtesy of Penitentiary Institutions

Infrastructures

With respect to penitentiary infrastructures, the 2006 annual report covers several interventions by the Ombudsman,

specifically at the penitentiary centers of Ceuta, San Sebastián, Bilbao, Nanclares de la Oca, Girona, Balearic Islands, Canary Islands and the Foral Community of Navarra.

With respect to the building plan for penitentiary infrastructures for the period of 2006 to 2012, information was requested regarding the status of centers currently under construction; regarding the state of execution of penitentiary centers currently in the planning phase; regarding the state of execution of planned half-way houses and the so-called «external maternity units», intended to house female inmates with dependent children. Additionally, reports were

requested regarding whether the huge increase in prison population experienced since the drawing up and implementation of the revised plan for the amortization and creation of penitentiary centers was accounted for in the forecasts made, and, if not, if it would be feasible to rectify the figures in order to clarify the need for new penitentiary infrastructures and staff. Although it is true that this plan has its roots in the Accord of the Board of Ministers on December 2, 2005, it is equally true that the prison population continues to rise at a steady pace, as has been observed previously.

CITIZEN SAFETY AND ROADWAY SAFETY

The Directorate General of Traffic accepts two of the Ombudsman's recommendations

The Directorate General of Traffic reformed the General Circulation Regulations with respect to child safety in taxis thanks to the request of the Ombudsman's Office. Moreover, it accelerated efforts to homogenize on a nationwide basis the fining procedure and the new point system for drivers.

Victims of Terrorism

Regarding victims of terrorism, an item that should be highlighted is the complaint lodged by family members of a victim of the March 11, 2004 terrorist attack in Madrid. The victim has been in a permanent vegetative state since that time.

In this case, the Ombudsman has made a suggestion that the Ministry of the Interior directly assume the expenses already paid for by the estate of the affected citizen which are referred to in certain documents generated by the General Technical Department, as well as any other of a similar nature which may occur in the future, because they constitute, in the judgment of the Ombudsman, a «medical treatment» as per article 94.9 of the law 13/1996 on Fiscal, Administrative and Social Order Measures.

Security Forces and Corps

The Ombudsman maintains its well-known stance when members of the security forces and corps inflict abuses: a full investigation must be initiated and disciplinary action must be taken as necessary, without allowing the opening of lengthy proceedings to jeopardize the investigation, and prevent it from reaching a timely conclusion or taking necessary action. This does not harm in any way the presumption of innocence of the members of the Security Forces and Corps; rather, it represents a guarantee for everyone because the innocent will be exonerated and the guilty will have to assume liability at every level, even in cases where a long time has transpired after the incident in question. This criteria has been sustained in various reports during 2006.

On occasion, incidents of a variety of types occur between officers of the Security Forces and Corps and citizens, which

leads to complaints from the latter. These may have to do with insults, derogatory treatment, and unjustified fines subject to the presumption of veracity... Under investigation, this type of complaints are difficult to prove: in many cases they involve the officer's word against the citizen's; it would be equally unjust to consider cases of this nature as unfounded as it would to the contrary. On the other hand, it is not infrequent to see citizens themselves reported by officers. Thus, it seems necessary to depend on the testimony of impartial witnesses, if they exist, to shed some light on these matters. Furthermore, these criteria have been repeatedly sustained in various cases in 2006.



National Police officers in Hortaleza. Photo courtesy of the Directorate General of the Police.



In 2006 a large number of complaints were generated related to the offices that issue the national identity card (photo courtesy of the Directorate General of the Police)

Citizens Security

The Ombudsman learned about the increasing activity of organized gangs specialized in residential burglaries and kidnapping.

The Directorate Generals of the Police and of the Civil Guard submitted their own reports, elaborated by the General Council of the Judiciary, to the Ombudsman regarding residential burglaries and kidnapping.

Burglaries. With respect to burglaries, the General Council of the Judiciary is reported to have set up the so-called «Rochas» operation, of nationwide scope, to fight against the phenomenon of criminal attacks on occupied residences, which occur mainly at night.

Kidnappings. With respect to kidnappings, reports show that in 2006 there has been an increase in the number of known and reported kidnappings in national territory; reports state that there are no gangs dedicated exclusively to kidnappings operating in Spain; reports indicate that so-called «express-kidnappings» in many cases are actually cases of theft with intimidation or violence in conjunction with an additional crime of illegal detention, although most cases do not meet the requirements as expressed in the Penal Code to be considered acts of kidnapping.

It is frequent to see complaints presented to the Ombudsman related to crime in specific areas. Several complaints have been processed with respect to crime levels in different areas of

Madrid. There are complaints in the following areas: Downtown, Embajadores area, San Blas, Opañel Park and Usera, in the capital, or in the municipalities of Parla, El Escorial and municipalities of the northern mountains in the Community of Madrid. In all of these cases, the relevant information is collected and the appropriate measures are requested to fight crime in these unsafe areas.

Issuing offices of the National Identity Card

The high number of complaints in 2006 involving the issuing offices of the national identity card is noteworthy, as is the geographical variety of their origin. It is clear that all Spaniards must pass through them, which would seem to highlight the importance that they function efficiently, enabling the citizen to obtain or renew his document in as little time as possible.

Some examples of this type of complaints, all very similar, are cited in this report, such as those related to the situation in the offices of Santa Engracia street and Pío XII avenue in Madrid, Alcalá de Henares (Madrid), Alcobendas-San Sebastián de los Reyes (Madrid), Sevilla, Vallvidrera (Barcelona) or Burgos.

Additionally, the general overcrowding of offices is evident throughout national territory. Besides, the imminent issuance of the electronic national identity card, if this indeed may be requested and received in a single visit to the issuing office, will require increased staff. The General Department of Alien Affairs and Documentation, via the Central Documentation Unit for Spaniards, has conducted a team by team study that has made it possible to determine the number of civil servants that each center will need in order to ensure the adequate issuance of the electronic national identity card.



The Ombudsman requesting a rapid clarification on the use of child safety seats in taxis.

Traffic

Guarantees in the processing of traffic fines. The complaints involving guarantees in the processing of traffic fines are very numerous. In some cases, the Ombudsman has found it necessary to recommend the annulment of the fine, given the fact that one or more of the basic procedural guarantees had not been fulfilled. This was the case, for example, with the defective home-delivered notifications, repetition of fines for the same traffic violation, failure to take into account material allegations, meaning that failure to duly identify the driver at the wheel at the time a violation is committed becomes relevant, and a long list of others...

Children and taxis. In this sense the Ombudsman recommended to the Directorate General of Traffic that it streamline its reform process for the General Traffic Code, to establish the appropriate responsibilities and liabilities to guarantee the safety of children who travel by taxi. This recommendation was accepted and the reform of the General Traffic Code was published in the Official State Bulletin (BOE) on September 5, 2006, entering into force the next day.

Point-based driver's licenses. In another case, initiated at the request of Síndic de Greuges of Catalonia, related to the application of removing penalty points from driver's licenses, the Directorate General of Traffic was informed of the need to apply this system equally throughout national territory regardless of the municipality where a traffic violation occurred. The Directorate General of Traffic paid close attention to the recommendations of the Ombudsman, and they affirmed that up to November 2006, there were 200 city halls already connected to the general computer system, more than 600 that had signed an agreement to be incorporated into the central database, and, little by little, the rest would eventually be included in the system as well. They concluded that they had held meetings with the Spanish Federation of Municipalities and Provinces to request their support and aid in the cited, point-based program, and that within the headquarters of the Superior Council on Traffic and Road Safety the Local Commission on Road Safety had been created, holding its first meeting at the end of October 2006.

Parking Meter System. Complaints have been handled with respect to delivery, service and industrial vehicles in the cities of Madrid and Barcelona, and also with respect to problems with the service provided to citizens in the Parking Meter System Office of Madrid.

Complaints are also frequent regarding the validation and exchange of foreign driver's licenses, which does not always take place with the due efficiency—in cases where there is a bi-lateral agreement between the country that issued the document and Spain—due to problems related to delays in the process of assigning appointments along with other bureaucratic setbacks. The report refers to specific cases involving citizens from Romania, Chile, Colombia, Argentina, Ecuador and Peru.

Finally, the Ombudsman has taken up the defense of disabled parking rights. Specifically, the 2006 report refers to one case in Madrid and another in Torrejón de Ardoz (Madrid).

The right to assembly

Regarding the basic right of assembly, there is a report from an association of civil rights in the city of Granada, which has experienced difficulty in arranging parades due, on one hand, to a declaration by the Sub-delegation of the Provincial Government of Granada that it does not possess the authority to grant such permits, and on the other hand to the city hall's repeated refusals to authorize these acts.

After various interventions by the Ombudsman, it became known that the Superior Court of Justice of Andalusia had declared that the request for a parade permit should be considered an exercise of the basic right to assembly, a relevant judicial decision considering the lack of a clear precedent in previous cases. The legal impasse has apparently been resolved judicially so that the concerned association may exercise its basic right to assembly, which until now was being blocked.

Weapons

Many citizens have complained about being fined as a result of being unaware of the regulations governing simulated firearms and common knives with multiple daily uses in hunting, fishing, nature excursions, etc., which are easily acquired in many establishments where the legal risks involved in possession of such items in public areas are not made clear. For this reason, and in order to safeguard the legal rights of citizens, the Ombudsman has recommended that the General Technical Department of the Ministry of the Interior give



The new «point-based» driver's license has been the object of several complaints. (Photo courtesy of the Directorate General of Traffic)

priority to the reform of Royal Decree 137/1993, January 29, by which weapon regulations were approved. This reform should include the obligation of manufacturers and retailers to include written warnings with their products in order to inform buyers of imitation

firearms and certain knives of the pertaining conditions of use and the legal implications regarding their possession in public areas as per current legislation. This would serve to prevent or reduce the assessment of fines due to a lack of awareness of applicable law.

Army

Regarding military administration, the report deals with actions taken, with a satisfactory result, related to the legal implications of the death of a Spanish aid worker in Mozambique, the awarding of a medal to a Civil Guard who had suffered a serious traffic accident while participating in a night-time antiterrorist checkpoint in the municipal district of Buitrago de Lozoya (Madrid), also with a satisfactory result, and regarding the access of citizens to military archives.



Members of the Parachuting Brigade (website of the Ministry of Defense).

OMBUDSMAN'S OFFICE: FORTUNY, 22



Presentation of complaints:

- By Internet:
www.defensordelpueblo.es
registro@defensordelpueblo.es
- By telephone: (+34) 900101025 (free) and (+34) 914327900; Fax: (+34) 913081158
- Complaints may also be lodged in person at Zurbano, 42, corner of P^a Eduardo Dato, from Monday to Thursday, from 9 a.m. to 2 p.m. and 4 p.m. to 6 p.m., and Friday from 9 a.m. to 2 p.m. Closest underground stop: Rubén Darío, line 5; buses 40 and 147
- Complaints lodged by mail should be sent to c/ Zurbano, 42, postcode 28010, Madrid

EMIGRATION AND ASSISTANCE TO SPANIARDS ABROAD

The Ombudsman observes improvements in the consular assistance provided to Spaniards

The Statute on Spanish citizens abroad, approved in 2006, is a source of satisfaction for the Ombudsman, who will carefully oversee its development.

At the end of 2006 the Statute on Spanish citizens abroad was established. For the first time, a law deals with the multiple issues affecting Spaniards residing or travelling outside national territory and their families—whose members may also be of different nationalities. The law, which represents a guarantee to Spanish citizens who are outside national territory the exercise of their rights and constitutional duties on equal terms with Spanish residents in national territory, is a source of satisfaction for the Ombudsman, who will carefully oversee its development.

Improvements in service and reduction of the waiting times for replies from the Spanish Consulate in Havana, Cuba, have been reported (particularly in the Consular Registry of registrations, notary services, and in nationality affairs), which have been the subject of investigations since 2005. Said office has tried to shorten queues and waiting times by establishing a previous appointment system and by improving information given out by telephone and by internet to avoid, whenever possible, the need for personal visits to the consulate.

In several countries, delays continue to be seen in the processing of elderly assistance services, which is particularly worrisome considering the precarious economic conditions that most of the recipients of these services find themselves in.

As regards services to displaced persons, along with the complaints in which the question of whether or not the assistance given was adequate and sufficient, other cases can be found in which investigations have revealed that consular assistance was efficient, which should also be taken into account (for example, cases handled in the embassies of Thailand, Lebanon, Syria, or the Consulate of Lisbon).



Headquarters of the Ministry of Foreign Affairs in Madrid (photo courtesy of the Ministry of Foreign Affairs)

OMBUDSMAN'S OFFICE: FORTUNY, 22

More information at:
www.defensordelpueblo.es

IMMIGRATION AND RESIDENCY

It is necessary to face migratory phenomena with a clearer vision of the long-term results

Many of the complaints processed in 2006 had to do with emergency relief and with the procedures used with unaccompanied foreign minors. Many complaints were also received with respect to actions carried out by the consular system. The Ombudsman visited the internment centers for foreigners (CIES) in Algeciras, Málaga, and Valencia.

Arrivals on national territory

The official records indicate that foreigners with residency permits or cards exceed three million people; to which must be added those who are here in a irregular situation. In this context, problems with intense media coverage such as those involving boatloads of illegal immigrants, neither represent the complex reality of immigration in Spain, nor should they constitute the center of it.

As a result of an investigation regarding the denial of entry at a border control station, a lack of adequate instructions was evident regarding the procedure for removing belongings from the passenger and for the way to document their transfer to the commander of the aircraft or to the driver of the vehicle. In the judgment of the Ombudsman, only the documents necessary to make the return trip and also to prove the identity of the passenger should be retained. On the other hand, those who receive custody of these documents and any other personal effects should sign a receipt. With this aim, a recommendation was made to the Directorate General's of the Police and the Civil Guard, which was accepted.

In a complaint processed at the request of the Council of the Bar Association of Catalonia and supported by the Bar Association of Figueres, the Ombudsman has communicated to the administration that agreements to readmit illegal aliens (such as the agreement signed between Spain and France on November 26, 2002) should not be used as justification to undermine the legal guarantees intended for cases of refusal of entry, and particularly, for the provision of adequate legal council.

Within the usual activities of overseeing the pertinent administrative centers, a visit was made to the police offices at the «Pablo Picasso» airport in Málaga. The overall evaluation of the situation at the border crossing station and the practices followed was favorable, although several observations were made to improve comfort, increase the number of interpreters, and improve the processing of cases.

It should be pointed out that complaints continue to be made by people with legal residence in Spain who find themselves outside the country without the proper documentation (due to the lack of a valid return permit, the expiry of documents, or the theft or loss of their documentation), since they have difficulty to obtain entry visas in a reasonable period of time. These delays place them in the difficult position of loss of jobs and the expiry of the right to a residency permit.

Melilla

In the last report an abundant account of the conclusions that the Ombudsman reached as a result of the visit made by the First Deputy of the Ombudsman to the autonomous city of Melilla in October 2005, and which led to the formulation of various resolutions and the pursuit of various internal enquiries. Both the Department of State Security as well as the Government Delegation and the Bar Association of Melilla have accepted the notifications of legal responsibility and the recommendation that was made to them. The Ombudsman's intervention continues, however, with the aim of analyzing various other aspects, such as safety conditions and the legislation applicable to the new obstacle installed in the «no-man's land» area between fences («three dimensional cable») or the usage criteria for anti-riot gear. The Department of



The First Deputy of the Ombudsman, M^a Luisa Cava de Llano during a visit to the security fence along the border of Melilla in 2005. (Photo courtesy of EFE)

State Security has also been notified that the existence of a Security Staff and Services Inspection is not considered alone to be a sufficient guarantee for the adequate investigation of police violence complaints because its activity is not unconditional and it depends on the selection criteria determined by the Department of State itself.

The attempts of large groups of individuals to enter the country by simultaneously jumping over border fences in Melilla occasionally ended in tragedy, with the deaths of some immigrants. The Ombudsman continues to oversee the legal action still in progress through collaboration with the Attorney General's Office, as with the procedure initiated to determine the potential responsibility of a Civil Guard officer in the abuse inflicted on an immigrant detained after having jumped over the border fence and while he had been subdued and was lying down on the ground. The Ombudsman determined that an internal investigation carried out by the Civil Guard Corps was partial and imprecise.

Massive boatloads of illegal immigrants

Again the crush of boats reaching the coasts of Spain, on this occasion via the Canary Islands, resulted in the adoption of short term measures for emergency relief operations, while repatriation steps were being taken and other measures were being devised to handle the influx of affected people. The organizations involved were overwhelmed by the intensity of this migratory phenomenon, which is why an internal enquiry was initiated before the Government Delegation in the Canary Islands, requesting a detailed description of the facilities in question, especially the «Las Raíces» center in Tenerife, and the planned actions with respect to these people.

In light of the data collected, it can be seen that the short term measures taken tend to become permanent and that, in just a few months, the centers have greatly exceeded their theoretical limits of capacity. The Ombudsman has insisted on the need to face these phenomena with a clearer vision of the long-term results while at the same time it continues to evaluate the efficacy of the alternatives implemented.



Interior of a internment center for minors.



A boatload with a large number of immigrants reaches our coast.

Unaccompanied foreign minors

Another important topic is the number of unaccompanied foreign minors (the Spanish abbreviation MENAS is used) that have been arriving. Thus, various complaints point out the existing failures in determining the age and status of the MENAS, who, despite the youthful appearance of some, were treated as adults without having been tested to determine their age, and were subject to the initiation of deportation proceedings and placed in internment centers. Upon conclusion of the detention, if it was impossible to execute the deportation, these people were freed and transferred to Madrid where they were finally recognized as minors.

For this reason, a recommendation was made to the Government Delegation in the Canary Islands for the adoption of measures to promote awareness among the police officers so that if there is ever any doubt about the adulthood of a foreigner, a process of verification of age will be undertaken. To complete the reach of this recommendation, the General Council of the Judiciary has been notified that it would be opportune for all judicial bodies that order detentions to pay particular attention to such issues.

Additionally, the Ombudsman has called attention to the Department of Families and Social Affairs of the Community of Madrid regarding the fact that the duty to attend to the best interests of the minor supercedes and makes impossible the application of laws and procedures regarding repatriation, as occurs, for example, when, upon declaring the guardianship of the concerned party, a simultaneous request for the Government Delegation to initiate the process of family reunification at a moment when the social and family situation of the minor is still undetermined.

The Ombudsman understands that the government authority should legally notify each minor according to their state of maturity and age, the resolution reached with the aim that the concerned party might legally appeal should he choose to do so. This implies the necessary treatment of the minor as the subject of the process and not merely an object of it.

In a visit made to the «Nuestra Señora del Cobre» Center for unaccompanied minors, located in Algeciras and dependent

upon the Public Administration of Andalusia, a very positive overall evaluation was given regarding the functioning of the center and the degree of involvement of staff. The Administration of Andalusia has been requested to undertake several works and to plan for a system of reinforcements to handle periods of large influx of minors, which tends to occur several times a year.

In the follow up of visits made to other centers, the need to close the «Los Llanos Pelados» center in Fuerteventura has been urged, recommending that it be replaced with a more suitable center. Already in 2007 news has arrived that in the end the local administration has proceeded with the closure of the facility.

Visits to internment centers

There were three visits to internment centers for illegal aliens (CIES) made in 2006, in Algeciras, Málaga, and Valencia. The last of these three, newly built, received the most favorable evaluation for both the facilities as well as the living conditions. On the opposite end of the spectrum is the CIE of Algeciras, due to the clear, jail-like atmosphere of the center, which is not the proper model for this type of facility. Moreover, the indications made during a previous visit by the Ombudsman have not been put into practice.

In the case of the «Capuchinos CIE», improvements in the facilities and various suggestions regarding the optimal use of common areas, improved living conditions, and better availability of medical and social care services have been carried out. Without effect on the aforementioned changes, an investigation was initiated when it was discovered that several police officers assigned to this center are subject to judicial processing accused of sexual abuses toward several female internees. The administration has stated that the number of female staff assigned to all shifts has been reinforced; a suggestion that had already been made by the Ombudsman on two previous occasions.

Protection of undocumented witnesses

Moving on to another topic, an investigation remains open regarding attention and protection systems for people who, lacking appropriate documentation, collaborate with authorities as witnesses in the investigations of organized networks of illegal immigration and human trafficking. The first priority of the Ombudsman in this area is to ensure the existence of an adequate network of services where witnesses may find assistance from the outset of their collaboration. Such services must be made accessible to persons who, given the circumstances, may have difficulty duly identifying the resources available to them.

Undocumented foreigners not subject to deportation

On June 20, 2006, the Senate passed a motion, fully supported by criteria repeatedly expressed by the Ombudsman,



Spanish Consulate in Bogotá, Colombia. (Photo courtesy of the Ministry of Foreign Affairs and Cooperation)

with the aim to study the alternatives for undocumented foreigners with non-executable deportation orders. The Ombudsman would also like to see acceptance of the High Court's proposal involving the establishment of specific regulations that would facilitate the development of certain labor activities by people in this situation during the period in which their deportation is not possible. In this way, the problem of social exclusion would be addressed, and the right to work would give these people the wherewithal necessary in order to cover their own subsistence under satisfactory living conditions.

Consular service

The task of carrying out a full reform of the Foreign Service in order to improve the functioning of public services outside our borders is long overdue. For this reason, the Council of Ministers' Agreement, September 1, 2006, for the empowerment of state action abroad should be received favorably, since it includes basic measures to modernize consular affairs regarding migratory movements, which in many cases currently fail to fulfill the principles of efficacy.

