

SUMMARY OF THE

2023 Annual Report to the Basque Parliament



ararteko

Herriaren Defendatzalea · Defensoría del Pueblo



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ARARTEKO

Vitoria-Gasteiz, 2024

Design, layout and printing: Editorial MIC

www.ararteko.eus

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Manuel Lezertua Rodríguez
Ararteko – Ombudsman of the
Basque Country

*Equality is a vital need of the human soul.
The same amount of respect and attention
is due to every human being, because
respect has no degrees.*

– Simone Weil, French philosopher, activist and politician.

In 2023, there was a further increase in the activity of the Ararteko, involving 13,602 procedures, around 8,200 of which were complaints and consultations. The growth was particularly notable as regards the number of complaints processed, practically 3,900, which meant an increase of around 37%. Furthermore, the Ararteko opened 26 ex officio cases.

The administration in question corrected and amended the action leading to the complaint in 89% of the cases.

In 2023, the number of administrations unwilling to cooperate with the Ararteko fell significantly. However, some attitudes emerged that impacted the effectiveness of the protective action that the law ascribes to this institution. Particularly concerning is the fact that certain administrations hide behind the existence of legal remedies to avoid correcting irregularities substantiated by this institution or counter the Ararteko's recommendations. The Ararteko will continue to denounce these attitudes of reluctant administrations; in practice, these are equivalent to a refusal to cooperate with an institution set up by the Basque Parliament to ensure, precisely, that citizen rights are respected. Nevertheless, the picture overall for 2023 is positive.

A highlight of last year was the hosting of "Legeen geroa / The Future of Legislation" seminar. The seminar's reflections and conclusions are the basis to prepare an institutional reform proposal incorporating a modern and updated vision of how an Ararteko of the 21st century should be.

In 2023, the Ararteko published two studies: 'Discrimination and Anti-Discriminatory Public Policies in the Basque Country' and 'Video Surveillance for Citizen Security in the Public Sphere of the Basque Country. Analysis from the Perspective of Fundamental Rights'.

Protecting the rights of children and young people is a long-standing goal of the work of this institution. Special mention should be made of the activity in risk situations, consisting of an own-initiative action, which was shared with other Ombuds institutions of Spain in 2023.

In the field of health, the Basque Country ended the year with the primary and secondary care networks under great strain. It should be emphasised that health administrations must have the necessary human and materials resources to ensure the effective exercising of the right to health.

In 2023, those human activities that impact the environment of Basque citizens – and, therefore, their health – greatly affected the work of the Ararteko; special mention should be made of the complaints referring to noise pollution. We reiterate the need to control noisy activities and the noise hotspots that exceed the legally set limits.

Particularly noteworthy is the Ararteko's commitment to drive restorative justice by means of interinstitutional collaboration, by organising and participating in international seminars and, enabling restorative justice to be applied in different areas of the Basque Country.

In the same way as in previous years, this institution had to face the serious problem of the mandatory appointment system and had to find in favour of the citizen right to multiple channels.

In 2023, there was a significant boost to the international outreach of the Ararteko, thanks to the meeting in Strasbourg with European authorities, leaders in the work to protect and promote human rights.

I would like to end by stressing, and echoing a statement by Amnesty International, that each day is an opportunity to recall that everybody enjoys equal rights and deserves the same opportunities, regardless of their gender, race, background, creed, sexual orientation, age, or any other characteristic that differentiates them. That includes the right to a quality, approachable and sound administration.

THE ACTIVITY OF THE ARARTEKO'S OFFICE IN FIGURES

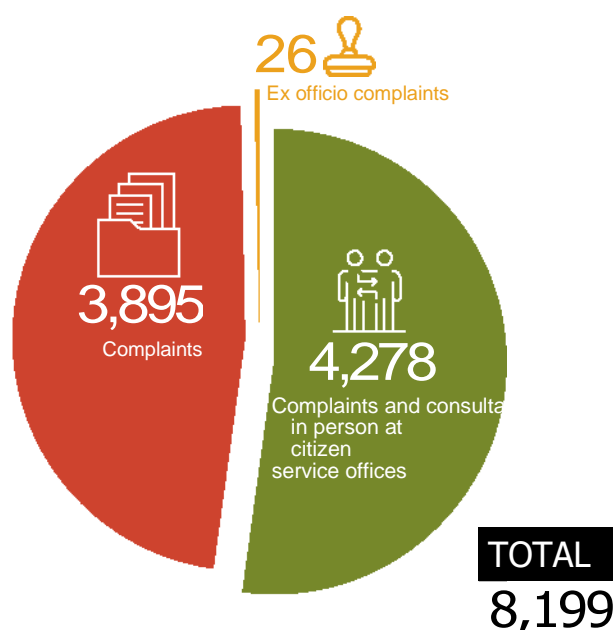
During 2023, there were a total of **13,602 procedures** (a figure slightly up on the previous year), **8,199** of which were **complaints and consultations**, along with 26 ex officio cases. There were 3,895 written complaints, 3,102 of which were given leave to proceed.

A total of 9,488 services were provided by the **direct service offices**. Out of which, 4,478 were complaints and consultations made in person at any of the three offices, and 5210 sought advice and information using the telephone hotline.

In 2023, we held **102 meetings** with social organisations and different administrations: ministries and directorates of the Basque Government, provincial governments, local councils and other authorities. Furthermore, the Ararteko actively took part in different acts, conferences and events, basically related to initiatives organised by administrations, social organisations and ombuds, at regional, state and international level. There were 91 activities of this type in 2023. The 22 activities performed by the Ararteko with an international or European dimension are likewise noteworthy.

In 