During 2006 several problems arose in various consular offices (for example in Bogotá and Accra) due to the fact that it was impossible to meet deadlines regarding the submission of applications. As most of the cases involve systems by previous appointment, the administration accepted the Ombudsman's suggestion to modify the information given on the corresponding appointment slips with the aim that concerned parties might be certain that in all cases the date given would be treated as the date of

request for the granting of an appointment, even if formal presentation of documents takes place after the two month period from the notification of the corresponding governmental authority's resolution has elapsed.

Another cause for concern has been the methods used by some consular offices to provide notification of resolutions, as, for example, is the case where notification of the granting of visas is made solely by announcements posted on a bulletin board, which may constitute a lack of proper procedure because there is no way to determine if the concerned party has received the information.

The absence of a reasoned justification in the denial of certain visas, particularly with respect to those involving reunification of families, has also been a question analyzed in various complaints. For example, an investigation involving the General Consulate of Bogotá may be cited. This case gave rise to a suggestion that the reasons used by this organization to justify the denial of visas be specified.

Another area that deserved special attention during 2006 was the general functioning of the Spanish Embassy in Pakistan. After evaluating all of the information received, it was concluded that visa applicants are placed in a very complicated situation because the reporting process that is used to determine the granting or denial of visas is far from being transparent. Other serious irregularities have been observed in the processing of resolution of visas. In fact, the Ombudsman found it necessary to remind, once again, the consular administration of its duty to ensure that the Islamabad office issues explicit resolutions in all proceedings and that it duly notify concerned parties.

Consequently, a recommendation has been made with the aim of carrying out an inspection of the consular office of Spain in Islamabad in order to analyze and rectify the visa processing practices there. Improvements in the legal instruments that regulate collaboration with foreign offices —responsible for verifying local documentation and management of personal and private data and for assuring the availability of the embassy to inspection and oversight in order to detect irregularities— have also been requested.

During the current year, complaints have continued to arrive from citizens of Ghana residing in Spain, whose



A recently-arrived immigrant is aided by a Civil Guard officer. (Photo: EFE)

attempts to reunite with their spouses or children have been hindered by the lack of reliability in the registry documentation issued by their country, which leads to a denial of the corresponding visas requested. Several complaints indicate that the denial of visas is systematic.

A report drawn up by the Spanish Embassy in Ghana leaves no doubt as to the scope of falsification of documents that accompany visa applications and explains the high incidence of denials for family reunification residency visas that the document presents. Nevertheless, the report assumes some general criteria for flexibility to allow for the presentation of allegations and to prove relationships using methods outside the scope of government registries (such as DNA testing), which are not seen in all cases and which are not always taken as evidence in the denial of visa requests. This makes it necessary to conduct individual investigations to see if it is possible to reach a favorable solution for the specific problems presented in each case.

Family reunification

The Ombudsman has seen evidence of the problems arising with the arrival in Spain and the processing of residency for Moroccan minors under a system called *kafala* who are not authorized by their biological parents, but rather through the mediation of Spanish families. This system of fostering, transferable under our judicial tradition to that of guardianship, should be included in the EU regulations —a recommendation which has been made to the Directorate General on Immigration.

Moving on to another topic, in 2004 the Permanent Commission of University Defenders approached the Ombudsman about the situation of university teaching and research staff from countries outside the European Union who seek to temporarily join Spanish universities and who are discouraged from following through with their plans to reside in Spain due to the difficulties they encounter on arrival with their families on Spanish soil.



Costa Rican research staff. (www.coincit.go.er)

The Council directive 2005/71/CE, October 12, 2005, regarding the establishment of a specific procedure for the admission of members of non-EU countries for the purposes of scientific research states that the residency permit granted to the family members of a researcher should not be subject to a minimum period of residence but rather that its duration should be the same as that of the permit granted to the researcher. A recommendation has been directed to the Department of State and Immigration and Emigration so as to incorporate the precepts of the aforementioned directive into Spanish legislation and to establish similar rules for university professors of non-EU countries who join Spanish universities on a temporary basis to conduct functions which are exclusively educational (as is the case with sabbatical years or visiting lectureships).

The Ombudsman learned that in the processing of entry visas for family members of EU residents (ascendants, descendants, and children), some consular offices, such as the Spanish consulate in Quito, were requiring a notarized declaration by an EU citizen affirming their desire to reunite with all of the visa applicants. The Ombudsman directed a recommendation to the Directorate General of Consular Affairs and Assistance stating that this requirement lacked legal foundation and ran against the consular obligation to process visa applications as per the rules set forth by the EU—resulting in an unjustified denial of rights to those seeking to establish themselves in the place of residence of the EU citizen. The administration accepted this recommendation and gave instructions to eliminate said requirement.

The Ombudsman has been in clear disagreement with the Directorate General of Consular Affairs and Assistance regarding the denial of a family reunification visa for a Moroccan citizen approaching the age of adulthood, on considering that the mother and other siblings remain in Morocco and that the arrangement of an apparent «family reunification» actually appeared to be a «break up» of the nuclear family unit in the country of origin and a hidden «economic reunion» in Spain. The Law on Foreign Persons only indicates those under the age of 18 as eligible for family reunification, so the argument of the administration in this case is legally unfounded and it supposes that rights may be abrogated as the opportunity arises. Even more disconcerting was the reply rejecting the suggestion to revoke the denial of the family reunification visa, in which the sole argument indicated was that the concerned party did not appeal the decision and that the annulment of the denial is not possible as this would be discriminatory with respect to other cases in which resolutions were based on the same criteria.

Foreign persons offices

As is widely known, the Spanish administration has been obliged to increase human and material resources at the various offices for foreign persons located in national territory due to the huge demand of citizens who, along with their families, attempt to obtain the necessary permits to reside legally in Spain and to join the workforce here, as well

as the businessmen and employers who require workers. Nevertheless, in spite of these efforts that must be recognized, the situation continues to involve generalized delays in processing as well as significant breakdowns in service which undermine the attention given to concerned parties. During 2006 the situation has been particularly worrisome in this respect in Alicante, Barcelona, and Madrid.

Additionally, other difficulties continue to exist in many of the offices, hindering even the initial application process due to the virtual breakdown of previous appointment systems. This has led to numerous investigations throughout the year, especially in the provinces of Barcelona, Las Palmas of Gran Canaria, Madrid, Malaga, Murcia and Valencia.

Government reports

As indicated in previous reports, in many cases an initial or renewed residence permit was denied based on an unfavorable government report, showing that no clear criteria appears to exist with respect to the circumstances that determine the sense of said report. Thus, the Department of State and Immigration and Emigration has been asked to standardize the practice of different government delegations and subdelegations with respect to the evaluation of content appearing in government reports. Taking into account said recommendation, the aforementioned department has stated that instructions regarding this matter are currently being prepared.

During the current year various complaints have been received from undocumented Nigerian citizens who fulfill the requirements to receive residency permits based on exceptional circumstances, but who cannot present a police report since the legislation of their country requires them to request this document in person at the corresponding registry in Nigeria. In such situations, their exit from Spain is not a viable option because their visa request cases require them to remain in national territory. The Ombudsman continues to assess the options with the Directorate General on Immigration in order to find ways both through Spanish legislation and through cooperation with the Nigerian authorities that might help effect a satisfactory solution to this problem.

Legalization, Nigerian documentation

Moving on to another topic, various cases have arisen for which suggestions have been made to reverse denials to requests for renewal of work and residency permits due to the lack of application of *silencio positivo*, in which a request is automatically granted if not resolved within 30 days. Furthermore, these actions have had to be taken in some cases with extreme urgency because of imminent deportation orders that had apparently been improperly arranged.

Other complaints have been received from foreigners whom the administration was attempting to deport due to their undocumented presence in Spain, without taking into consideration, contrary to EU regulations, that they had married Spanish citizens. In these cases, the intervention of the Ombudsman has been key in avoiding this deportation.

Foreign spouses who have become naturalized Spanish citizens

There are many cases of foreigners who, having resided in Spain for several years, acquire Spanish nationality. Said acquisition modifies the legal resident status of the spouse, children and ascendants, although certain dysfunctions and interpretation of the law may place the concerned parties in a compromised situation.

This occurs when the spouse of the person who has acquired Spanish nationality attempts to renew the residency permit, now according to the EU law, and the matrimonial ties must be demonstrated to have been recognized in accordance with the Spanish law. Nevertheless the central Civil Registry is saturated and the process can be delayed by several months. The Ombudsman has determined that in these cases citizens suffer the consequences of the lack of administration efficiency, and that in such cases the issuance of an EU citizen family member card should not depend on the registration of a marriage under the previous nationality and whose validity had never been called into question by the Spanish authorities.

Asylum

The number of complaints that deal with asylum problems continues to decline. Most of the complaints received by the Ombudsman make it clear that those in need of protection often arrive among groups of others who do not, which makes their detection difficult. They even refer to cases where those who have attempted to submit their application for asylum but were not able to do so, or other cases in which enormous obstacles had to be overcome in order to do so.

A foreign citizen that had asked for asylum upon arrival at the Madrid-Barajas airport, claiming religious persecution, was repatriated without consideration for the suggestion submitted to the Government Delegation in Madrid to delay the deportation proceedings in accordance with a temporary reprieve presented by her lawyer until the legal implications arising out of her case could be resolved in court. The Government Delegation justified its actions because the concerned party was carrying a false passport. Nevertheless, the cited organization was informed that in asylum cases the presentation of false documentation is not grounds to deny the full processing of such cases, nor should it have nullified the temporary reprieve.

Racism and Xenophobia

During 2006 the Ombudsman has continued its collaboration with the European Commission against Racism and Xenophobia (ECRI), a specialized organization within the Council of Europe. On this occasion said collaboration has been confirmed in the assistance given to the organization of a round table on the third ECRI report on Spain, which was held in Madrid on April 19, 2006. Said meeting gave a detailed look at the report which, generally speaking,



The Ombudsman, Enrique Múgica, in the European Forum against Intolerance and Racism. (Photo: Europa Press)

expressed encouraging progress in several of the areas analyzed, but which also took note of the lack of social awareness regarding discriminatory acts, which, in the opinion of the ECRI had a negative impact on the necessary institutional response.

In this area, complaints have been received referring to contractual relationships among private parties in which indications of direct or indirect discrimination due to national origin or race have been observed. These cases find their natural means of resolution in the headquarters of the Council for the promotion of equal treatment and the non-discrimination of people based on racial or ethnic origin, whose start has suffered delays which in practice hold up the adoption of appropriate measures toward research, protection, and aid to the victims, which are particularly necessary.

Finally, the Ombudsman has shown special interest in the area of racism, xenophobia and sports-related violence, not only in the complaints received but also due to the presence that this problem has been acquiring. The position of the Ombudsman was conveyed to the General Courts, through appearances by both the Ombudsman and his Second Deputy, on March 21, 2006, before the Mixed Commission in charge of relations with the Ombudsman.

Both appearances were used to manifest the growing social concern over the rise of violence during sporting events and the recognition that violence and other manifestations of intolerance in the world of soccer have not only not been eradicated, but, rather, that the situation (considering the numerous incidents both inside and outside the stadiums), has actually grown worse. In the opinion of the Ombudsman, a change in this tendency will only be possible through the implication of all of the significant parties involved, seconded resolutely by the public administrations who, in the most serious cases, must rigorously apply the full weight of the law against those responsible for violence or the instigation of it, as well as against any organizations that aid and abet violent people or promote attitudes of racial hatred.

EDUCATION

The Ombudsman and UNICEF analyze the situation of school bullying

The conclusions of the report on school bullying, «High School Bullying among Peers, 1999-2006» drawn up by the Ombudsman and UNICEF make it possible to state that, in general terms, the panorama of bullying among peers due to the abuse of power has improved in the last five years. Nevertheless, in spite of the preventive policies and the lines of intervention that have been established, only partial results have been achieved, and these seem insufficient as they only serve to palliate, rather than to resolve the problem.

Non-University Education

In 2006 a huge effort was made to carry out, in addition to the management of the normal affairs related to education, a monographic research study on the phenomenon of school bullying. This effort represented an attempt to update and complement a study conducted on the same subject in 2000.

Again with the collaboration of UNICEF, a nationwide study was conducted in which 300 public, semi-private, and private education centers, 300 directors of study, and 3,000 students participated. The aim was to determine the real and current reach of the phenomenon of bullying among peers in the context of obligatory high school education in Spain.

This general objective has been broken down into a series of more specific objectives: a) the determination of the degree of incidence in the different areas of bullying: physical, verbal, and social; b) the description of the problem

from the different points of view of victims, bullies, and witnesses; c) the determination of the locations where bullying takes place, in the context of the educational center: schoolyards, classrooms, surroundings of the school, etc.; d) description of communication and conflict resolution strategies used by protagonists, along with the role of the faculty and detection and resolution of the problem; e) study of the relevance of variables, such as age, level of education, sex, and size of the habitat in which the educational center is located, whether the school is public or private, which may affect the problem in its distinct aspects; f) the comparison of information provided by students with that of the director of studies, and g) comparison of results obtained in the current study with those obtained in the first study generated by the Ombudsman and UNICEF.

As for the conclusions reached, in a nutshell, it is worthwhile to point out that, generally speaking, the results achieved and their comparison with the previous study from



Presentation of the study on school bullying prepared by the Ombudsman and UNICEF.

2000 make it possible to state that the panorama of bullying among peers due to the abuse of power has been improved in recent years. Both the answers of the students as well as the responses of the teachers support the idea that (barring certain exceptions detailed below) the incidence of bullying is clearly on the decline, especially with respect to the most frequent and less serious cases of abusive conduct.

Thus, for example, the incidence of victims of verbal insults has dropped from 39.1% to 27% and that of victims of offensive nicknames from 37.7% to 26.6%. The incidence of victims of other, more serious types of conduct is also declining, such as indirect physical aggression, hiding belongings, and even certain forms of threats. Also, sexual harassment has fallen by nearly two thirds, which represents a clear improvement compared to the previous situation.

However, other types of conduct suffered by students, such as social shunning (not allowing participation) or other forms of physical aggression, as well as the most serious types of threats do not demonstrate a declining trend. Rather, their levels remain similar to those of 1999. The data have not worsened, but they have not improved either, and that does not represent a positive outcome.

By and large, it is possible to conclude that the preventive policies and the lines of intervention that have been followed manage to achieve partial results, always welcome, but insufficient in that they only serve to alleviate the problem rather than resolving it. All of the types of bullying studied take place in all of the educational centers included in the sample. 30% of high school students are frequent victims of social shunning. In percentages which are inversely proportional to the severity of the aggression, other students in each of the centers become victims of violent behavior and bullying.

School facilities. The routine management of educational matters is similar year after year. With respect to pre-university educational levels, there have been more or less frequent complaints regarding deficiencies in the proper maintenance of school facilities, the inadequate nature of these centers with respect to planned minimum requirements, the presence of unsuitable architectural barriers, above all in special education centers and in pre-school and elementary school, delays in the execution of planned construction, or, finally, although the list could go on, safety deficiencies at currently functioning installations.

Schooling. With respect to schooling, the most frequent problem referred to in complaints continues to be the insufficient number of spaces or the inadequate distribution of school spaces, particularly in pre-schools. However, it is true that the number of complaints in the second cycle of this educational stage the number of complaints has fallen, which highlights the effort made toward offering free public spaces for students between three and six years of age.

Among the most noteworthy items of 2006 is the phenomenon of «home schooling», the education of children in the home environment without enrolling them in traditional school programs. The current legislation does not recognize the validity of this educational plan, nor does it allow these students to enroll in a distance education system that does not require physical presence of the student in the classroom. Taking into



Primary school in Madrid.

account the ever growing diversity of the Spanish society and the existence of this new educational method in the legislation of neighboring countries, the Ombudsman has made requests for information to the Ministry of Education and Science in order to find out about any projects regarding proposed legislation under way which would allow for and certify this new educational method.

Also noteworthy in 2006 is the discrepancy in interpretation between the Board of Education of the Community of Madrid and the Ombudsman regarding the admission of foreign students transferring from educational systems abroad into obligatory educational levels as described in the current legislation. The aforementioned Board interprets that the rights of such students, when they range in age from 16 to 18 years old and lack the certifiable equivalent of a high school diploma, only permit them to enroll in adult programs of study, which does not affect their right to join social welfare programs.

The Ombudsman, on the other hand, feels that this interpretation infringes on the educational rights of foreign students under 18 years of age. Their rights and obligations in educational matters are explicitly recognized in legislation regarding foreign persons to have the same conditions as those of any Spaniard, who may remain in the elementary levels of obligatory education up to eighteen years of age without having to take up courses of study, obviously, in adult educational programs.

Hygienic care and changes of clothing needed for pre-school and elementary level students have been the source of a certain number of complaints and the subject of action before various educational administrations.

The lack of specific regulations should be considered covered by the enforcement of the Resolution of the State Board of Education on June 7, 1995, which gives instructions on adapting the supply of classroom spaces for three-year-old children, and which, regarding the teaching of habits of personal hygiene, establishes that it is the responsibility of

teachers «to help children in their habits of personal hygiene and cleanliness». Nevertheless it has been observed that various educational administrations consider it admissible for educational centers to notify parents that they do not assume any responsibility for the hygienic care and changes of clothing of students, except for exceptional circumstances, meaning the parents should be responsible for returning to these centers in order to attend to the specific needs of their children.

According to the Ombudsman, regardless of whether or not the educational legislation in force assigns responsibility to teachers for the hygienic care and changes of clothing of young students or whether or not the centers have staff specifically for this purpose, it should be understood that preschool and elementary school centers have the obligation, using their own means, to attend to the hygienic needs of their students during the time that they are present in the center and for reasons explained in the report.

Academic scholarships and financial aid. With respect to the system of academic scholarships and financial aid, a full revision of the regulations is deemed to be advisable, since Royal Decree 2298/1983, originally established to expand on the General Education Law 14/1979, has been the subject of successive revisions and currently poses difficulties and interpretive deficiencies which should be rectified.

As in previous years, the most frequent cause of complaint with respect to academic scholarships and financial aid refers to the evaluation system used by the selection committees to assess the financial and family situation of applicants in order to determine whether or not to grant the scholarship or financial aid requested. Throughout the year, it was observed that certain applicants for academic scholarships and financial aid were being systematically excluded from consideration due to an inclusion by the Tax Authorities of a checkbox in their income tax declarations involving income of diverse origin, among which were public subsidies for the acquisition or renovation of a residence, even if they had no other form of income.

Through requests presented to the State Tax Administration, an improved situation was achieved. In future income tax reporting procedures, public subsidies for the acquisition or rehabilitation of residences will be identified with a specific key in order to determine the type of income it represents.

University education

With respect to university-level education, there continues to be a huge volume of complaints, although this trend is on the decline, many of which are related to provisional solutions or to unclear regulations that have been causing problems for a long time. Thus, for example, the regulation regarding national university entrance exams, originally prohibited by the Organic Law 6/2001 and reinstated by the Organic Law 2/2006, whose future basic characteristics will have to have been established by the

government before the end of the academic year, and in which academic and procedural requirements to gain admission to university will have to have been set forth. The new regulations should attempt to overcome the difficulties and different interpretations that have been arising up to the present time, some of which have been presented below.

Access to University. The access to certain courses of study, particularly those related to the health sciences for which the demand is greater than the supply also gives rise to many complaints, although the slowing demographic growth of the university-aged population has alleviated this issue to a certain extent. Nevertheless, a greater effort to meet the demand for spaces in these areas of study, always taking into account the current and future needs for these specialists in our society, in conjunction with a stable, transparent and effective university access system is clearly necessary.

Degrees. The transferability of foreign university degrees in order to obtain corresponding Spanish degrees continues to be a specific topic of the Ombudsman's annual report, as it has been for more than ten years. Although, complaints in this regard continue to be frequent —fundamentally due to processing delays— the corrective measures adopted are now beginning to bear fruit. Innovative measures in the Royal Decree 285/2004 noticeably simplify the processing of cases, enabling the transfer of academic levels reached, rather than of specific degrees, which satisfies the demands of a significant volume of requests and alleviates the tasks of the administration.

With respect to the area of university degrees —which is also characterized by the provisional nature of the legislation governing it— a request for intervention by the Ombudsman in order that the National University of Distance Education (UNED) might increase its offer of undergraduate degrees, as described in this annual report, should be highlighted. Whereas nearly all of the traditional public universities offer a wide range of undergraduate diploma programs, the UNED in the 2005-2006 academic year only offered three distance-learning diploma programs and four technical engineering programs. During 2006-2007 the offering was supplemented with another diploma course and another technical engineering program, but it is clear that the number of distance-learning diploma programs on offer is clearly deficient.

Recognizing the important social function provided by the UNED over the past thirty years, it would be advisable to adopt the necessary measures —both legislative and budgetary— so that the university might be able to offer a significant number of undergraduate degrees once the university studies have been adapted to conform to European standards of higher education.

Also on the subject of university degrees, the Ombudsman continues to report delays that have been taking place for a very long time in the acknowledgement and issuance of certain Health Science specialist degrees, as is the case, for example, with biologists, biochemical specialists, and psychologists with a specialization in clinical psychology, as reported previously in the 2005 annual report.

HEALTH CARE

The General Public Health Law celebrates its 20th anniversary in 2006

Despite achievements, the National Health System still faces significant challenges in order to reach full modernization. The General Public Health Law has opened the door to a transformation process to move the old social security system toward a new National Health System model, and it has promoted important changes and advances in the area of Spanish public health, although the National Health System must face significant challenges to achieve growth and modernization. Most complaints received by the Ombudsman refer to, among other topics, the greater attention given to curative as opposed to preventive medicine; the updating of the services commonly offered by the National Health System; scarcities and inadequate practices in the area of mental health, delays that are sometimes unacceptable in the delivery of health care services; the progressive lack of health-care professionals in certain clinical areas, and the limitations as regards attention given to rare diseases.

The universal right to health care

As described in Ombudsman reports in the last two years, one of the greatest challenges facing Spanish Public Health is to ensure that the unalienable right to full, effective health care be extended universally, and, for this reason, the appropriate legislative reforms should be undertaken. It was also indicated that the Ministry of Public Health and Consumer Affairs had stated that, given the low number of people who actually lacked the right to healthcare —approximately 200,000—, providing the necessary healthcare would not be problem for the National Health System, since the average cost per person and year in the public health system is 955 euros, which would amount to a total of 191 million Euros.

Despite attempts to tackle the problem, there has been no progress in this area, which has given rise to a significant number of complaints during 2006, considering the contradiction that although the public health system is financed via tax contributions, citizens who do not have a right to public health care must pay for it anyway when they access the centers and services of the National Health System.



Community of Madrid health system user card.

Medical information and records

The integration process into the new model of primary health care has not been completed in several territorial areas, which has resulted in the limitation of rights with respect to medical information and records. Most noteworthy are the recommendations addressed to the health administrations of two medical centers Castellón and Logroño, respectively, to open and manage medical records for all patients treated in these centers. These recommendations were accepted and put into practice in 2006.

Medical Services Listing

In recent years, the Ombudsman has pressed for the creation of a list containing all of the common services offered by the National Health System, as required by Royal Decree 1030/2006, September 15. This need is based, among other reasons, on the profound changes derived from the rapid advance in scientific knowledge and technological progress as well as in the noticeable imbalances that currently exist in different areas of national territory. A significant number of complaints continue to emphasize the need to establish a regulatory strategy for all medical services offered. Some of these complaints request that other treatments be included among the current services commonly offered by the National Health System, such as the lipodistrofia associated with HIV infection, podiatry treatment for diabetics, as well as sex-change operations —the latter has been pending pronouncement by the Inter-territorial Council for years. With respect to the lipodistrofia issue, the Ministry of Public Health and Consumer Affairs has indicated that the National Health System's Commission on Assurance, Financing and Services is currently studying the possibilities. Meanwhile, a proposal regarding the issue of podiatry treatment for diabetics in the National Health System is currently being put together.

Internally enquiries have also been initiated with respect to eating disorders (TCA), fibromailgia, chronic fatigue, and natural, non-medicated childbirth, for which protocols as

well as specialized professional training tend to be established in all of the communities.

Preventive medicine and promotion of healthy lifestyles

There is a clear tendency to pay too much attention to the treatment and curing of diseases while not focusing sufficiently on the early prevention of them, which is why the Ombudsman has decided to pay special attention to the concepts of preventive medicine and the promotion of healthy lifestyles. Of note is the investigation initiated with the Ministry of Public Health and Consumer Affairs, in which the Ombudsman highlights the need to organize and regulate all of the non-conventional, diagnostic and therapeutic techniques listed under the heading «Alternative medicine». In its reply, the Ministry of Public Health and Consumer Affairs stated its willingness to establish a legal framework that would permit the adequate assurances of quality and appropriateness of the aforementioned, non-conventional forms of alternative medicine, although the problem with respect to the current scarcity of legislation has yet to be addressed.

Waiting lists

One of the main causes of dissatisfaction among citizens continues to be the long waiting lists plaguing system of public health, particularly with respect to Out-Patients consultancies and to diagnostic testing and techniques. Nevertheless, the number of complaints received by the Ombudsman has declined with respect to surgical delays, a decline which may be attributable to the establishment of guaranteed waiting limits for scheduled surgical operations —generally from 90 to 180 days depending on the autonomous community in question.

Generally speaking, the different public health administrations have accepted the recommendations made to them by the Ombudsman with respect to waiting lists, or, rather, they have provided information regarding the adoption of measures intended to reduce waiting periods. In some cases, the delays in delivery of services have been due to the insufficient number of medical specialists available in the job market, in general, as well as in certain clinical sectors. Moreover, closed medical agendas



The Ombudsman has requested information regarding the adaptation of urgent medical transport vehicles to the needs of the population. SERMAS ambulance fleet.

are not in the best interests of patients, who may find it necessary to visit a public health center simply to make an appointment with their doctor.

Medical transport

The Ombudsman pays special attention to medical emergencies and urgent care, due to the large number of complaints regarding these services. The conclusions obtained in some of the investigations carried out by the Ombudsman seem to indicate an abnormal functioning of the administration in certain cases, highlighting, due to their extraordinary seriousness, delays in emergency care.

With this in mind, a recommendation has been addressed to the Department of Health and Consumer Affairs of the Community of Madrid, in order that an exhaustive study might be undertaken regarding the adaptation of medical transport vehicles to the demands of the population, and regarding the question of how such resources might be increased in order to avoid overcrowding and to guarantee a high-quality service. In order to put this recommendation into effect, the Department has adopted a series of measures toward this goal.

Actions taken outside hospital services

The vast majority of complaints received in 2006 with respect to primary care refer fundamentally to the recognition of the right to health care assistance, the organization and equipping of medical centers, and the conditions in which health care professionals carry out their duties.

As expressed in the report, «Primary Care Strategies for the 21st Century», promoted by the Ministry of Public Health and Consumer Affairs, among the challenges that primary care must face, the aging of the population, new medical technologies, and the rise in chronic diseases, the inclusion of immigrants, and healthcare overcrowding in certain areas may be highlighted.

Actions taken in the area of specialized care

There are more and more citizens who direct themselves to the Ombudsman stating that their perception of the quality of healthcare is not very positive, since they have not obtained sufficient information or been allowed to participate in the procedures that affect them, not to mention being at the receiving end of very impersonal medical care. Complaints with respect to specialized care have referred to, generally speaking, the availability of resources, organization and functioning of services, structural deficiencies, particularly urgent care areas in hospital centers.

Professional practice

From the complaints presented to the Ombudsman it can be inferred that one of the main challenges facing the Spanish public health system is the promotion of a culture based on quality

and prevention that would lead to fewer medical incidents. These goals may best be reached by a study of the causes of medical incidents in striving toward the continued improvement of medical practice.

Mental Health

The General Public Health Law and the Ministerial Commission for Psychiatric Reform manifested, twenty years ago, the need for a new EU model for mental health care services. Although some progress has been made, serious deficiencies, inappropriate practices, and imbalances with respect to resources available in different areas of the national territory must still be addressed.

The Ombudsman has emphasized on many occasions the urgent necessity that, within the framework of the Inter-territorial Council of the National Health System, strategic initiatives be adopted to promote preventive medicine, early diagnosis, treatment, rehabilitation and social mainstreaming programs. Said Council has approved the document, «Mental Health Strategy in the National Health System», and in some of the sections of this document the arguments the Ombudsman maintains on these matters are expressly mentioned.

Some of the conclusions of this document refer to the lack of sufficient human and structural resources to effect adequate rehabilitation and social mainstreaming through halfway houses; the tendency for exclusive use of pharmacological products to treat certain mental disorders, and the rising number of cases of mental health problems, which overwhelms the capacity of the professionals who treat them, among other items of concern.

Pharmaceutical services and drug control

During 2006 complaints have been received regarding the distribution of medication, as well as their payment and control.

The Ombudsman addressed the Ministry of Public Health and Consumer Affairs claiming that the distribution of prescription medication without the proper prescription placed the rational use of medication of the National Health System in jeopardy. The criteria of the Ombudsman was put into effect by Law 29/2006, July 26, which categorizes the dispensing of prescription medication or other prescription health products without checking for the necessary document as a serious infraction.

With respect to the payment for pharmaceutical products, two of the most significant actions were related to the inclusion within the scope of dietary and therapeutic health services of special



The dispensing of prescription drugs without the required prescription places the rational use of medication in the National Health System in jeopardy, according to the Ombudsman.

gluten-free products for celiac sufferers, and of financing by the public health system for medication used to treat morbid obesity. The public health administration has rejected both cases.

With respect to drug control, two investigations should be pointed out related to the dispensing of medications to people affected by HIV for a maximum period of one month, investigations which concluded with favorable results because the Department of Health and Consumer Affairs of the Community of Madrid stated that, in consideration of the singularity of the two cases in point, medication had been authorized for even longer periods.

Rare diseases (ER)

Rare and infrequent diseases have gained a lot of attention in the past few years, considering the number of complaints handled by the Ombudsman that expose the serious issues faced by those who are affected by these diseases as a consequence of the huge difficulties encountered in their diagnosis and treatment. With this aim, the Ombudsman, has initiated an internal enquiry before the Ministry of Health and Consumer Affairs, elucidating the grave situation represented by the lack of adequate health service and social coverage for this ever-growing segment of the population, and the need to develop a strategic plan that would lead to the adoption of clearly structured measures that address the specific needs of those affected by the aforementioned afflictions.

Consumption and tobacco use

The passing of Law 28/2005, December 26, on health measures against tobacco addiction and its regulation in terms of sales, supply, consumption, and the advertising of tobacco-related products, has provoked many different reactions among citizens, who have addressed the Ombudsman throughout 2006, highlighting the fact that, apart from being one of the main problems faced by public health, the consumption of tobacco products constitutes a question that is not exempt from controversy in Spanish society. Some citizens reported the common failure to comply with Law 28/2005 in their respective towns. Even if the concerned parties have not appealed their cases to the administration, they were given guidance with respect to the current legislation in force, as well as regarding the organizations with authority to exercise functions of control and inspection in such matters.



Cutis laxa, a rare skin disease. (www.iqp.es)

SOCIAL POLICY

Gaps in the incompatibility of the pensions of the Compulsory Old Age and Disability Insurance with those of the Social Security System

These benefits are the lowest in our system of social protection contributions and they represent a large, impoverished group made up of elderly people, mainly women. For this reason, it is necessary to overcome said incompatibility by adapting the rules to which these services are subject.

Social Action

Minors. The action of the administrations with respect to the protection of minors has continued to be a source of complaint for many citizens who have approached the Ombudsman seeking a resolution.

On those occasions in which the parents, deprived of the guardianship of their children as a result of the adoption of measures by a public authority, pose specific questions that affect the actions of the administrations or the situation in which the minors in custody of the administration find themselves, the Ombudsman must verify the full respect for their rights.

Additionally, complaints continue to be frequent regarding the lack of an explicit resolution or the administrative delays in issuing a certificate of suitability, an indispensable document for the assigning of a minor in adoption and that requires a previous evaluation of the applicant and his environment, taking into account psychological, social and legal considerations.

In this same area, it is possible to point out that the different laws that regulate adoption procedures in the different autonomous communities occasionally may be perceived by citizens as discriminatory when they discover that a legal requirement in their community that affects their case is not required in other communities. Many complaints have been received along these lines. For example, the citizens of Andalusia, specifically potential adoptive parents of certain age, expressed their disagreement with the criteria of the matching of ages between the prospective adoptive families and those up for adoption, which the Directorate General of Infancy and Families of the Department of Equality and Social Welfare was applying to applications for Chinese girls.

The cited criteria is based on a reality that exists in China, where the number of girls over the age of four who are likely to be accepted for adoption has been on the decline, and the majority of them are disabled. To attend to these criteria, the cited Directorate General limits the processing of adoptions with said country to those applicants who, in terms of the aforementioned age criteria, would be eligible for girls under the age of four. On the other hand, the Directorate General makes it clear that it is possible to submit applications for minors over seven years of age, with some type of disability or organ disease through a specific program called «green passage».



The full exercise of disabled rights requires the corresponding development of effective legislation. (www.COCEMFE.es)

People with disabilities. It is worthwhile to point out that the full exercise of rights contained in the Law 51/2003, December 2, regarding equal opportunities, non-discrimination, and universal access for disabled persons, requires the corresponding development of effective legislation. As for the laws passed in 2006, Royal Decree 1414/2006, December 1, may be cited. This law delimits the consideration of handicapped persons to what is set forth in the aforementioned Law 51/2003.

In the 2004 report, it had already been seen that problems were affecting citizens due to heterogeneous administrative decisions being issued from various offices and departments of the public administrations on how best to standardize and certify the assimilation of degrees of disability as contemplated in the aforementioned law. This situation motivated the Ombudsman to insist, through the State Department of Social Services, Families, and Disabled Affairs, that a uniform framework be established, and the final result was set forth in the Royal Decree.

Senior citizens. In the reports of previous years, the Ombudsman has described many of the difficult situations affecting the elderly, and, in a special way, those that have difficulty in looking after themselves. In this regard, the Law 39/2006, December 14, on the promotion of personal

independence and care for people in situations of dependence, constitutes a subjective right based on the principles of universality, fairness, and accessibility, developing a holistic approach to care for citizens.

Thus, the lack of autonomy of certain elderly people and the inability of their families to attend to their needs adequately are behind a considerable number of complaints, which, after describing the difficult family situation, a favorable response to their previously submitted application for a place in a public convalescent home is demanded. As the awarding of places in these homes is made according to the ranking applicants receive on a point-based scale which takes into account a number of factors, the intervention of the Ombudsman must be one which seeks to ensure that the entire awarding process is carried out with all of the due guarantees and that it is subject to all applicable laws.

Homeless. The vulnerability of the homeless, which is especially exacerbated by the low temperatures in winter, is a question that concerns the Ombudsman. For this reason, the Ombudsman requested information from the City Hall of Madrid regarding the planned «Campaign against the Cold, 2005-2006», paying close attention to the neighborhood concern surrounding this project. Among the information received, it is noteworthy to point out the inclusion of this campaign among the general actions directed toward providing care services for the homeless, through the opening up of new shelter resources reaching a total of 1,128 spaces distributed among 5 centers or facilities, in addition to stays in hostels.

Social Security

As has been pointed out in previous years, the greatest number of complaints related to retirement benefits refer to the disagreement of the concerned parties with the amount of pension reached after application of reducing quotients, as a result of the interested party's having gained early access to it, in spite of having spent a lengthy period contributing into it. Likewise, in a large number of complaints, the concerned parties show their disagreement with the fifteen-year period taken into account to calculate the applicable base, since in certain cases said calculation had been made on the basis of a minimum contribution. Such is the case, for example, when the concerned party receives unemployment benefits and his contributions to his pension are based on the minimum amount during that time even though contributions at an earlier time may have been much higher.

A more limited number of complaints make reference to the denial of pensions, due to the fact that the minimum period of contribution required has not been reached, disagreement with the periods of contribution taken into account for the determination of the amount, complaints with respect to the resulting economic effects, etc.

As for the compatibility of pensions of the Compulsory Old Age and Disability Insurance with those of the Social Security System, some complaints have been received in which the



Homeless person on a Madrid street.

concerned party is a recipient of a minimum retirement pension and they are also entitled to a widow or widower's pension from the cited Insurance, but because both are incompatible, in application of the seventh transitory disposition of the General Law on Social Security, they have been forced to opt for one or the other, logically for the one with the higher amount. This incompatibility does not affect widow or widower pensions, in accordance with the modification introduced with respect to said transitory disposition in Law 9/2005, July 6, to make the Obligatory Old Age and Incapacity Insurance compatible with the widow and widower pensions of the Social Security System.

These complaints were accepted for processing with the State Department of Social Security, and the report published regarding this matter manifested that the compatibility between the Obligatory Old Age and Incapacity Insurance and the widow and widower pensions of the Social Security System were a consequence of the attitude of willingness repeatedly adopted by parliament, and that was cast into law in the additional disposition 59^a of the Law 2/2004, on General State Budgets for 2005, in which the mandate of the government was foreseen so that in 2005 measures could be adopted in this regard. Fruit also of parliamentary initiatives has been the aforementioned Law 9/2005, June 6, which specifies only that the compatibility refers to the widow or widower's pension of the Social Security System. In addition to what has been expressed, reference was made to the fact that the group affected was comprised mainly of women who had not been able to access the job market, which meant a deficient social protection in their cases with the resulting outcomes of dependence and precariousness.

The Constitutional Tribunal, in Sentence 154/2006, May 22, has established the condition contemplated in article

MINISTERIO DE TRABAJO Y ASUNTOS SOCIALES **JUBILACIÓN** **REGLAMENTO** **SISTEMA DE ESTADO DE LA SEGURIDAD SOCIAL**

ATENCIÓN: Si ha trabajado usted en el EXTRANJERO debe pedir otro modelo de solicitud.

...Continúe por esta misma página, pero antes de dar de alta todos los apartados y las instrucciones sobre cada uno de ellos. Retiene el impreso de la forma más completa y exacta posible, ya que así facilitará el trámite de su pensión.

GRACIAS POR SU COLABORACIÓN

1. DATOS PERSONALES

1.1 DEL FUTURO TITULAR DE LA PENSION

Primer apellido: _____ Segundo apellido: _____ Nombre: _____

Fecha de nacimiento: _____ Sexo: ☐ Hombre ☐ Mujer Estado civil: ☐ Soltero/a ☐ Casado/a ☐ Viudo/a Si encuentra: ☐ Separado legalmente ☐ Divorciado/a ☐ Concubinato

Ola: _____ Ma: _____ Año: _____

Tiene reconocida pensión: ☐ de 50% a 64% ☐ más de 64% (Incapacidad absoluta de 1ª, 2ª o 3ª grado) ☐ No

Nombre de Padre: _____ Madre: _____ Nacionalidad: _____

Comunidad habitual (país o plaza): _____ Número Seguro Social: _____ País: _____

Código postal: _____ Localidad: _____ Provincia: _____ País: _____

1.2 DEL REPRESENTANTE LEGAL

Primer apellido: _____ Segundo apellido: _____ Nombre: _____

Fecha de nacimiento: _____ Sexo: ☐ H. ☐ M. N.º DNI - NIE - pasaporte: _____ N.º afiliación a Seguridad Social: _____ Nacionalidad: _____

Actúa en nombre del solicitante como: ☐ Representante legal ☐ Apoderado ☐ Cito _____

Si actúa en nombre de una persona jurídica, indique: Cargo que ostente: _____ Cif: _____

Nombre o razón social: _____

Comunidad habitual (país o plaza): _____ Número Seguro Social: _____ País: _____

Código postal: _____ Localidad: _____ Provincia: _____ País: _____

2. DATOS DE SITUACIÓN LABORAL

2.1 ACTUAL

(Trabaja actualmente): ☐ Sí Su último día de trabajo será el: _____ Su último tipo de jornada es o ha sido: ☐ a tiempo completo ☐ a tiempo parcial

☐ No Su último día de trabajo ha sido: _____

Si NO TRABAJA, CAUSA POR LA QUE NO LO HACE:

☐ Está enfermo o accidentado ☐ Es trabajador de temporada ☐ Es demandante de empleo desde hace, al menos, 6 meses

☐ Es trabajador en accidente ☐ Está desempleado ☐ Otra causa: _____

☐ Tiene convenio separado con la Tesorería General de la Seguridad Social. Fecha de finalización: _____

Puede alguna prestación económica por: ☐ Pensión de Orfandad o empresa pública separada ☐ Incapacidad Temporal ☐ Desempleo ☐ Otra: _____

2.2 CUANDO SEA PENSIONISTA:

☐ Va a seguir trabajando en la misma empresa y continuando a la Seguridad Social ☐ En la Administración ☐ A tiempo completo ☐ Va a ser reemplazado en su puesto por un trabajador con contrato de: ☐ Sustitución ☐ Retiro

☐ Va a seguir trabajando en otra empresa y continuando a la Seguridad Social ☐ Por cuenta ajena ☐ A tiempo parcial ☐ Fecha prevista de nueva alta: _____

Form to request a retirement pension. (www.seg.social.es)

29.2.b) of the Order of February 13, 1967, related to the fact that absolute orphans not be eligible for special compensation in cases of death caused by work-related accident or illness, when there is no widow or widower pension, implies indirect discrimination by reason of kindred.

Thus, the application of such a law places children born out of wedlock at a disadvantage to those born to married parents, as recognized by the Directorate General of the Organization of Social Security, in its resolution on July 28, 2006, through which a different interpretation with respect to the aforementioned order is given in order to guarantee the full equality of rights of children, whether or not they be born out of wedlock.

Since 2000, the Ombudsman has continually pressed the Ministry of Employment and Social Affairs to modify the coverage of the full orphan pension linked to the widow or widower's

pension, in answer to criteria of contributive solidarity and fairness. Regarding the cited decision and the resolution by the Directorate General of the Organization of Social Security, the Ombudsman considers that no legal impediments exist to carry out the cited change in regulation, which, as previously mentioned, has been requested repeatedly with special reference to annual reports made in 2000 and 2004.

The gaps that, in the opinion of numerous citizens, exist in Law 9/2005, June 6, in order to make the Obligatory Old Age and Incapacity Insurance (SOVI) compatible with the widow and widower pensions of the Social Security System, led the Ombudsman to request an evaluation of said situation from the National Institute of Social Security, as can be seen in a report sent to the General Courts in 2006.

The problems derived from the incompatibility of the widow and widower pensions of SOVI with the retirement pensions of the Social Security System have been addressed in the section corresponding to them, so this section only deals with those items that strictly concern the compatibility of the old age and incapacity and widow and widower pensions of SOVI, which have received legislative treatment unequal to that received by the widow and widower pensions of the Social Security System, all the more so since the amount of the latter is superior to those established annually for those of the extinct SOVI.

The State Department of Social Security considers that the compatibility of the benefits of SOVI is determined by the requirements established in the governing regulation, and as such it would not be coherent to insert modifications in an insurance scheme that had expired many years ago, and whose objective can be no other than to guarantee a similar level of coverage to that which existed at the time when the insurance expired.

The Ombudsman does not share the cited opinion, especially considering that in the list of reasons for the cited Law 9/2005 it is stated that such pensions represent the lowest in our system of contributive social protection, constituting a significant poverty group made up of elderly people, mainly women; reason for which the incompatibilities existing in the current legislation to which these pensions are subject need to be made more flexible.

This leads to the conclusion that, respecting the residual character of the aforementioned insurance, such a strict regulatory incompatibility justifies the need to make the old age, incapacity, and widow or widower pensions of the aforementioned SOVI compatible, thus eliminating the discrimination that affects this group of people.

OMBUDSMAN'S OFFICE: FORTUNY, 22

More information at:
www.defensordelpueblo.es

EMPLOYMENT

The current paternity permit does not promote the equal division of work and family tasks

The equal division of work and family tasks is essential to achieving equality between men and women, so it is necessary to adopt a series of measures designed to promote the enjoyment of maternity leave by the father as well. Thus, article 48 of the reworked text of the Workers' Statute, passed by Royal Legislative Decree 1/1995, March 24, establishes that the option in favor of the father must be requested at the outset of the period of leave, which, in the Ombudsman's opinion constitutes an obstacle to the full exercising of this right.

The Ministry of Labor and Social Affairs supported the cited criteria, as it constitutes a determining requisite of the effective birth of the right of the father to receive the benefit, opining the Ombudsman, as recognized in different decisions by the social order, that it could be considered a formal administrative demand, which, under no circumstances, should limit the aforementioned right. The option contained in article 48 of the Workers' Statute has given rise to a certain contradiction in those cases in which the mother is self-employed, registered with inclusion in the Special Regulations of Self-Employed Workers, and the father is covered by the General Social Security Regulations, on denying private enterprises the right to suspend work contracts, interpreting that, as self-employed persons not subject to the aforementioned Statute, the mother may not yield that right to another person.

The National Institute of Social Security (INSS) understands that the legislation grants the same rights to self-employed workers as it does to workers under the General Regulations, on considering the ceasing of activity equivalent to the suspension of a contract, supporting said interpretation in the *Resolution 11 bis* of the General Law on Social Security, in sections 1 and 2, which brings workers in the different specialized regulatory areas into line with those governed by the General Regulations, as well as in article 48 of the Workers' Statute, since this very document refers to the fact that both the mother and the father work, without distinction as to whether they are self-employed or not.

Nevertheless, the INSS indicates that the discrepancy in the interpretation of the law was a consequence of the denial of leave to workers under the General Regulations, based on the decision of the Supreme Court on March 18, 2002. For that reason, the Institute states that the aforementioned discrepancy should be treated within the judicial-labor framework which joins an employer with an employee, something which is beyond the jurisdiction of the aforementioned authority.

In conclusion, and in accordance with the criteria of the Institute, the option in favor of the father is an existing possibility when both father and mother are within the framework of the Social Security System.

In the List of Reasons for Law 39/19, November 5, on the reconciliation of work and family life, it is important to emphasize the need to maintain a balance that favors maternity leave in such a way that it does not jeopardize access to work and working conditions for women, which is the reason why the option of



Poster for the Equal division of tasks – released by the Ministry of Public Administrations.

partial or part-time maternity leave was made available through modifications in the law.

Likewise, the Royal Decree 1251/2001, November 16, contemplates the possibility of maternity leave on a part-time basis, which seems to indicate that making working life compatible with home life does not run contrary to the best interests of minors, permitting women to maintain a connection to their job posts, and stopping maternity from becoming an obstacle to professional promotion.

In spite of the above, the National Institute of Social Security considers that the failure to suspend the labor relationship in both enterprises in the case of «moonlighting» (rendering labor services in more than one enterprise) and continuing to carry out work in one of them, the denial of the benefits requested is appropriate. In this case, the concerned party appealed to the social jurisdiction upon being rejected by the Ombudsman, and their decision in this matter remains pending. Decisions by both the Tribunal of Social Affairs, as well as by the appropriate Superior Court of Justice, have been made, supporting the interpretation maintained by the Ombudsman, and the possibility for further actions in this area are currently being studied.

TAXES AND DUTIES

The Income Tax Law incorporates several of the Ombudsman's recommendations

The Law 35/2006, November 28, on the Income Tax on Individual Persons (IRPF), incorporates several recommendations made by the Ombudsman. This will benefit those affected by the collapse of the Carmel neighborhood, separated parents, disabled persons and those granted amnesty.



(Photo: www.aeat.es)

State Tax

Those affected by the collapse of the metro tunnel in Carmel were obliged to pay taxes in 2005 on the public aid they received, since compensation for property damage was not subject to IRPF exemption during that tax year. With the new regulation, the rules governing gains and losses of assets clarify that compensation made by the public administrations due to questions of the civil liability they assume are only taxable if they exceed the amount payable for property damage.

In 2003, a recommendation was made to the Secretary of State for Taxation regarding the need to explicitly state in the IRPF law the tax waiver for compensation granted by autonomous communities to those who suffered incarceration in

penitentiary facilities, as a result of the cases contemplated in the Law 46/1977, October 15, on Amnesty. Although it was communicated to us that the recommendation made had not been accepted, the truth is that this recommendation has been incorporated into the new law through the 19th Additional Disposition. Thus, a formula has been arbitrated for the return of 15% of the amount that for such an item the concerned parties would have paid in their IRPF declarations for each tax period, declaring exempt from tax both these amounts and also the compensation contemplated in the State and Autonomous Community legislation, in order to recompense for incarceration corresponding to the 2006 period.

Likewise, it was recommended to allow separated or divorced parents the deduction for the acquisition of a normal residence with respect to amounts paid toward the mortgages of their ex-spouses, which, until now, could not be deducted. In accordance with the IRPF law, the requirement that the residence be the habitual residence of the taxpayer was impossible to fulfill because of the judicial order obliging them to abandon the residence, as a result of which they could not, in any case, apply the deduction because they were not residing in said residence. The new law has contemplated this possibility in article 68.1, as long as the old marital residence continues to maintain the condition of habitual residence of the common children and the other progenitor in whose custody they remain.

Additionally, article 96 of the Law has modified the limit that the obligation to declare establishes when there are asset losses: now the obligation to declare is waived when the assets lost are under 500 €.

Finally, it is necessary to highlight that the Law also contains several improvements in tax treatment for disabled people, as promoted by the Ombudsman, as a result of a complaint received from a committee of people with disabilities.

Although it is premature to analyze the contents of the Law of 2006, it seems that the change in philosophy of the new regulations basically favors capital gains, without encouraging the concept of long term savings. Moreover, the modification of the system of basic life requirements may end up being unfavorable to taxpayers if the amounts are not updated on a yearly basis, which was recommended in 2005. The reforms made in the tax treatment of pension plan systems are also a cause for concern because their credibility depends on legislative stability over time.



Disabled people will enjoy tax benefits thanks to a recommendation made by the Ombudsman.

ECONOMIC ACTIVITY

The inertia of the public powers exacerbated the damages caused by the Afinsa and Fórum Filatélico cases

The financial scandal around the philatelic investment firms resulted in the submission of 13,980 individual complaints to the Ombudsman. The Ombudsman initiated internal enquiries with all of the implicated administrations. Moreover, it recommended that the Secretary of State for Economic Affairs establish adequate regulations to govern such investment firms that operate with tangible items, and it requested a solution for those currently affected.

The Afinsa-Fórum Filatélico case

As a result of the judicial enquiry into the Afinsa and Fórum Filatélico investment firms, it was publicly announced that the legislation governing the sector of tangible goods was clearly deficient as there was only a brief regulatory exclusion applicable to collective investment firms contained in the Fourth Additional Disposition of Law 35/2003, November 4, considering them subject to the protection of consumption and establishing a minimum sanction regulation, without the support of a specific unifying legislation for the entire State.

The social alarm that was raised in the days after the judicial intervention, and which caused citizens to approach the Ombudsman's office *en masse* to submit a total of 13,980 individual complaints, underscores the vulnerability of the small investor with respect to these types of institutions. This situation is exacerbated by the lack of appropriate legislation governing

the sector and by the resulting lack of protection for the aforementioned investors as well as for the entire national economy because this situation supposes the loss of savings for many families, leading to a destabilization of the economy as a whole. The fact that said firms may have been investigated by the State Agency of Tax Administration since the mid 90s points to the fact that indicators of irregularities have been turning up for quite a long time. It seems necessary to attempt to learn the reasons why action was taken by the different public administrations so late in the game with respect to both intervening as well as simply informing the public on the risks that such firms presented to their investors.

Since this is treated as a matter between two private parties, and as a result these cases pertain to the Courts and Tribunals of Justice, all of the affected citizens were provided with the most complete information possible regarding the process required to certify their status as a person affected in the open case, as



Affected investors in Afinsa and Fórum Filatélico submit complaints to the Ombudsman in Madrid.

well as the rights they had, both in the criminal as well as civil proceedings, and also the possibility to approach the public administrations and associations in order to exercise them.

Nevertheless, internal enquiries were initiated with the administrations involved in the regulation and control of this sector. In this respect, information was requested from the Secretary of State for Economic Affairs regarding planned legislation and palliative measures that the Ministry of Economy and Taxation might be studying for this specific case; from the State Agency of Tax Administration regarding the delays that occurred in the communication of presumed fraud to the consumer authorities and from the very Ministry of Economy and the Undersecretary of Health and Consumer Affairs regarding whether the entities under investigation had complied with auditory and accounting regulations and requirements.

The Secretary of State for Economic Affairs stated that there had not been a legal vacuum in the matter, since the protection accorded to savers is that which is provided by the authorities in charge of Consumer Affairs in the corresponding autonomous communities, protection claimed to be sufficient and ideal. They did not state that there had been a lack of coordination among the different public administrations which might have represented a breakdown in the protections accorded to the affected parties, due to the fact that the actions of the State Agency of Taxation Administration must be carried out with the privacy inherent in their functions, which, moreover, is required of them by law; all of which means, in their opinion, the labor of the administrations involved has been adequate and irreproachable as per current legislation.

Finally, the Secretary of State for Economic Affairs alluded to the government's interest in bolstering the mechanisms of transparency with respect to the tangible goods investment firms, and the creation of additional measures in the future that would reinforce the existing legislative guarantees, reiterating, nevertheless, that the only authority qualified to deal with this matter is that of Consumer Affairs, thus changes in the legislation are not foreseen in this aspect.

With respect to palliative measures, the Secretary of State for Economic Affairs considered the possibility of studying the granting of «bridging loans» which would advance the recovery of amounts that the affected parties would be entitled to as a result of the legal process currently under way, as well as the study of measures designed to mitigate the impact that the loss of purchasing power would have on particularly vulnerable groups, such as pensioners who were unable to request the amount they were entitled to in order to make up a minimum social security payment, due to the deposit they maintained in the firms under judicial investigation.

The Undersecretary of Health and Consumer Affairs did not know if the firms under judicial investigation had fulfilled their auditory and accounting obligations, since, considering that it was an autonomous community matter based on the registered address of the business in question, the Autonomous Community of Madrid would have authority in the matter. Nevertheless, the Department of Health and Consumer Affairs of the Community of Madrid responded stating that the F.F. and Afinsa Firms had a range of business activities that spread over all of the autonomous communities, meaning that it could not be

circumscribed in territorial terms based on the address of its headquarters.

The investigations directed to the State Agency of Taxation Administration also contained a request for information regarding tax measures intended to help those affected and to set tax payment methods for amounts received since the Directorate General of Taxation had interpreted in two inspections that said amounts were taxable as capital gains obtained by the sale of personal property, as opposed to the certificates issued by the implicated firms, which classified them as property gains, and also, in light of this, to request that an information campaign be carried out to shed light on the tax questions pertaining to this matter.

The State Agency of Taxation Administration replied that any measure had to be based on existing legislation and that an information campaign was not considered to be suitable because each contract has to be taxed according to its own specific stipulations. They concluded that the services they offer to citizens were also available to those affected, and that, consequently, they fulfill the required objectives for information.

After studying this information a recommendation was made to the State Secretary of Economy in order that opportune measures might be adopted to provide adequate legislation for investment firms dealing in tangible goods. The search for a solution was also recommended that would help those currently affected by the judicial intervention of the Investment Firms and Tangible Goods, taking into account that the public authority's failure to control a situation they knew about in advance has exacerbated the negative economic impact due to the fact that more timely information regarding the irregularities committed by these firms would have dissuaded many investors, ever since 2004, from depositing their savings into them, thus limiting the extent of the damage. This recommendation had not received a reply by the time this report went to print.

Consumer Affairs

Even though the number of complaints directed toward the Ombudsman regarding consumer rights continues to rise, the fact is that in most cases the affected citizens had not previously reported the reasons for their complaints to the corresponding consumer agency. This points up the fact that although public awareness is growing with respect to the rights that protect consumers and users of services, they lack knowledge of the appropriate procedures and methods to defend them.

As for complaints filed by those citizens who had indeed directed their queries to the appropriate consumer agency, they have centered around the failure to reply by the administrative organizations, and the failure to communicate to concerned parties the causes of the complaints filed and the reasons why the facts reported were deemed not to be an administrative infraction despite the evidence provided.

In these cases, the Ombudsman has notified the Administration that the inspecting authorities of the consumer organizations should spur the latter to comply with regulations meant to protect consumer rights.

TRANSPORT AND COMMUNICATIONS

The Ombudsman kept close watch over the Air Madrid situation

Although the relations between citizens and the company have private legal content, a fact that hinders this Institution, several actions were initiated internally.

In the month of November an investigation was initiated internally with the Secretary General of Transportation, under the Ministry of Public Works, due to the large number of complaints received describing the breach of contract between the Air Madrid airline company and its passengers, and also as a result of the great degree of attention being focused on this issue in the written press regarding this issue. Dealings between citizens and the airline have private legal content, which hinders an intervention by the Ombudsman, but it was possible to take action in the following areas: firstly, the transfer of the conclusions of the investigation of Air Madrid that according to the media was being conducted by the Directorate-General for Civil Aviation in application of the Law 21/2003, July 7 on Air Safety as a result of the delays suffered by that company; secondly, whether any provision existed to arbitrate a measure similar to the one that was adopted with respect to the problem in the El Prat airport on behalf of passengers affected by Air Madrid flight delays and cancellations there, and, finally, supervision of the fulfillment of EU regulations, as the Directorate-General of Civil Aviation is the administrative body with jurisdiction in Spain to enforce compliance with what is laid down in Regulation

(EC) 261/2004 of the European Parliament and Council, February 11, 2004, which establishes common rules regarding compensation and assistance to air passengers in case of denial of passage, flight cancellation or lengthy delays in flights, the total number of complaints submitted by passengers in disagreement with Air Madrid in the last few months, as well as the status of each case.

Subsequently, in the month of December, and in light of the significance of information being made public in the media with respect to such important areas as safety conditions and safety inspections which the aforementioned airline had been subject to by the Spanish authorities, the scope of the investigation was widened to include a request for transfer of information regarding the requirements necessary for an airline to be granted an Air Operator's Certificate by the Ministry of Public Works, as well as the requirements for its renewal, with explicit reference as to whether Air Madrid had fulfilled those requirements in its last renewal. Additionally, information was requested on the safety inspection activities said airline had been subject to as well as the results of those activities. By the time this report was drawn up, no response by the Administration had been received.



The Ombudsman initiated an ex-officio investigation into the Air Madrid case. (photo: EFE)

THE ENVIRONMENT

Abusive practices in the tourism sector were at the forefront of complaints related to the Environment

Tourism management continued to have a huge impact on protected natural areas in 2006. The investigations carried out by the Ombudsman continue to show that the Administrations are approving public works and permitting and promoting inadequate uses and practices that have a negative impact on the conservation of natural spaces. Additionally, there were numerous complaints related to excessive noise, both from public works as well as from popular festivals.

Environmental problems addressed to the Ombudsman give rise for the most part to the very lengthy investigations that may be drawn out over the course of years because, by their very nature, they do not admit quick solutions. Bureaucratic and administrative delays frequently make matters worse because they are often reactive rather than proactive —a *Pollute-first-and-fix-it-later* dynamic that is made even worse by slow government reaction to environmental infractions. In the meantime, a few benefit (those who pollute) whereas others suffer the consequences (the affected). The Ombudsman focuses its efforts against this state of affairs in protection of the environment.

The administrations frequently continue to deny access, using invalid arguments with no basis in the law, to information generally through silence. For this reason, the Ombudsman continues to prepare notifications of legal duty and suggestions, above all when a request is denied because such denials must be reasoned.

Evaluation of environmental impact

The ideas that we share nowadays regarding sustainable development and environmental evaluation require that

we change our perspectives, and, consequently, begin to effectively calculate the sum of the effects that new infrastructures have on areas already affected by previous ones. The objective of environmental evaluation is that the consequences of a policy, plan, program or project for the environment be taken into account in the earliest phase possible (preparation) of the decision-making process, with the same conditions as those for economic and social considerations, and to such a degree that even the decision to scrap a plan or project might always remain an option. Sometimes a project or a series of projects, despite not having received a full environmental impact study, has indeed been evaluated in environmental terms in some way. A prototype case, due to its relevance and the huge number of complaints generated by it, can be found in the restructuring project for the M-30 beltway in Madrid. This case presents a complex series of diverse problems, all of which coincide in time and location: noise pollution, transit difficulties (pedestrian and vehicular), air pollution, dubious urban and territorial planning, negative impact in public transport, and so many other facets. That is to say, it represents a motley scenario whose full appreciation is within reach of very few.



Panorama of the southern interchange of the M-30 beltway at Puente de Praga.

Protected areas

During 2006, the Ombudsman has continued to push for improved supervision of the tourism sector due to its impact on protected natural areas. The investigations carried out by the Ombudsman continue to show that the Administrations are approving public works and permitting and promoting inadequate uses and practices that have a negative impact on the conservation of natural spaces that were justifiably and officially declared as such. They do so invoking supposedly conservationist reasons, which obscure a search for economic development opportunities that are motivated by an underlying desire to make protected areas profitable. On this subject, certain strip mining operations in natural areas should be pointed out as they have generated a considerable number of complaints. Most of the complaints regarding natural coastline can be placed into one of two categories:

a) Those of private parties who complain about irregularities in property boundaries. Practically all of these



Seaside residential complex in the Canary Islands. (www.Atan.org)

complaints are unfounded as the state administration maintains property-surveying practices that, generally speaking, can be considered adequate. The reality usually turns out to be the contrary: the administration usually comes up short. In other words, it includes in the public, maritime-territorial domain fewer properties than those to which it is legally entitled.

b) Ecological associations and groups that take on more ambitious plans to recover degraded coastline, such as blocking entry to new structures (coastal urbanization and development). In this respect, the prohibition of architectural barriers or the accumulation of structures in the protected area—at least 500 meters from the official coastline as well as from the parking site in the transit zone—is practically unheard of, giving the impression that the public administrations have nearly forgotten about this legal instrument.



Sign indicating a protected space in the Canary Islands. (www.Atan.org)



Rubbish dumpsite. (www.Atan.org)

Coasts

A certain lack of coordination has continued to be the case between city halls and the state coastal services in the supervision of seasonal establishments and noisy or irritating beach activities. On the coast, problems derived from pollution in general, and more specifically noise pollution in the summer season with the concomitant loss of «soothing seaside sounds» and delays in the disposal and treatment of wastewater.

Inland waters

In this area actions have been taken to find out the reasons why ecological flows are not established in the Hydrological Plan for the Southern Basin. In this and other cases the difficulty of the hydraulic administration to reconcile the establishment of said flows with the maintenance of current, already granted exploitations.

Waste Management

As for the prevention and management of waste, the actions carried out reflect the high degree of citizen concern due to the nuisances arising from rubbish dumpsites or sewage treatment plants. In some cases, residential opposition delays the start up of waste management and treatment projects that comply with the requirements of environmental impact studies and are necessary to protect public health and the environment. The problem around the use of livestock waste as fertilizer should also be remembered, as in previous years, as the Waste Law of 1998 was not developed in accordance with regulations. In spite of the suggestions offered, the situation remains at a stalemate due to the lack of consensus among ministerial departments, who disagree even with respect to whether or not purines constitute waste according

to EU law. A similar problem is posed by the scarcity of recycling containers for batteries in cities, and the relative lack of information that the administrations provide with respect to their selective collection of them.

Noise Pollution

Complaints due to administrative passiveness with respect to problems among neighbors are particularly difficult, leading to the creation of this section in 2006. Neighbor relations represent the origin of what we now refer to as «environmental rights». The Ombudsman has detected the following while dealing with complaints related to disputes among neighbors: a certain municipal passiveness; a lack of awareness among city halls regarding their legal obligations; the proximity of general problems to one specific, but very common one: Noise; the difficulty in facing up to the lack of civic-mindedness of certain people; and the lack of coordination among municipal departments. Some responses from city halls affirming that domestic affairs are outside the scope of the Noise Law do not take into account that this law explicitly includes domestic activities or behavior of neighbors who cause noise pollution that exceeds tolerable limits.

From the number of complaints received, one of the most relevant areas of the Ombudsman's activity as regards the environment is surrounding the noise caused by public works. In many of the cases studied inadequate proper planning by authorities and technicians has been observed, if not complete ignorance with respect to the negative impact caused by the execution of these works. The objective is, for example, to have clear knowledge regarding the working hours for night shifts in a neighborhood as well as the proposed dates. Very few advances have been made with respect to airport-generated noise pollution. It has already been stated that the administration of infrastructures, and this is very clear at airports, chooses to «pollute first and fix it later». Noise begins when an installation is put into operation, whereas it takes a long time to address the problem and correct it. Of course, in the interim, those who suffer the consequences are the occupants of the nearby residences.

Classified activities

Five groups of problems may be highlighted: 1) the difficulties that persist among the autonomous communities to exercise their authority to substitute city halls—in very clear cut cases—when the latter demonstrate passiveness; 2) the need to improve the planning of public works in order to avoid unnecessary inconveniences to residents; 3) the lack of effectiveness of administrative actions; 4) the waivers illegally granted by the administration in benefit of one private party and to the detriment of the community; and 5) the problems arising from fairs and local festivals, which generate inconveniences for residents—another year of serious annoyances and disturbances affecting the normal flow of neighborhood life due to these local celebrations. The administration usually states in an excessively emphatic fashion that it is «impossible» to avoid the situations arising from organization of traditional festivities. Nevertheless,



High-tension power line network. (www.Atan.org)

for example, the modern public address systems have nothing to do with «tradition». We do not share the opinion of the administration that such nuisances are unavoidable, and that we must simply resign ourselves to permitting, during several days a year, that the lives of residents be subject to virtual «torture», as has been described in some complaints.

High-tension lines

The decline, both in number as well as in severity of the complaints referring to high-tension power lines and mobile phone infrastructure, has become evident. Basic problems continue to exist with respect to the location of installations, inadequacy or complete lack of proper planning (programs for network installations), and a lamentable, and not infrequent, urban disarray. Internally motivated actions have been conducted to obtain updates on the problems surrounding telephony and electrical distribution networks. The latest information received from the Ministry of Health and Consumer Affairs are stated in the «Ministry of Health and Consumer Affairs Report on the Enforcement of the Royal Decree approving the Regulations that Establish Conditions of Protection of the Public Radio-spectrum Domain, Restrictions in Radio Emissions, and Radio Emission Health Protection Measures». In this regard, as can be seen in the conclusions of the report: a) the application of the Royal Decree has led to the protection of public health with respect to exposure to radio emissions; b) the average levels throughout national territory are far below the limits considered safe by national and international committees; c) currently, in light of scientific knowledge, there are no health reasons which would justify a change in the exposure limits established in annex II of Royal Decree 1066/2001; d) the perception of risk in some social sectors, although legitimate, is not corroborated by the available scientific evidence, which has not observed adverse effects to public health derived from exposure to electro-magnetic fields emanating from base stations.

URBAN PLANNING AND HOUSING

Toward a sustainable and transparent land and urban development policy

The Draft Bill for the proposed Land and Urban Planning Law will strengthen the Ombudsman's position in its investigations on urban planning, be it general or developmental. The Ombudsman's office stresses the need for the Public Administrations to adopt measures that guarantee a real and effective supervision of the urban development projects that are carried out in all municipalities.

Urban Planning

Land and Urban Planning Law. In line with what the Ombudsman already pointed out in its 2005 annual report, the Draft Bill for the proposed Land and Urban Planning Law, whose referral to Parliament was approved by the National Government on July 14, 2006, has the primary objective of promoting sustainable land and urban development, considering this as a rational and viable form of development in the medium term that responds to the parameters of economic efficiency, environmental quality, and social cohesion. As was already emphasized last year, the Draft Bill has several fundamental aims that can be summed up in four areas: 1) to improve transparency in the sector as well as participation of the citizenry in the urban planning decision-making and supervisory procedures; 2) to establish urban policies on the basis of sustainable territorial and urban development; 3) to effectively earmark more land for the development of subsidized housing projects; and 4) to promote the streamlining of the land and urban planning markets by discouraging speculative practices. To achieve these goals new instruments are being implemented. One that may be highlighted is the provision set forth in a Citizens' Statute that reaffirms the right of citizens to decent and adequate housing at a



The Draft Bill for the proposed Land and Urban Planning Law has the primary objective of sustainable land and urban development.

reasonable price in terms of their respective financial capabilities, prevailing over and above the interests of private real estate firms, the right to public funding and publicly-funded facilities, and the right of citizens to information and to their effective participation in urban development projects. Housing and all of the additional facilities and services around it should be treated as a citizens' right and as a duty of the public authorities to guarantee citizens access to it. Additionally, transparency and citizen participation in land management and urban planning issues are promoted, establishing the mechanisms necessary to reach these goals.

Without a doubt these measures will significantly reinforce the position maintained by the Ombudsman when carrying out investigations on the urban planning processing and approval procedures, be they general or developmental. It is not infrequent, thus, that the Ombudsman should have to remind city halls that the processing of public information is considered a fundamental element of our urban planning legislation. The absence or defective or partial fulfillment of this requirement has very specific consequences that lead to the retroaction of the case back to compliance with this legally established procedure, insofar as such non-compliance infringes a constitutionally recognized right of citizens, the right to public participation. Another of the objectives that are sought by the Draft Bill for the proposed Land and Urban Planning Law is to ensure that sustainable urban development be subject to previous environmental impact studies. Urban planning legislation in force in some autonomous communities already contains provisions in accordance with Law 9/2006, on the evaluation of the environmental impact of certain plans and programs. It is known that the law establishes that any plans and projects be subject to strategic environmental evaluation, along with any modifications of them, if the possibility exists that they might have a significant impact on the environment, and also that they might fulfill the two following requirements: a) that they be prepared or approved by a public administration, and b) that their preparation and approval be a legal or regulatory requirement by agreement with the Council of Ministers or the Governing Council of an Autonomous Community. A significant effect on the environment is produced by those plans and programs contained in the categories which establish the framework for the future authorization of projects legally subject to environmental impact studies as regards urban and rural planning and land use.

Thus, there should be little room for doubt regarding the applicability of environmental impact studies on urban planning. In the Ombudsman's opinion, the preliminary study of urban plans should have to fulfill an environmental impact evaluation requirement prior to acceptance or approval; and in cases where this is lacking, a strategic study should take place prior to the adoption of precisely strategic decisions. In other words, the requirement consists of including a report on the appropriate environmental sustainability among the documentation for a preliminary urban planning study, and this report will be indispensable at the time acceptance is requested from the urban administration. The preliminary urban planning study should be environmentally evaluated prior to acceptance, and, thus, upon admission for processing the following will continue: 1) consultations, 2) the keeping of an environmental record by an environmental organization, and 3) the consideration of all of this before the administrative (strategic) decision to accept or reject it, with publication of the information obtained that includes the so-called «zero option», or, rather, the decision



Many analysts believe that we may already be seeing a change in the tendency of price increases for unsubsidized housing.

not to undertake the urban plan or program. The idea is that the environmental study should not merely be an additional bureaucratic «step» for a pre-approved plan, but, rather, an examination to determine whether or not the plan (even during preliminary planning stages) is environmentally viable, or whether the option not to accept the plan for processing is assured.

Moreover, said Draft Bill on the Land Law refers to the reports that «at least» must be compiled in the consultation phases regarding instruments involving the development of urban planning projects, even if the aforementioned is detailed later with the comment «when they become mandatory,» including those related to the Hydrographic Confederation regarding the inadequacy of water supply, of the coastal administration regarding surveying and boundaries and the protection of the public domain, and those of the administrations of roadways and other infrastructures, regarding said feature and the impact of actions on its service capacity. Special mention should be made of the reports that the river basin authorities must issue upon approval of said urban planning projects. Complaints are common regarding the approval of planning instruments by the public administrations without prior certification that water supply may be guaranteed to satisfy the demands that will be generated by the new subsidized housing. In the Ombudsman's opinion, said report should be issued as a prerequisite to provisional approval and, moreover, it should be binding, such that in cases where approval is denied, or, in other words, that adequate water supply cannot be guaranteed to attend to the new demands, this should be sufficient to prevent the planned urban planning project from being carried out.

The Draft Bill attempts to guarantee the availability of land for subsidized housing through the setting aside of a percentage-based minimum allotment of land earmarked for such a purpose that comprises 25% of all urban development. Moreover, an attempt is made to achieve a greater efficiency in the functioning of the land market through discouraging practices of rezoning and speculative property holding. At the same time, a better regulation of public lands is sought, ensuring their consideration as a public possession linked to certain objectives of social interest, mainly, as previously mentioned, the construction of subsidized housing, and with enough flexibility so as to be adaptable to the real needs of each municipality.

Without a doubt one of the improvements addressed in the Draft bill regarding the public management of lands, is governed by a new set of legislation that is established over the real and current land, without taking into account the possible expectations derived from the granting of building and usage permits by the corresponding legislation, that have not yet been fully carried out. The Draft bill seeks prudent, non-speculative, market values, and, in any case, guarantees adequate compensation to property owners when they cannot participate in urban planning, in the same way that the business initiative of the sector is not taken into account.

After the parliamentary process for the Draft Bill for Urban Development and Land had been initiated, the amendment period came to a close last November, and nearly all of the

parliamentary groups presented some, most of which were aimed at trying to mitigate the climate of social alarm that has beset the country, caused by the hardships found in purchasing homes, the predatory use of land with resulting serious environmental damages, speculation and above all the recent urban planning scandals. We should wait until the parliamentary process for the law has ended to see what modifications are finally entered into the text, although the Ombudsman trusts that the initial objective that motivated the Ministry of Housing to seek it will be respected: to build solid economic and environmental foundations for the organization of such an essential resource as housing, against speculation and in favor of better transparency and credibility.

Execution of planning

The urban planning laws contain different mechanisms to carry out the execution of urban planning and the corresponding transformation of the property. The difficulties that have been seen by the Ombudsman in the development of different action systems arise from various circumstances. In the cases of execution through public initiative, the difficulty springs from the unpopularity around expropriation proceedings and the incapacity of certain administrations, particularly city halls, because they lack the human and capital resources to lay out the capital investments. This selfsame problem occurs in systems of mixed action, or, rather, when city halls must advance the cost of execution for urban planning projects without affecting the subsequent repercussions to the individual property owners.

As for enforcement cases through private initiative, the greatest number of complaints received by the Ombudsman regarding the system of compensation, the main reasons for complaint are the resistance to join compensation groups, excessive processing delays for both the constitution of these compensation groups as well as the joining of proprietors and the expropriation of those who have not joined the system, the scarce municipal collaboration to apply a fast track solution in cases of failure to make payments, city hall delays in the reception of works, and in the assuming of conservation functions for an urban project or the simultaneous execution of this and the construction, and finally the generalized tendency by city halls to wash their hands of any possible irregularities that arise in the compensation groups, on considering their functioning and actions as if they were merely a mechanism of self-administration, and failing to consider that these groups actually represent auxiliary organizations of the very administration and that they depend on the latter, among whose governing body a municipal representative is even found as member.

Finally, it is important to point out that the problem that really underlies the application of systems of private initiative is that the original land owners do not normally want to invest in their own lands, nor do they wish to pay for expenses incurred in planning, the fair distribution of benefits and payments related to rezoning and above for the execution of urban planning works, preferring simply to wait for their lands to be reappraised at a higher value in order to sell them to real



In the Ombudsman's opinion, new advances in urban planning must be evaluated for environmental impact before being accepted or approved.

estate development firms. In these cases, we observe that city halls, generally, are not willing to adopt certain measures or mechanisms that, by the way, the very autonomous law places at their disposal to guarantee the execution of planned urban development in those assumptions of non-compliance with established deadlines as per the approved plan, as is the substitution of the execution system with another of public or mixed management.

As a consequence of the circumstances described that the delay in urban development and the lack of willingness on behalf of the local governments to adopt the legal measures in their power have obliged the legislator to introduce changes in the laws that establish procedures for intervening on behalf of private, non-land-owning entities so that they pay for the expenses that the real property owners refuse to assume, derived from the planning and execution of an urban project. Said procedures revolve around the figure of an urban planning officer, which the Ombudsman has alluded to in the last parliamentary reports.

Given this scenario, once again it is necessary to appeal to the public administrations, just as the Ombudsman has been doing year after year through the reports that it presents on its actions to Parliament, in order that they might adopt as many measures as necessary to ensure a real and effective supervision of the urban planning processes that are carried out in nearly all of the municipalities —not only in coastal areas— in such a way that the growth of our cities is conducted in terms of rational planning which sets boundaries on the space available for that growth, balances cities in social and territorial terms, and preserves environmental heritage for future generations, recovering healthy urban spaces which are apt for city living.

Housing

We restate in this report the opinion of many analysts who consider that we may be in the midst of a change in tendency with respect to the rising costs of unsubsidized housing, in view of a

comparative flatness, at least in some areas, in the appraisal values applied to homes during the mortgage loan process, and also that for several months banking institutions have been applying risk analyses much more strictly than they have in the past before granting a mortgage loan. It is crucially important that said housing prices be contained and that they fall into line with the income levels and purchasing power of private citizens.

Additionally, the increase in objectives stands out, both in terms of number of home-purchases to finance as well as the amounts from the budgetary resources that the State offers to pledge, from 3,380.30 million euros in the 2002-2005 plan to 6,822.06 million euros in the 2005-2008 plan, and also the approval of Law 36/2006, November 29, on measures for the prevention of tax fraud, in the modification that was introduced regarding article 24 of the Law of May 28, 1862, on the notary profession, through which an attempt is made to obtain information for improved control of transfers and of the effective uses applied to real estate. These requisites will presumably render less attractive certain merely speculative practices in the real estate sector, among others, in which numerous contractual transfers regarding homes in the tax free construction phase have been made, which have resulted in an artificial and unjustified rise in prices for the end buyer who signs the purchasing contract with the builder, and for the entire sector.

In the report, the possibility of a reform in the Ministry of the Interior's policies has arisen which would make viable the transfer of residences in its power to Civil Guard officers, in a similar fashion to the regulatory process for those belonging to the Housing Institute of the Armed Forces (INVIFAS).

Also reiterated was the need for the establishment by Royal Decree of an obligatory rule to ratify any of the guarantees contained in article 19 of Law 38/1999, November 5, on Building Ordinances, due to the property damage resulting from infringements or defects in execution that affect finishing elements in works, and due to infringements or defects in building materials or installations that result in the non-compliance of the requirements for inhabitability that are set for buildings whose main purpose is residential.

The Housing Institute of the Armed Forces has reiterated its decision that the clause that includes the renters in the title deeds of military housing and also by which buyers of said housing must renounce the right to warranty and repair of hidden defects is not abusive, which runs contrary to the Ombudsman's opinion and that of recent judicial decisions. On the other hand, the Institute has shown willingness to avoid situations such as those that were subject to legal action through a stricter control of housing appraisals, accepting as such the Ombudsman's recommendation.

CIVIL SERVANTS

Toward guarantees of equal access for people with disabilities to Civil Service posts

During 2006, the number of resolutions by the Ombudsman directed toward guaranteeing equal access for people with disabilities to Civil Service posts is clearly noteworthy. Additionally, in the quest for equal opportunities, actions have been carried out with respect to certain civil service examinations that excessively favor interns in detriment to citizens outside these administrations. The Ombudsman has also dealt with the reconciliation of life and work among members of the Civil Guard. Moreover, Law 8/2006, on troops and navy, contains the recommendations made by the Ombudsman and offers more work stability and social protections to temporary military professionals.

General Civil Service Regulations

After intervention by the Ombudsman, the National Institute of Public Administration has decided to instruct the courts to act within the scope of their authority to ensure the recognition of the right to a sign language interpreter among the adaptations of means that must be carried out in the corresponding examinations.

With this and other measures, far from establishing privileges for people with disabilities, an attempt is made to compensate for an initial disadvantage when facing the corresponding examinations for selection of personnel, in accordance with the provisions of article 49 of the Constitution.

With the same objective of implementing positive actions that promote equal opportunity, and regarding the civil service examination for AENA firemen vacancies, it has been

made clear to this Organization that, considering the fact that physical aptitudes for women are inferior to those of men, different minimum marks should be required in the corresponding physical tests.

With respect to selection processes, it should be pointed out that the City Hall of Madrid has accepted the suggestion that applicants be allowed to see, in multiple-choice examinations, not only the answers that were deemed correct by the grading panel, but also the answers they gave during the examination.

In this regard, the Direction General of the State Agency of Taxation Administration communicated to the Ombudsman that, even if the current legislation did not require the administration exams on carbon copy answer sheets, the possibility of using this system in future civil service examinations would be studied.

The investigations undertaken to determine if there is equality in the civil service examination process show that, on occasion, some local entities have drawn up examination ground rules to restrict the participation of citizens and favor certain applicants who have, generally speaking, internship posts or temporary jobs, to the detriment of other citizens not associated with the administrations. An example of these practices, contrary to the principles of equality in the access to public posts, is the number of complaints that make reference to the requirement for high fees paid for the right to sit an examination and participate in the selection process.

As for the mobility of civil servants, during 2006 various civil servants have lodged complaints with the Ombudsman regarding the difficulties encountered in seeking a transfer to other locations or towns for health or rehabilitation reasons, either for themselves or for family members, as per the provisions of Law 39/1984, on Tax, Administrative and Social Order Measures.

The administrative units affected by said transfers place impediments, in some cases because they do not want to lose a civil servant, and in others because they do not want to receive an unknown employee with health issues.

Apart from the investigations carried out into these complaints, an internally motivated investigation was initiated to inform the Ministry of Public Administrations of these facts, which are resulting in a failure to ensure the right of mobility for civil servants due to health reasons. The non-inclusion of vacant posts in the transfer process because they are temporarily occupied has also been criticized. When these vacancies are finally published, they are allotted to the person occupying them without a previous contest of merits, and with the addition of points derived from the time spent performing the functions of these posts.

An internally motivated investigation was initiated with the Secretary General for Public Administration regarding harassment in the area of Civil Service, the preventive measures that were planned, and the possibility of promoting an action protocol to prevent such situations.

Statutory staff in the health services sector

As for health services staff, there are various internally motivated investigations open, among which those related to violence in the workplace, mobility, type-approval for studies and salary levels, training resources and need for health professionals should be underscored.

An investigation has also been initiated with the aim of determining the existence of violent acts in the workplace, and the offering of support to victims. Reports have been requested from the Ministry of Health and Consumer Affairs and from all of the autonomous communities to gain a deeper understanding of the incidence and actual reach of this problem and the specific measures already adopted or soon to be implemented.

Also internally motivated, an investigation is following up on the adequate development of a legal framework established for staff, through investigations that were expressed



Marine vessel. (www.mde.es)

in the 2005 report, that deal with issues such as mobility, the general criteria for type-approval for professional careers and salary levels, and the differences that exist between professional counterparts in different autonomous communities.

Finally, another internally motivated investigation on the registry of statutory staff and the necessary coordination between needs, training resources, and the demand for health professionals.

Due to its high level of impact in staff management, it is necessary to persist in our opposition to the accumulated delays in the development and conclusion of the extraordinary process of employment consolidation, as per Law 16/2001, November 21.

As for the recommendations made in 2006, it is important to highlight the one made to the Board of Health of the Community of Madrid, to give the necessary instructions so that administrative acts that are susceptible to the limitation of subjective rights or legitimate interests be reasoned as per article 51.4 of Law 30/1992, once family leave assigned for the purpose of child care has been analyzed. Moreover, as regards maternity leave in favor of the father, the Social Security Administration has decided to amplify the established criteria in the Instruction 20304/76, in favor of a more flexible interpretation of the option exercised by the mother if the circumstances were exceptional.

Educational Civil Servants

With respect to non-university education, and the geographic mobility of teachers, the educational administration has stated that, once the Organic Law 2/2006, May 3, on Education (LOE) has taken effect, adequate legal measures will be adopted to address problems of mobility. It is important to highlight, in this regard, the situation

described by a married couple, both of whom are teachers, with respect to the regulations that govern transfer processes, in which there is no provision for automatic renunciation when both have requested a post in the same province and one of them has not been assigned to that location.

Additionally, and with respect to complaints lodged by applicants for civil service examinations in the selection process for educational institutions, the Undersecretary of Education and Science has stated that the Personnel Commission of the Conference of Education has assumed the goal of advancing in the search for ways to improve the transparency and publicity of selection panels' criteria, adding that, in line with the Ombudsman's point of view, the development of legislation for the Educational Civil Service is necessary and it should guarantee a common basic framework. The establishment of a fair system is emphasized, one which is fully adapted to the constitutionally guaranteed principles of access to Civil Service, given the significance of it, both in terms of job stability for educational interns as well as of the access of new staff to this job market.

In this regard, it should be highlighted that the number of citizens who observe that a disproportionate increase in recognition for previous experience in the competition phase, might seriously jeopardize candidates who only have their academic records and other merits to offer.

Finally, the Ombudsman has reminded the Board of Education of Andalusia that they must include measures that prohibit discriminatory treatment toward adoptive maternity so that foster parents may acquire the leave time necessary to gain an adequate training. In this regard, a teacher questioned a memorandum by the Human Resources Department that did not contain authorization to attend training courses for cases of adoption.

In the area of university education, investigations have been conducted with the Secretary of State of Universities and Research with respect to the global deficiencies observed in the evaluation system carried out by the National Evaluation Commission of Research Activity (CNEAI).

This institution has insisted that, above all other concerns, guarantees need to be established to ensure the most absolute objectivity in the evaluations conducted. It would also be desirable to have a specialist in the subject of research being examined present among the group of evaluators.

Staff at the service of the Administration of Justice

Problems have arisen in this area that affect the right of civil servants to return to active duty, and difficulties have been detected with respect to paying remuneration to substitute judges and magistrates by the Ministry of Justice. As there were insufficient funds available in the existing operating budget there would have been appeals once it ran out.

Staff at the service of Penitentiary Institutions

The Ombudsman has continued to receive complaints from citizens who attempted to access the female branch of the Assistant Corps of Penitentiary Institutions and who question the fact that the two branches of this Corps have not been joined. Even considering the existing difficulties it seems clear that, as long as separate branches exist, the supply of posts for each of them will be determined by staff needs in terms of the penitentiary populations, thus there will always be a lesser demand for females in these posts.

For this reason, the head of the Department of the Interior has been notified that, in application of the right to equal opportunity, the best way to approach the problem of a smaller representation of one of the two sexes is through the aforementioned joining of the male and female branches.

Staff at the service of the Military Administration

Until the final approval of Law 8/2006, April 24, on troops and navy, given the situation that affects temporary military professionals, investigations have continued with the military administration. Soldiers and sailors continued to express their concern with respect to the temporary nature of positions along with other factors related to the model on which the professionalization of the Armed Forces is based.

The new law defines a legislative framework which guarantees temporary military staff a longer association with the Armed Forces, emphasizes job stability and efficacy in the system and improves personal expectations, opening a door to a longer service relationship with the Armed Forces, a successive progression of job opportunities, and other complementary measures toward social protection.

Moreover, the fifth additional Disposition regulates, for the first time explicitly, that complementary military personnel and army and navy professionals who upon termination of their duties with the Armed Forces, are deemed to be in a situation of temporary incapacity due to accident or illness derived from their service, or in cases of pregnancy, birth, or maternity, will not be subject to discharge until such time as these special circumstances have ended.

This Disposition responds to a recommendation made in due course by the Ombudsman.

Security Forces and Corps Staff

With respect to the **Civil Guard**, it should be emphasized that, firstly, by Royal Decree 991/2006, September 8, on the development of the basic organizational structure of the Ministry of the Interior, a new General Authority was created for the Police and for the Civil Guard, establishing a sole command for the State Security Forces and Corps which directs and coordinates their actions. During 2006, the Ombudsman continued to act with respect to cases involving medical leave for psychological reasons as well as suicides of Armed Institute staff, as, according to the latest data available, there has been

an increase in these situations. The Ombudsman's actions are focused on the analysis of specific measures that have been adopted or are due to be adopted to alleviate this grave problem, as well as on the assessment of actions planned or carried out by the General Authority in the areas where a significant increase in suicides has been observed. The conclusions made by a work group set up for this purpose have been received, and the investigation will continue to follow up on supervision of Public Administrations the preventive measures and other types of measures that are finally adopted, taking into account the proposals of the cited document.

The Ombudsman has also intervened regarding the work-life balance of Civil Guards, so that the regulations governing their leave of absence permits and licenses fall into line with those of the rest of civil servants.

Since 2002, an internally initiated investigation was under way regarding the reform of Organic Law 11/1991, June 17, on the Civil Guard's disciplinary regulations, which affects, among other precepts, those that contemplate arrest as a disciplinary action. A recommendation was made to the Secretary of State for Security of the Ministry of the Interior that they should speed up the work necessary in order to carry out the cited legislative reforms in the disciplinary regulations of the Civil Guard as soon as possible, so that certain aspects of these regulations might be updated and arrests might be omitted. This Draft Bill for an Organic Law has been approved by the Ministers' Council.

OTHER AFFAIRS

Co-official languages

The regulations regarding co-official languages contained in the Constitution has given rise to a complex and diverse legislative development, with regulations of different ranks —from organic laws to minor regulatory provisions— by which attention is given to the official use of the languages that share this condition with Castilian Spanish in the different territories and the cultural heritage of the different linguistic forms in Spain are protected.

Sometimes the very content of that regulation, and, more frequently, the administrative practices derived from their application lead to a certain number of complaints that are indicative, according to the Ombudsman, of the different points of view regarding co-official status and regarding the possible reach of the protections accorded to linguistic heritage.

The types of complaints in this matter are varied and the disagreements and discrepancies of the citizens —sometimes well founded, and other times not, according to the regulation in force— involve the activity or passivity of the authorities and dependent organizations of the Central Administration as well as the bodies dependent on the administrations of the different



Civil Guard for Traffic.

Administrative and public institution staff

The Ombudsman's supervisory role continues regarding the actions of Public Administrations in the supply of human resources, which is why it is necessary to insist on the need for bringing staff recruitment policy, be it for temporary or permanent staff, into line with the constitutional principles of equality, merit and ability, as well as with that of publicity.

Autonomous Communities, and even, on occasion, the decisions of autonomous communities that do not have their own co-official language.

With respect to 2006, it is worthwhile to point out that the processing and approval of the new Statute of the Autonomy of Catalonia and the political debate around it have given rise to an increase in the volume of complaints referring to this matter and to this Autonomous Community. In this report a brief review is given of the various types and diverse origin of complaints regarding the co-official linguistic status and the protection of linguistic heritage, with a more detailed reference to some of them.

Nevertheless, a complaint should be highlighted that has been repeated on various occasions and from various areas, and that directly affects the Ombudsman's Office and the services it offers. Several citizens on several occasions have criticized the website of the Ombudsman because it only offers information in Spanish and certain contents in French and English. Correctly, our interlocutors point out the benefits of making the aforementioned webpage also available in the co-official languages of citizens in any Spanish Autonomous Community.

The Ombudsman has expressed to those who have shown interest in this matter that the decision to set up the website in the aforementioned languages is a result of the concern to reach the maximum circulation possible among its users, taking into account that Spanish citizens have the duty to be versed in Spanish and that the foreign citizens who interact with the administrations and Spanish public authorities usually have as a second or third language one of the others used on the website. Means and availability imposed this limitation, but the Ombudsman fully shares the view of those who consider that a nationwide Institution whose duty is to guarantee rights and liberties should be accessible to those who would like to access data in the different languages that share co-official status along with Spanish in national territory. For this reason, if in the future the means and resources become available to do so, the information available on the Ombudsman's website will be offered in the different co-official languages as well.

Protection of Minors in the Media

From the beginning of the Ombudsman's activity, the protection of minors and infants in general, and within this, what the Spanish Constitution explicitly refers to as the limits to the rights and freedom of expression and of information, has been a constant cause for concern that has given rise to a number of interventions in different areas of action with the public authorities, leading to repeated references to it in the annual reports of the last decade.



Television stations, both public and private, continue to infringe on the limits imposed to protect youth from inappropriate content.

Thus, upon observing that the legal mechanisms contained in the governing legislation on the organization, operation and supervision of the various media were far from being sufficiently effective to guarantee the necessary protection of legally protected interests, the suggestion has been continually made in various annual reports to adopt a series of measures needed to guarantee that protection, including the creation of an independent authority with a mission to ensure that television stations and other media comply with the laws that govern, among other things, matters concerning the protection of youth and infancy.

Law 17/2006, June 5, on State-run Radio and Television, contains in article 40 that it is the audio-visual authority that must «oversee compliance with the public service mission of radio and television by the RTVE Corporation, so that it may adopt the recommendations and resolutions that contemplate their regulation». This prevision supposes certain progress in the line suggested by the Ombudsman and already adopted in various EU countries.

Nevertheless, it seems advisable to take the issue even further and begin the required steps for the immediate creation of a regulatory mechanism that goes beyond the scope of the media under the RTVE Corporation and that manages to ward off the repeated lapses in television programming and advertising, both public as well as private, which, in light of the persistent complaints that reach the Ombudsman's Office on a daily basis, continue to encroach upon the limits imposed by the full effectiveness of the constitutional right for the protection of minors and infants.

As regards the written media, numerous complaints with respect to the inclusion of classified adds of certain advertising that include, almost without exception, obscene images or prurient texts to entice readers to enter into contact with prostitution and with the victims of sexual exploitation, whose telephone numbers and contact addresses are provided, as are prices and other details regarding the services on offer.

The Ombudsman, according to its legal and constitutionally mandated power, may not intervene directly in the actions of legally private individuals, which includes the publishers and producers of the media, who, protected by the right to freedom of speech to communicate any information and protected by the express constitutional ban on any type of previous censorship, may freely choose the content that is included in the media.

The system of self-regulation that has been put together by the private organization called Association for the Self-regulation of Commercial Communication does not seem to have borne the desired fruit, in that in a resolution of an advertising panel of said Association a protest was dismissed in 2005 regarding an advertisement of contacts published in a newspaper because it was considered that the classified advertisement section of a newspaper meant to inform the general public was not meant to be directed toward minors.

The above case, given the obvious accessibility to these advertisements by minors and the frequency with

which they are included in all types of printed press, obliges the Ombudsman to consider the need to elaborate specific laws to regulate this type of advertising, as well as to evaluate the possibility of modifying the Advertising Code of Conduct approved by the aforementioned Association, with the aim of addressing an interpretation that approaches the full and effective protection of the rights of minors and youths.

Electoral Law

Regarding electoral matters the complaints lodged during this year have been very few. Although it is true that in 2006 only two electoral processes took place, one related to the Statute for the Autonomy of Catalonia, submitted to referendum on June 18, 2006, and the Parliamentary elections of Catalonia, which took place on November 16, 2006. Nevertheless, the cited processes generated a relatively small number of complaints, also generally of little relevance, a circumstance which should be emphasised in positive terms in the sense that it seems indicative of an adequate organization and running of fairly large scale electoral processes considering the number of voters called to the ballot boxes.

That said, actions carried out in 2006 should be mentioned as regards the preparation of a voting procedure for the visually challenged that would guarantee their right to a secret vote, which does not have sufficient protection under the current system involving assistance by third parties.

This is a question for which, in 2004, the Ombudsman initiated an investigation before the Directorate General for Interior Policy of the Ministry of the Interior, who, in the corresponding processing, manifested to the Ombudsman that the initiatives adopted for the use of Braille in electoral ballots had run into opposition from the Central Electoral Council.

According to the judgement of the Central Electoral Council, the legal set up for assisted voting to which those for whom the physical conditions needed to vote impede their personal exercising of their right must adhere, excludes the use by such persons of any different voting system, such as the use of Braille in ballots, and it expressly impedes the implementation of any other processes that the use of such systems would require, in the opinion of the Central Electoral Council a prior modification of the electoral law currently in force.

Following the complaints that had been posed in this regard, the Sindic de Greuges de Catalunya addressed the Ombudsman in 2006 requesting new interventions with respect to the aforementioned question. The autonomic commission mentioned in its writ the successive initiatives adopted regarding the modification of electoral law with the aforementioned objective, to which end, as agreed by the Government in the month of September 2005, a work group on accessibility and electoral processes was set up to study the immediate reform of the Organic Law on General Electoral Regulations to adapt it to the 5th final provision of Law 51/2003, December 2, on

equal opportunities, non-discrimination and universal access for people with disabilities.

Subsequently, the parliamentary debate of the draft bill to modify the Organic Law 5/1981, June 19, on General Electoral Regulations, presented in the Congress of Deputies to include in it the regulation on voting accessibility for the visually challenged, led to the need to approach and debate, within the scope of a subcommittee whose composition and constitution should be approved by the Congress, all of the parliamentary initiatives aimed at reforming the aforementioned Organic Law that had sufficient backing from all of the political powers.

Additionally, the Minister of the Interior in an appearance before the Senate last June 5, demonstrated his willingness to «establish a voting procedure for visually challenged individuals in such a way that their right to a secret ballot process might be fully guaranteed without the necessity of being accompanied by another trusted person», which, in his opinion, would not require «in any case, a modification of the Organic Law on General Electoral Regulations.»

Finally the Sindic de Greuges, taking into consideration the position derived from the last intervention coinciding with the perspective that the Ombudsman expressed with respect to the results of the process carried out regarding the complaint mentioned at the beginning of this section, in its 2004 report to Parliament pressed the Ombudsman to reinstate the actions carried out at that time. Moreover, they requested that the Directorate General for Interior Policy be required to carry out actions toward the establishment of a regulatory base that would make secret ballot voting possible for visually challenged individuals, as per our constitution.

Recently received information from the aforementioned Directorate General reveals that the status of the tasks being carried out on this matter does not permit the immediate application of some of the solutions considered as they have not been fully drawn up. In said report the specific procedure that will be adopted has not been fully detailed, although it is explicitly indicated that this procedure must guarantee secret ballots for visually challenged individuals. At the same time, the principle of proportionality in the use of public means which must be observed by the public administrations has also been indicated. Additionally, said report concludes indicating that both the need for a new procedure to be established as well as the fact that it would be inadvisable to apply it for the first time in the coming local and autonomic elections given the complexity of its management, have led to the decision that the implementation of the new procedure will take place in the next general elections in 2008.

The Ombudsman trusts that, in this electoral process and future processes the method by which it will be possible to guarantee a personal secret ballot procedure for the visually challenged will be determined and fully regulated.

(continued from page 3)

with a noticeable increase in those related to a sense of insecurity caused by organized gangs which specialize principally in home burglaries. Additionally the actions of the Security Forces and Corps have been called into question in certain citizen complaints, and, in this regard, the Ombudsman's position remains unchanged: namely that disciplinary proceedings be undertaken with full judicial independence regarding the treatment of the facts that gave rise to said complaint.

One of this year's most noteworthy enquiries was related to the government offices in charge of issuing National Identity Cards. Taking into account the overcrowded conditions affecting these offices in various cities, such as Madrid, Seville, or Barcelona, the authorities in this matter have been urged to study ways to improve the resources available to them.

As regards the protection of victims of terrorism, some victims of the March 11, 2004 terrorist attack described the difficulty they experienced in obtaining reimbursement for related medical costs, which led to a suggestion sent to the government authority in charge of such matters.

Road safety is a topic of special concern to society as a whole, considering the dramatic motorway death rates suffered by our country. The important Traffic Law legislative reform, which brought into being the «point-based driving license», incorporates new provisions that affect all drivers, both private and professional. As regards the effects of the new «point-based driving license», steps were taken at the request of the Síndic de Greuges of Catalonia in order to work toward nationwide standardization of the procedures for fines that involve point penalties for violators of traffic laws. Many complaints have also continued to be processed regarding traffic fine processing deficiencies and also regarding the implementation of metered parking zones in municipal areas, both of which have been the subject of legal action in previous years.

Emigration and Immigration

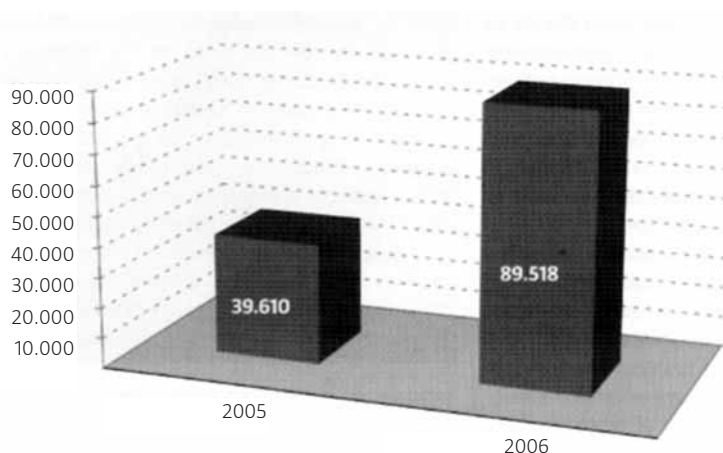
Although most of the cases handled by the Ombudsman regarding migratory affairs are related to immigration matters, other actions continue to be carried out to ascertain the difficulties experienced by Spanish citizens residing abroad in the area of payment of benefits or the exercising of other citizens' rights. In this respect, the Ombudsman considers the approval of the 2006 Statute for Spanish Citizens Residing Abroad as a step in the right direction.

During 2006, the illegal entry of foreign persons through the various border crossings and the handling of residency or detention processes for irregular immigrants has required constant attention and intense activity. The massive flow of boats toward the coasts of the Canary Islands during the summer months in 2006 attracted once again the attention of the entire society and, of course, of all of the public authorities toward the serious problem of illegal immigration. The Ombudsman considers that, in addition to the specific attention paid to one situation or another of greater or lesser severity, it is absolutely necessary to maintain at all times the widest possible perspective when contemplating this phenomenon in its entirety in order to avoid an inappropriate simplification of the range of responses available to the state or the Spanish society as a whole.

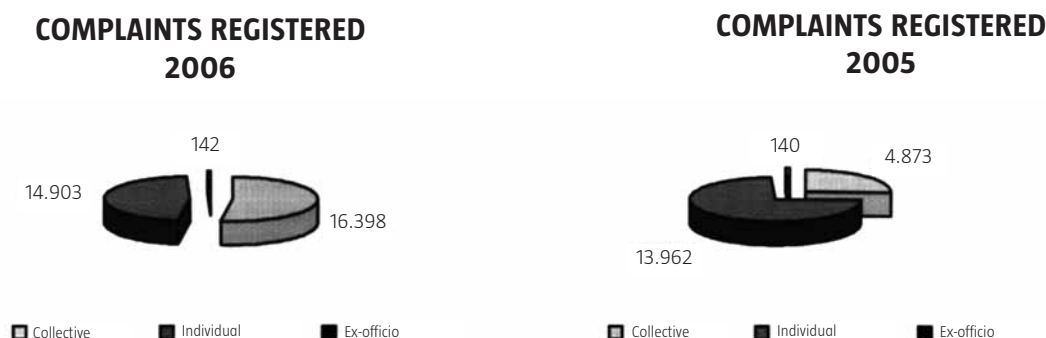
In this sense, the entry of foreigners in national territory through border control stations at different airports across the country give rise to a large number of interventions by the Ombudsman, as a consequence of defects or excesses that may take place at border crossing points. Access problems have also been detected coming from France to the province of Girona, reflected in the investigation of a complaint that has demonstrated the undue application of the rules that regulate the denial of entry into our country.

The supervision of repatriations of unaccompanied foreign minors and the frequent visits to detention centers for illegal aliens have shown certain improvements enabling the announcement of awareness campaigns for agents and

TRENDS IN THE NUMBER OF CITIZENS WHO HAVE LODGED COMPLAINTS,
2005-2006



EVOLUTION OF THE COMPLAINTS REGISTERED: 2005-2006



authorities on one hand, and the improvement of certain installations on the other. Certain related matters, nevertheless, seem to require improved attention on behalf of the public authorities, as is the case with services offered at Spanish consulates and, in general, by the Spanish administration abroad, as has been well laid out in the corresponding section of this report.

Among the positive actions that should be pointed out is the approval by the Senate, in June 2006, of a motion containing many of the criticisms expressed by the Ombudsman and supporting the adoption of measures that address, although sometimes partially, the situation of illegal aliens with non-executable deportation orders.

Education

The preparation of the new Report on violence in obligatory secondary education took place as well in 2006. To sum up, the report offers a more encouraging panorama with respect to this serious problem, although the persistence of certain aggressive acts makes it impossible to speak of total success, as regards the measures that have been adopted over the years, especially if we compare the current data with the information provided in the previous year's Report.

As for the habitual topics of complaints, once again, problems in the area of schooling must be stressed, particularly with reference to the insufficient or inadequate distribution of spaces, especially at the pre-school level. A slight decline in the number of complaints lodged likely indicates the efforts of the Administrations to offer a greater number of public spots for students between the ages of three and six years of age. As regards the youngest students, it is important to point out the difficulties that many centers encounter in providing specialized attention to such young children, which represents a duty which must be fulfilled by the educational administration even in light of the inherent difficulties involved.

At the superior or university levels, despite a better adjustment between supply and demand of university spaces that

can be explained, in part, by general demographic changes, it is still possible to observe certain imbalances, particularly in the area of studies related to the health sciences.

Health and social affairs

Some of the questions highlighted by the complaints received as regards health services and administrations have been pointed out in previous reports, as is the case with deficiencies in the area of preventive medicine, mental health, and rare or infrequent diseases. Along the same lines, other questions may be pointed out, such as the delays in the delivery of health care services or the lack of professionals in certain clinical areas.

One of the greatest challenges facing the National Health Care System in Spain is, without a doubt, the standardization of services throughout national territory. With this aim, the need for a list of common services that are governed by health regulations covering national territory has been recommended for years. Additionally, the adoption of decisions is still pending in cases relating to certain medical procedures, such as, for example, those surrounding the HIV virus, diabetes patient care, as well as the criteria related to sex-change operations. Many internally initiated investigations have also been undertaken concerning the actions of health administrations regarding eating disorders, fibromyalgia, and drug-free, natural births.

Moreover, it is important to highlight the significant number of complaints received regarding problems associated with waiting lists, defects in the proper functioning of health transport services in some Autonomous Communities, or the irregular dispensing of certain pharmaceutical products. Regarding the latter, it is noteworthy to underscore the legislative modification passed in July 2006 which, following the criteria previously set forth by the Ombudsman, imposes fines for the supplying of prescription medications without the requisite prescription.

In 2006 the law on health measures against tobacco addiction entered into force, regulating the sale, supply, consumption and advertising of tobacco products. This

regulation has generated a huge debate in the society, which has been manifested in the numerous letters sent and complaints lodged by many citizens expressing positions in favor of or against the new regulation. One common complaint concerns the non-compliance with the regulation as regards consumption in places of business and public establishments.

For yet another year, on the subject of social policy, mention must be made of the disagreement of many citizens with respect to the amounts and regulations governing their pensions, particularly retirement benefits and widow's or widower's pensions. Most of the complaints lodged in this regard are not generally subjected to enquiry by the Ombudsman given the fact that a mere disagreement with the legally approved method used to calculate benefit amounts does not imply that any irregularity attributable to the administrative organization in charge of such matters has taken place. Nevertheless, such complaints tend to be indicative of the difficult situations in which many elderly citizens on a fixed-income find themselves in our country, and their purchasing power is very limited, even at the contributory level of payments. The Ombudsman understands the budgetary efforts made by the state in recent years, but it must not fail to point out the need to promote even more policies that favor increases in benefit amounts in order to bring them closer in line with the real socio-economic circumstances of the country —with the ultimate goal of avoiding the unfortunate growth of an impoverished group largely made up of elderly people.

Public tax policy and general economic activity

Toward the end of 2006, a new Tax Law was passed regarding Income Tax on Private Individuals that, among other new features, takes into account some of the questions posed or recommendations made by the Ombudsman in previous years. The practical effects of the new law will be subject to follow up and scrutiny in the coming years.

The financial scandal that gave rise to the judicial intervention of the philatelic investment firms, *Afinsa* and *Forúm Filatélico* led to the presentation of an enormous number of individual complaints by affected parties to the Ombudsman's Office, which in turn motivated this Institution to closely monitor the control measures put in place and carried out by the public authorities in charge. The Ombudsman, after informing the concerned parties regarding the best way to defend their interests in the firms under investigation requested information from the economic authorities to learn about the palliative measures being studied, as well as an explanation for the delay in adopting executive control measures. Generally speaking, the administration associates the problem of lack of control with the alleged absence of adequate legislation, diverting the problem toward the jurisdiction of consumer affairs. The Ombudsman has had to reiterate as well that the delay in intervening these fraudulent entities may have increased the level of resulting damages suffered by investing citizens.

Transport and communications

Throughout 2006, complaints and letters were received reporting the deficient functioning of Air Madrid and also its breach of contract. Weeks before the company's business activities were officially suspended, the Ombudsman had initiated an internally motivated enquiry to study the measures adopted by the Administration in charge of air traffic supervision with respect to Air Madrid. In December, the scope of this enquiry was widened to request information on aspects related to safety conditions and inspections carried out in the past that allowed said airline to continue operating.

Environment, urban planning and housing

The culture of sustainable development and protection of the environment is widely spread, generally speaking, throughout modern Spanish society, and it represents part of the daily work carried out by public authorities. Nevertheless, the specific and material manifestations of that culture are much less generalized, as can be seen by the significant number of complaints received from citizens regarding the non-compliance by different Administrations of environmental protection regulations.

One of the points of greatest controversy is that of large public infrastructural works carried out by the Administrations, something which had been pointed out in the 2005 annual report. The so-called environmental impact evaluation preceding commencement of public works represents a legal imperative which must not be ignored in any way by the public authorities. The constitutional right of citizens to a healthy and adequate living environment must not be relegated to an inferior class with respect to other priorities involving the determining of certain infrastructural objectives which are supposedly indispensable.

Another of the threats to the environment can be found along Spanish coastlines, where development in the tourist sector has degraded large areas of coastal land that are deserving of special protection, which points up the fact that it is increasingly advisable to rework the growth model for the tourism sector in order to balance it with better environmental practices.

Additionally, noise pollution continues to be one of the problems that are most frequently reported by citizens to the Ombudsman, denouncing the passiveness of certain Administrations. With respect to what has already been mentioned, one of the sources of noise that causes the greatest irritation and nuisance is that of public works that are carried out very near residential areas, often with night shifts, while also not failing to mention the noise suffered by residents living in the areas surrounding large airports.

The passage of the new basic land law of Spain will mark, in all likelihood, the beginning of a new period with respect to urban planning and housing in Spain. Improved citizen participation, the heavier weight accorded to environmental impact studies or measures specifically designed to avoid speculative land and real estate practices are just some of the more innovative ingredients mixed into this new legislation.

The basic standardization of urban planning policies, beyond jurisdictional considerations that are of high importance in this

matter, may contribute important tools to combat unsustainable development of national territory, which has been particularly obvious in the last decade, although in other periods of our history there were similar occurrences. For example, the planning and execution of large urban developments without prior confirmation that the necessary water resources are available is in stark contrast to the rational strategy of needs planning, not just in the long term, but also with respect to the immediate future, affected by the desertification process in large areas of the peninsula.

Institutional supervisory functions are common with respect to the execution of planning instruments, hindered on many occasions by the flawed operation of the private organizations that correspond to them. One must always insist on the need for all Administrations to exercise real and effective control over urban planning projects in order to ensure that the growth of cities, towns and villages balances the social and economic aspects of the territory, favoring in this way a civic-minded spirit and lifestyle.

The availability of public lands for the construction of government-subsidized housing is one of the measures that has been subject to enquiry during 2006. Specifically, another of the provisions of the Land Law is the setting of a greater percentage of this type of housing in the general plans for urban development.

Institutional Relations

The presence of the Ombudsman's Office in official acts and international meetings, as well as its direct and permanent contact with the public authorities and the representatives of civil society, is acquiring with time a greater sway in the global area of institutional affairs, which is reflected each year in the annual report presented to Parliament.

Many of the events and meetings highlighted in this document are of a diverse character, so classification of them is a difficult task when it comes to summing up. The main activities of institutional representation are detailed in the following section, ranging from formal appearances before congress to meetings with groups of citizens, not to mention acts and meetings of cooperation with myriad institutions and organizations, both national as well as international.

Parliamentary Activities

The 2005 annual report was presented to the President of the Congress of Deputies on June 28, and to the President of the Senate on July 11. Subsequently an obligatory appearance was made before the Mixed Senate-Congress Committee on relations with the Ombudsman on October 19, after which time several groups of parliamentarians expressed their doubts and posed questions. Finally, completing the formal acts and presentations required by law, the Ombudsman appeared before the plenary sessions of the

Public Administration staff

One of the most noteworthy items in 2006 as regards the situation of staff at the service of the different public Administrations has involved the goal to promote equal access to civil service for disabled people. Generally speaking, the irregularities or failures to comply with legislation governing the access procedures to civil service posts continue to be one of the most frequently posed questions in complaints lodged with the Ombudsman, so it is opportune to continue to press for the need to scrupulously respect the principles of equality, merit, capacity and public notification in these processes irrespective of the level of the administrative position offered.

The adequate equalization of salaries received by state employees of the distinct administrations in charge of the same sector of activity (such as Public Health or Education) is another of the issues raised frequently.

The temporary professional staff at the service of the Armed Forces has received a response to the complaints lodged long ago to soften the effect of the temporary nature of their relationship with the Army. Thus, the entry into force of the new Law on Troops and Sailors, which incorporates some of the recommendations made previously by the Ombudsman, improves the personal expectations and the social protections accorded to these state employees.



President of the Parliamentary Commission on Road Safety, last February 28.

From left to right: the Vice President of the Committee, Agustín Jiménez Pérez; the First Deputy to the Ombudsman, M.^a Luisa Cava de Llano i Carrió; the Ombudsman, Enrique Múgica Herzog; the President of the Committee, Jordi Jané i Guasch, and the Committee Legal Secretary, Enrique Arnaldo.

Congress and the Senate on December 13 and 19, respectively.

Other institutional appearances made by the Ombudsman took place as described below:

- Appearance of the Ombudsman and the First Deputy before the Parliamentary Commission on Road Safety in order to «sum up the Ombudsman's evaluation of the effectiveness of our legislation with respect to traffic violations; to provide information on the report that was recently prepared on traffic accidents and the criminal issues associated them, as well as the potential reforms that might be made to the current traffic code; and to report the Ombudsman's perspective



Participation by the Ombudsman, Enrique Múgica, in the session of the Mixed Senate-Congress Committee on relations with the Ombudsman, held on October 19, in which he presented the processing of complaints for 2005.

regarding the current traffic fine procedures», which was held in the Congress of Deputies on February 28.

- Appearance of the Ombudsman and the the First Deputy before the Mixed Committee on Relations with the Ombudsman «to provide informaton on the data and reports it has in its power with respect to racism, xenophobia, and sport-related violence», held in the Palace of the Senate on March 21.

Relations with autonomic commissioners

In this section only the most relevant 2006 meetings with the autonomic commissioners are described, omitting, therefore, the brief or sporadic meetings that often take place in the interest of maintaining good relations for coordination and collaboration between the Ombudsman's Office and its counterparts in the Autonomous Communities.

- Attendance of the Ombudsman and the Second Deputy at the inaugural presentation of the «zero» issue of the magazine *Derechos Ciudadanos*, published by the autonomic commissioners (Aula Magna of the Convento de Dios in Toledo, February 3).

- Coordination meeting of the General Secretaries of the Autonomic Ombudsmen and the General Secretary of the Ombudsman's Office (La Palma, April 4 and 5).

- Meeting with the Ombudsmen in the farewell luncheon of the Síndic de Greuges (Ombudsman) of the Community of Valencia, Bernardo del Rosal (Alicante, May 30).

- Meeting with the Ararteko (Ombudsman) of Basque Country, Iñigo Lamarca Iturbe (headquarters of the Institution, Junio 30).

- Attendance of the First Deputy at the inauguration of the Ombudswoman of Asturias, María Antonia Fernández Felgueroso (Junta General del Principado de Asturias, Oviedo, July 3).

- Participation of the Ombudsman in the Seminars about «El Ararteko: an Ombudsman for the XXI century», during the Summer Courses in the University of the Basque Country, with the conference «The Future of the Ombudsmen: in a perspective for



Family photo' of all the Ombudsmen and Ombudswomen, participants in León at the XXI Coordination Seminars, held en October. The central theme of the seminars was the social and environmental impact of urban activity.

the future» and with participation at the Round Table of Ombudsmen, «The Ombudsman facing the transformation of the social state: New challenges» (Palacio de Miramar, Donostia, July 5-7).

- Attendance of the First Deputy at the institutional events and funeral for the death of the ex-Síndic de Greuges, Antón Cañellas (Barcelona, August 28), as well as the tribute organized later for the Síndic de Greuges de Cataluña (Barcelona, November 13).

- Meeting with the recently named Ombudsman from La Rioja, María Bueyo Díez Jalón (headquarters of the Institution, December 11).

- Visit of the Defender of Minors for the Community of Madrid, Arturo Canalda, because of his recently being named to the post (Headquarters of the Institution, December 14).

- Attendance of the Ombudsman to the inauguration of the Ombudswoman Riojano, María Bueyo Díez Jalón (Parliament of La Rioja, December 21).

XXI Ombudsmen Coordination Seminars

Celebrated October 16 –18 in the Hostal of San Marcos in León, the seminars were organized by the Ombudsman of Castilla y León and inaugurated by the President of the Government of Castilla y León, Juan Vicente Herrera Campo. The main subject was «The Social and Environmental Impact of Urban Development». The three workshops which took place prior to this conference tackled various issues which were later dealt with in the meeting with the Ombudsmen. These workshops were organized by the Ombudsman of Navarra, («The Social and Environmental Impact of Urban Development»); by the Ombudsman of Aragon («Urbanism and the Environment»); and by the Ombudsman of the Canary Islands («Urbanism and Housing»). Within the framework of the Conferences held in Leon, two round table discussions focused on two main points: «The social and environmental consequences of coastal urban development» and «The effect of urban development on the rural world».

The conclusions of the XXI Conferences on Coordination can be consulted in the full report as well as in the Spanish Ombudsman's website: www.defensordelpueblo.es

Meetings related to complaint forms

Details follow of some meetings held with Administration staff or representatives of citizens groups involved in the investigation of specific complaints of particular relevance, either because of the social repercussions they have or because they affect the interests of a large group of people. In this section it is not possible to describe all of the numerous meetings which are continually held with citizens seeking information on the processing of their complaint or request.

- Meeting with the President of the Catalanian Association for Civic Coexistence, who explained the problems with, and presented reports on, the discriminating Catalanian Linguistic policy in teaching. He was received by the Ombudsman and the Second Deputy, in the Headquarters of the Institution, January 9.
- Meeting with the President and Secretary of the Association for Public Works and Development of the Airport of San Sebastian, to present the situation of the airport; in particular the problems derived from blocking its development. Received by the Ombudsman, in the Headquarters of the Institution, January 10.
- Meeting with representatives of the Secularized Union who are asking for support for their claims about their pensions, the amount, and the updates. Received by the Ombudsman and his Deputies in the Headquarters of the Institution January 11.
- Meeting with directors and consultants of the Confederation of Newsagents of Spain, to examine the serious discrimination produced against the Newsagents by the promulgation of Law 28/2005, December 28 about health measures against smoking. Received by the Ombudsman and the Second Deputy, in the Headquarters of the Institution, January 16.
- Meeting of the Second Deputy with the President of the National Coordinator of Fibromialgia, in the Headquarters of the Institution, February 9.
- Meeting with members of groups against the telephone antennae of Seville, Valladolid y Madrid to solve the problem of the mobile telephone antennae. Received by the Ombudsman and the Second Deputy, in the Headquarters of the Institution, February 10.
- Visit of various people in relation to the Appeal filed against the Law of Andalusia, 13/2005, November 11, of the Measures for Protected Housing and Land. Received by the Ombudsman and the Second Deputy in the headquarters of the institution, February 13.
- Measures for Protected Housing and Land. Received by the Ombudsman and the Second Deputy in the headquarters of the institution, February 13.
- Meeting of representatives of the Neighbor's Association of Sangonera la Verde (within the jurisdiction of the City Hall of Murcia) to present to the Ombudsman the non-compliance



El Ombudsman received the President of the 11-M Association, Pilar Manjón, and two Council members of the City Hall of Madrid, among others, who presented the situation in which the victims of the March 11 terrorist attack now find themselves.

of some of the recommendations accepted by the City Hall of Murcia, due to a complaint presented in the Institution. Received by the Ombudsman and the Second Deputy in the headquarters of the Institution, February 24.

- Meeting of the Second Deputy with the President of the Federation of Spanish Press Associations to analyze the possible presentation of an appeal of unconstitutionality against some aspects of the reform of the Audiovisual Board of Catalonia, in the headquarters of the Institution, March 23.
- Meeting with the President and other members of the Federation of Spanish Press Associations, who presented the problems related to Law 22/2005 of Audiovisual Communication of Catalonia. Received by the Ombudsman and the Second Deputy in the headquarters of the Institution, March 28.
- Interview by the Second Deputy with the Mayor of Iàia (Valencia), April 28.
- Visit by the President of the 11-M Association of Those Affected by Terrorism, accompanied by, among others, two Council members of the City Hall of Madrid, to present to the Ombudsman the situation in which the victims of the March 11 terrorist attack find themselves, and the proposal regarding how to present complaints derived from this situation. Administrative topics were raised as well as so me having to do with some criminal processes that have been started, and above all, economic topics were discussed. Received by the Ombudsman in the headquarters of the Institution, April 20.
- Visit by the First Deputy to the city of Málaga, in the framework of an investigation on residency, during May 24-26, in the course of which she had many diverse meetings with the Deacon of the Bar Association of Málaga and Members of Parliament, the Chief of the Airport Police Commissary, several services of the aforementioned Bar Association, diverse police and penitentiary directors, the Sub-Delegate of the Government, the Senior Magistrate of Málaga and the President of the Provincial High Court. She also toured the Foreigner's Internment Center.
- Meeting with representatives of the Associations of Human Rights of Melilla and Spain (APDHA) to explain their concerns about the border in Melilla, around the installation



Members of the Rector Council of the Ibero-American Ombudsman Federation (FIO) were received in Parliament by the President, Manuel Marín.

of fences and deterring barriers. Present at the meeting were the Secretary of (APDHA) of Córdoba, the President of the Intercultural Association of Melilla and the director of the Center of Documentation against Torture Received by the Cabinet Chiefs of the Ombudsman and the Deputies, in the headquarters of the Institution, June 1.

- Meeting with the Adjunct to the Presidency and Director of Institutional Relations of the Association of Banking Service Users (AUSBANC) to deal with the problem of the Afinsa-Forum Filatélico case. Received by the Ombudsman and the First Deputy in the headquarters of the institution, June 1.

- Meeting with a member of Parliament and diverse representatives of the Corps of Technical Specialist Civil Servants and Laboratory Assistants of the National Institute of Toxicology and Forensic Sciences. Received by the Ombudsman and the First Deputy in the headquarters of the institution, June 14.

- Interview with the Association of Fibromialgia and Chronic Fatigue Syndrome of Eivissa and Formentera, carried out by the First Deputy in Eivissa, July 7.

- Meeting with a delegation of Workers' Commission (CCOO) –Madrid chapter– to talk about the proposal of the Land Management Plan for Natural Resources in the Guadarrama mountain range. Received by the Ombudsman in the headquarters of the Institution, September 14.

- Meeting with representatives of Farmaindustria. Received by the First Deputy in the headquarters of the Institution, October 20.

- Visit by some members of the Civil Guard Union, to make a formal presentation of the Association and discuss their preoccupations. Received by the Ombudsman and the Second Deputy in the headquarters of the Institution, November 13.

- Interview with the Amendment 6.1 Association to explain an initiative-proposal of an alternative draft of Article 6.1 of the

Statute of Autonomy of Catalonia. Received by the Ombudsman and the Second Deputy in the headquarters of the Institution, November 17.

International activity

There has been a high level of international activity destined fundamentally to strengthen the links of cooperation between the Ombudsman institutions in other countries and with the international organisms in charge of the promotion and protection of Human Rights. This year in particular, the intense activity developed with the Ibero-American Federation of Ombudsmen stands out, as the Ombudsman of Spain will continue to preside until the end of 2007.

Participation in International events

- Meeting with members of the Rector Council of the Latin American Ombudsman Federation (FIO) (The Senate, Madrid, January 30 and 31).

- International Seminar organized by the Regional Support Program for Ombudsmen in Latin America «Challenges and Opportunities in the Promotion of Human Rights». The Ombudsman attended the opening ceremony, his deputies and the General Secretary took part in round table discussions and summing up (Spanish Agency for International Cooperation Headquarters, Madrid, February 13 and 14).

- Public Forum on Gender Rights. Meeting of the Latin American network of Defenders of Women's Rights, organized by Sindic de Greuges of the Autonomous Community of Valencia. Participation in conference on «The Function of the Defenders of Women's Rights in guaranteeing Gender Rights». «Legal Possibilities, Habilitation, Structural and Organic Difficulties» (Alicante, March 15).

- Annual Seminar on Institutional Strengthening: Educating on Human Rights. Organized by the Regional Support Programme for Ombudsmen in Latin America. (Spanish Cooperation Training Centre, Cartagena de Indias, Colombia, March 27 – April 1).

- International Penitentiary Congress Social Function of Penitentiary Policy». Organized by the Board of Penitentiary Institutions and the Department of Justice of Generalitat of Catalunya (Barcelona, March 30 and 31).

- Seventh Meeting of the Board of Directors of the Special Fund for Ombudsmen and National Human Rights institutions in Latin America and the Caribbean (Palace of Nations, Geneva, April 11).

- Meeting of the European Group of National Institutions for Human Rights, organized by the French National Advisory Commission for Human Rights (Geneva, April 11).

- Seventeenth Session of the International Committee for the Coordination of National Institutions for the Promotion and Protection of Human Rights. Organized by the United Nations Human Rights High Commission. (Palace of Nations, Geneva, April 12 and 13).

- European Commission against Racism and Intolerance in Spain Round Table Discussion (Palacio de Congresos Madrid, April 19). The preparatory meeting was attended by the president

of ECRI, Eva Smith Asmussen, and other members of the Commission, Michael Head, Fernando Savater and José Manuel Fresno.

- International Seminar on «Europe-Latin America Relations and the Question of Poverty, Development and Democracy» (Vienna, Austria, April 23-27).

- Seminar on «The Work of Ombudsmen and Human Rights Defenders in Latin America and Europe», organized by the Austrian Ministry of the Exterior, Austrian Diplomatic Academy, Ludwig Boltmann Institution of Human Rights, Austrian Human Rights Cooperative, Austrian Institute for Latin America and the University of Vienna. Attended by various Ombudsmen along with university, parliamentary and NGO representatives (Vienna, Austria, April 24-26).

- Meeting of the Rector Council of the Iberoamerican Ombudsman Federation to prepare the Extraordinary General Assembly on the reform of the Federation Statutes (Guayaquil, Ecuador, 19-27 May).

- General Assembly and conference of the International Ombudsman Institution/Europe. Election of the new European Regional Director of the International Ombudsman Institution. Organized by the Austrian Ombudsman and the IOI First Vice President (Vienna, Austria, June 11-13).

- Annual meeting of the European Cities Commission against Xenophobia, 2006. Organized by Madrid City Hall and UNESCO (Madrid, June 15 and 16).

- Seminar of the European Network «Upholding Human Rights Liaison Officers – Sharing Best Practice», organized by the European Ombudsman. Participation in conference on «The Potential for Joint and Parallel Inquiries between Ombudsman Offices» (Strasbourg, France, June 18-20).

- Participation in the Hispanic-Argentinian meeting on Citizen Rights and Guarantees (Buenos Aires, Argentina, June 24-28).

- EUROsocial Justice project. International meeting of EUROsocial Network, «Sharing experiences to promote Social Cohesion». Co-organized by EUROsocial and the Spanish Agency for International Cooperation, through the Spanish Cooperation Training Centre in Cartagena de Indias (Colombia, June 26-29).

- V World Family Encounter, coinciding with the Papal Visit (Valencia, July 8 and 9).

- Latin American Encounter «Young People's Rights from the Ombudsman's perspective» (Antigua, Guatemala, August 9-11).

- VI Latin American Encounter on Progress and Innovation in Pharmacy and Medicine. Participation in conference on «The Role of the Ombudsman in guaranteeing access to medicine: case studies» (Antigua, Guatemala, August 21-25)

- IV Round Table of European National Institutions for the Promotion and Protection of Human Rights and the European Council Human Rights Commissioner (Athens, Greece, September 27 and 28).

- VI European Regional Encounter of the National Institutions for the Promotion and Protection of Human Rights (Athens, Greece, September 28 and 29).

- «Ombudswork for Children» Conference, organized by the Greek Ombudsman, the Russian Federal Ombudsman and the European Council Human Rights Commissioner (Athens, Greece, September 30).



HRH The King, the European Ombudsman, Nikiforos Diamandouros, and the Spanish Ombudsman, Enrique Múgica, at an audience given by Zarzuela Palace. (Photo: EFE)

- VIII International Conference of National Human Rights Institutions (Santa Cruz, Bolivia, October 24-26).

- XI Ibero-American Ombudsman Federation (FIO) Congress, on «Economic, Social and Cultural Rights and Human Rights Defenders». The Ombudsman, in the role of President of the FIO, speaks at the Opening Ceremony, celebrated in the Argentine Senate. The ordinary General Assembly was celebrated on 30 November (Buenos Aires NH City Hotel, Argentina, 28 November-1 December). Guests, there to sign the agreement, representatives of the Latin American Youth Organization (OIJ)

- Meeting of the representatives of the Latin American network of Defenders of Women's Rights, within the framework of the XI Latin American Federation of Ombudsmen Annual Assembly and Congress (Buenos Aires, Argentina, 28-30 November).

- Ninth Meeting of the Board of Directors of the Special Fund for Ombudsmen and National Human Rights Institutions in Latin America and the Caribbean (Buenos Aires, Argentina, 1 December).



Enrique Múgica received a visit from the Cuban Ambassador in Spain, Alberto Velasco San José, accompanied by his Chief Advisor, Alfredo Ruiz.



Fact-finding visit of the Delegation of the Ombudsman of Kazakhstan.

Visits and official ceremonies

- Working meeting with the Latin American General Secretary, Enrique Iglesias, and his Cabinet Leader, Edmundo Jarquín.
- Exchange visit with the Australian Ombudsman, John Macmillan.
- Visit from the Moroccan Ambassador, Omar Azziman.
- Meeting with the President of the Human Rights group Instance Équité et Réconciliation of Morocco, Driss Benzekri, accompanied by the Moroccan Ambassador in Spain and other personalities.
- Visit from the General Coordinator of the NGO for the defence and promotion of human rights of the Venezuelan Programme for Education-Action in Human Rights, Carlos Correa.
- Visit from the Petitions Committee of the Czech Republic Parliament, led by its president, Zuzka Rujbrová.
- Visit from a Delegation of members of the Iraqi Parliament.
- Visit from the European Ombudsman, Nikiforos Diamandouros. Audience with HRH the King, the Presidents of the Congress, the Senate, the Constitutional Tribunal, General Council of the Judiciary and the State Council, among other personalities.
- Visit from the Cuban Ambassador in Spain, Alberto Velasco San José, accompanied by his Chief Advisor, Alfredo Ruiz.
- Visit from a delegation of the Guatemalan Presidential Commission Coordinating Executive Power in the area of Human Rights, led by its president, Frank La Rue Lewy.
- Visit from the Ambassador Ómur Orhun, personal representative of the sitting President of the OSCE for the Fight Against Intolerance and Discrimination Against Muslims, at the head of a delegation in which Special Mission Ambassador for Human Rights, Silvia Escobar, took part.
- Visit from the Head of the Campaign of the Opposition in Venezuela, Teodoro Petkoff.

Collaboration

- Visit from students of the Linguistic University of Moscow (students in the Cluny-Iseit Central University).

- Fact-finding visit on the part of the Delegation of the Ombudsman of Kazakhstan (presided over by the Commissioner for Human Rights, Baikadamov Bolat), in a project of cooperation with the aforementioned Office, sponsored by the European Commission.

- Visit of a Delegation of the Ombudsman of Angola (headed by the Ombudsman, Paulo Tjipilika).

- Meeting with the Ombudsman of Venezuela, German Mundaraín.

- Visit from the Executive Director of the Committee of Relatives of the Victims of the events of February-March 1989 (COFAVIC), of Venezuela, Liliانا Ortega.

- Meeting with the Director of the Secretary of the Special Fund for Ombudsmen and National Institutions of Human Rights in Latin America and the Caribbean. The Ombudsman is President of the Rector's Council for Funds as well as President of the FIO.

- Visit of a delegation of the National Turkish Police in the Brotherhood Project with Turkey, developed by the Direction General of Police, within the framework of the Phare Program of the European Commission.

- Visit from the High Commissioner of the United Nations for Refugees (ACNUR), Agni Castro-Pita, accompanied by the director of the legal section, Pablo Zapata.

- Meeting with the Ombudsman of Korea, Son Dhul-ho, accompanied by members of his Office and the Embassy of Korea in Spain.

- Meeting with the Secretary General and the Director of Institutional Relations and Cooperation of the Ibero-American Youth Organization.

- Meeting with a Delegation from the Ombudsman of Georgia, headed by the director, Sozar Subari.

- Meeting with Brazilian mission headed up by the Ombudsman, coordinator of the Special Group for Defense of the Education of Public Ministry of the State of Bahía and Manger of the Program of Education in Human Rights, Marcia Virgens.

- Meeting with the Fifth Visitor of the National Commission for Human Rights of México, in charge of the subject of migration, Mauricio Fara.

- Meeting with the Director General for Human Rights of Turkey, Mustafa Taskesen.

- Training program about the prevention of torture, organized by the Association for the prevention of torture, ONG Fahamu and ONU, High Commissioner for Human Rights

- Adjournment of the project titled «Reinforcing the Institution of the Ombudsman of Kazakhstan 'Project Twining' (K 101/01/KAZ)», with the conference «The Ombudsman of Spain, State Institution».

- Observer in the elections of Santo Domingo, invited by the Center of Investigation and Social Promotion Foundation (CIPROS).

- Observer in the legislative and presidential elections, held in Nicaragua.

Technical co-operation and promotion

This section compiles the various activities used by the Institution, with various objectives that range from cooperation with public organisms, national and foreign authorities and

civil organizations, to acts of promotion and academic collaboration. The Ombudsman has always considered it a priority to let the public know, through all possible means, the nature of the institution in order to bring its capacity to guarantee rights and fundamental liberties closer to the citizens.

Co-operation activities

- With the Youth Spokesperson of the Socialist Group of the Madrid Assembly.
- With the President of the Supreme Court of the State of Israel, Aharon Barak, accompanied by the Spokesperson of the Commission of International Relations of the General Council of the Judiciary, Josep Alfons López Tena and of the Advisory Ministry of the Embassy of Israel, Alona Fisher.
- Visit of Latin-American Judicial Consultants, in the program of cooperation between the Parliament and the CED-DET Foundation.
- Meeting with members of the European Coordinators of Associations of Spanish Immigrants, presided over by Antonio Aliaga Hernández.
- Visit by students from the School of Judiciary Practice of the Bar Association of Vizcaya.
- Meeting with the Deacon of the Association of Registrars of Property and Merchandise of Spain, Eugenio Rodríguez Cepeda, with the Vice-deacon, José María Alfín Massot, and other authorities.
- Meeting with representatives of the Spanish Federation of Rare Diseases (FEDER).
- Interview with the Director of the Office of Human Rights of the Ministry of Foreign Affairs, Fernando Fernández Arias.
- Meeting of the Jury, for voting and judgement, of the II King Juan Carlos Award for Human Rights.
- Meeting with members of the Board of Directors of the Association of Ex- Prisoners and Victims of Political Reprisal during Franco's Regime.
- Meeting with the Vice-president and other members of the Brotherhood of Retired Ministers of Commerce, Economy and Taxation.
- Meeting with the Director General of Quality, Accreditations, Evaluation and Inspection of the Community of Madrid Board of Health, Elisa Borrego.
- XIV Meeting of the Bar Associations of the Mediterranean, organized by the Bar Association of the Balearic



Meeting with the President of the Supreme Court of the State of Israel, Aarón Barak.



Meeting before the Round Table of the European Commission Against Racism and Intolerance in Spain, in the headquarters of the Ombudsman.

Islands, with the Conference «The Ombudsman and Immigration».

- Meeting with the Sub-delegate of the Government of the Autonomous Community of Madrid, the Director of the Madrid Institute of the Minor and the Family, the Managing Director of the Community of Madrid Agency for the Re-education and Reintegration of Juvenile Offenders, and the Area Chief for the Protection of Minors of the IMMF.
- Visit to the Penitentiary of Soto del Real, Madrid V. Participation in the Round Table discussion of the presentation of the magazine «De Paso», edited by CEPA Yucatán, ascribed to the Community of Madrid Board of Education.
- Seminar on the guidelines for civil service in the Draft Bill of the Law of Basic Statutes of Public Employment, organized by the Ministry of Industry, Tourism and Commerce.
- Meeting with members of Amnesty International to discuss the content of the Report they have presented: «Spain and Morocco: Lack of Protection of Personal Rights».
- Presentation of the study «Juvenile Associative Movement: Citizenship Schools», chaired by the President of the Youth Board.
- Meeting with the Director General of the Spanish Agency for International Co-operation.
- Meeting about projects presented by institutions to the Ibero-American Federation of Ombudsman and EUROsocial in relation to EUROsocial's support for the creation of new Ombudsmen Ibero-America. (Chile y Uruguay).
- Meeting with representatives of the Spanish Agency for International Co-operation.
- Presentation in the Supreme Court of the «Commentary of the Civil Code, 2nd edition».

Promotion and public awareness activities

- XIX Edition of the Postgraduate Course in Constitutional Law, organized by the University of Salamanca. Participation in the Conference «The Ombudsman: The Ibero-American Model».
- Visit by the students of the VIII Edition of the Master's in Applied Political Studies of the FIAP.

- Visit to Public School «Miguel Blasco Vilatela», for 'Teacher's Day'.
- Visit of the students of the IV Course for Parliamentary Judiciary Consultants.
- Conference in the main event of the celebration of the holiday of de San Raimundo de Peñafort, organized by the Law School of the University of Oviedo, with the title «The Ombudsman: The Ibero-American Model».
- Attendance at the III International Congress on Victims of Terrorism, organized by the Cardenal Herrera Universidad CEU.
- Presentation of the book *23F: The Truth*, by Francisco Medina.
- Seminar «50th Anniversary of the Student Movements of February 1956», organized by the Complutense University of Madrid (Department of Political Science and the Administration III).
- Participation in the Expert University Course on Immigration, Exclusion and Policies of Social Integration by the National University of Distance Education, with the conference «Legal Assistance for Immigrants».
- Meetings in Granada organized by the Opinion 2000 Club of the Press Association of Granada with the conference «University Events of '56: The First Rebellion Against The Franco Regime».
- Visit by students of the «Antonio Losada» Secondary Education Institute of Pontevedra.
- Conference «The Spain of Freedom: Constitution and Democratic Consolidation», organized by El Mundo Tribune.
- Visit by students of the University of Barcelona Law School.
- Debate organized by the Riojano Center of Madrid.
- A presentation of the European Ombudsman, Nikiforos Diamandouros, at the breakfast meeting of the Forum of the New Society, organized by the New Economy Forum and with the collaboration of the ONCE Foundation and the PFIZER Foundation.
- Participation in «El Mundo Discussions», with the conference «Universities against the Dictatorship of 1956, a Student Revolution».
- Conference «Should Democracy be Re-invented in Spain?», organized by the Rafael Termes Interdisciplinary Forum; IESE Business School, of the University of Navarra.
- Presentation of the book *Europe at the Debate, 20 Years Later (1986-2006)*, by Miguel Benedicto Solsona and Ricardo Angoso García.
- Closing words at the Seminar «Humanitarian Aid and Social Exclusion», organized by the Complutense Institute of International Studies and the Ombudsman.
- Presentation of the second edition of the book *The Generation of 56: Universities against Franco*, by Pablo Lizcano.
- Summer course on «Catholicism and Spain», organized by the García Morente Foundation and the Center for University Studies (CEU), with the conference «Can Church and State Co-exist?».
- Conference in the Alfonso X El Sabio University, at the solemn end of term ceremony 2005-2006 «The University: a space for freedom».
- Participation in the Summer Courses of the Complutense University moderating the Round Table «Reasons for the delay in Spanish-Israeli Relations», within the course «Spain-Israel, the 20th Anniversary of Relations».
- Summer Course of the King Juan Carlos University, «Twenty five years of Constitutional Jurisprudence», with the conference «Expectations and Current Balance».
- Participation in the Judiciary Summer School 2006, in the course *Credibility and Trust in Justice, with the inaugural conference «The Ombudsman and the Citizens' Trust»*.
- Presentation of the book *The Press in the Second Spanish Republic: History of a Frustrated Freedom*, by Justino Sinova.
- Participation in the opening act of the III Master's on Protection of Human Rights, organized by the University of Alcalá. Participation in the week on the Institution of the Ombudsman: «The Institution of the Spanish Ombudsman. General introduction. The processing of complaints in the First Deputy's Office».
- Inaugural speech at the Sixth Saluslaboris Fair, Forum on «New Challenges for Patients», organized by the European Institute for Health and Social Well-being.
- Inaugural act by the III Ibero-American Forum «Democracy and Human Rights in the Euro-Latin-American Area», organized by the Center for Ibero-America Studies at the King Juan Carlos University.
- Conference «Legal Counseling for Immigrants», in the Expert University Course on Immigration, Exclusion and Policies of Social Integration, organized by the National University of Distance Education.
- Conference «The Supervision of Administrations by the Ombudsman», in the Officers' Academy of the Civil Guard of San Lorenzo del Escorial.
- Round Table on «The question of the victims in the European answers to terrorism», organized by the Foundation for International Relations and the Exterior Dialogue.
- Seminar on International Law for Refugees in the Menéndez Pelayo University, in Cuenca.
- Seminar on «Immigration and Society: a social commitment through Legislative Power», organized by the Cortes Valencianas and the Mediterranean Institute of European Studies. Participation in the conference «Immigrants' Rights the 21st Century».
- Inauguration and conference in the seminar on putting the protocol of the Convention against Torture into practice in Spain, organized by the Francisco de Vitoria Institute of the Carlos III University of Madrid.
- Conference given in the National Institute of Public Administration (INAP) to the I and II selective course on the development of the function of inspection the General State Administration, with the title «Citizenship and participation: The Ombudsman».
- Conference given in the Autonomous University of Madrid on the «Master's in the needs and rights of childhood», with the title «The Role of the Ombudsman's Supervision».
- Conference given in the «Professional Congress of Fibromyalgia and Chronic Fatigue: reality and solutions», on social and legal issues for people with these illnesses.
- Participation in the luncheon debate in relation to Health Care Services and cohesion in the autonomous system, organized by SPA Medical Economics.
- Conference in the Center for Police Training with the title «Police Activity Valued by the Ombudsman».

Visits, tributes and official events

- Tribute in memory of President Francisco Tomás y Valiente, organized by the Constitutional Tribunal.
- Awards ceremony at the Club of the 25, «XI Edition Man of the Year Award and VIII Edition Pilar Miró Awards». The Ombudsman presented the «Pilar Miró Award» to Ana Alonso (President of Euromoz Mozambique).
- Commemorative Act for the Official Memorial Day of the Holocaust and the Prevention of Crimes Against Humanity, organized by the President of the Government, in the Paraninfo of the Complutense University of Madrid.
- Memorial for the Holocaust organized by the Jewish Organizations of Madrid in the Madrid Regional Assembly.
- Awards ceremony of the «III Solidarity Awards of Tele-Madrid», organized by the Therapeutic Community of Barajas.
- Attendance at the Concert-Tribute Madrid-London: In Memoriam.
- Words to be read at the event «Selected Readings for Peace», organized by the Aid Association for Victims of the 11-M Madrid train bombings.
- Attendance at the Ceremony for the Ortega y Gasset Journalism Awards 2006 and the celebration of the XXX anniversary of the daily newspaper El País.
- Event for the formal deposition in New York of the instrument of ratification of the Official Protocol of the United Nations Convention against torture and other cruel, inhuman, or degrading treatment, organized by the Ministry of Foreign Affairs and Co-operation.
- Attendance at the Awards ceremony of the María de Cavia, Luca de Tena y Mingote Awards 2005, presented by ABC Publishers.
- Attendance at the inauguration of the President of the Economic and Social Advisory Board of Spain, Marcos Peña.
- Attendance at the formal opening of the Judicial Year.
- Participation in the annual dinner and awards ceremony of the Age and Life Awards 2006, on the occasion of the International Day of the Elderly.
- Conference on the II Luis Portero Seminar on Human Rights, «Terrorism and the Violation of the Right to Life», organized by the Luis Portero García Foundation.
- Presentation to The Ombudsman of the Ictus Award 2006 in the Institutional Category, on the occasion of the National Ictus Day, organized by the Spanish Neurology Society.
- Attendance at the presentation of the Pelayo Award for Renowned Judges, organized by the Pelayo Judicial Forum.
- Visit from the Lieutenant Mayor of the Royal Cavalry of Seville, Alfonso Guajardo-Fajardo y Alarcón, accompanied by the Secretary General, Javier de Solís y Martínez Campos.
- Attendance at the reception offered by the Spanish Parliament for the XXIII Anniversary of the Constitution.
- V Reading of the Declaration of Human Rights and presentation of awards for Ombudsman 2006, organized by la ONG Globalization of Human Rights. presentation by the Ombudsman of the awards for the «Ombudsman Concourse 2006», with the participation of schools from different autonomous communities.
- Presentation of the Facua Award, for the International Day of Consumers' Rights, to the Ombudsman's Office of Spain.



Enrique Múgica speaks with the Secretary General of Comisiones Obreras (Workers Commissions), José María Fidalgo, in the Summer Courses at El Escorial.

- Event in the Ortega y Gasset Foundation, for the finalization of the Carlos Boggio mission as representative in Spain for the United Nations High Commission for Refugees
- Attendance in the inauguration of the III and IV sessions of Parliament.

Courses

- Course «The Ombudsman and the protection of the rights of socially excluded persons», during the Summer Courses at the Complutense University of San Lorenzo del Escorial. Directed by the Ombudsman and structured in nine speeches and four round tables.



Meeting of the Ombudsman, his Deputies and the Secretary General, with the members of the Human Rights Chair of the University of Alcalá de Henares.



Enrique Múgica during the signing of the Agreement of Co-operation between the FIO and the Ibero-american Organization of Ombudsman.

Agreements

- Annex to the Agreement of Co-operation between the Ombudsman and the University of Alcalá for the development of the Regional Outreach Program for Ombudsmen of Ibero-America. Signed in Madrid, March 7.
- Annex to the Agreement of Co-operation between the Ombudsman and the University of Alcalá for the development of the activities of the Democracy and Human Rights Chair. III Master of Human Rights of the University of Alcalá. Signed in Madrid, March 7.
- Agreement of Co-operation between the General Foundation of the Complutense University of Madrid and the Ombudsman for the organization of the course «The Ombudsman and the protection of the rights of socially marginalized people», signed in Madrid, April 24.



Signing of Agreement with CERMI. From left to right, Luis Cayo Pérez Bueno; Mario García Sánchez; the consultant responsible for Studies and Modernization, Francisco Virseda; The Spanish Ombudsman Enrique Múgica; Second Deputy Manuel Aguilar; and the Secretary General to the Ombudsman, Mar España.

- Agreement for the celebration of the Seminar «Humanitarian Help and Social Exclusion», between the Ombudsman and the Complutense Institute of International Studies (Universidad Complutense de Madrid). Signed in Madrid, May 25.
- Agreement of Co-operation between the Spanish Ombudsman and the Patients Advocate of the Community of Madrid. Signed in Madrid, October 23.
- Agreement of Co-operation between the Ibero-American Federation of Ombudsman and the Ibero-American Youth Organization. in Buenos Aires (Argentina), November 30.
- Agreement of Co-operation between the Spanish Ombudsman and the Spanish Committee of Representatives for Disabled Persons (CERMI). Signed in Madrid, December 22.

OMBUDSMAN'S OFFICE: FORTUNY, 22



Presentation of complaints:

- By Internet:
www.defensordelpueblo.es
registro@defensordelpueblo.es
- By telephone: (+34) 900101025 (free) and (+34) 914327900; Fax: (+34) 913081158
- Complaints may also be lodged in person at Zurbano, 42, corner of Pº Eduardo Dato, from Monday to Thursday, from 9 a.m. to 2 p.m. and 4 p.m. to 6 p.m., and Friday from 9 a.m. to 2 p.m. Closest underground stop: Rubén Darío, line 5; buses 40 and 147
- Complaints lodged by mail should be sent to c/ Zurbano, 42, postcode 28010, Madrid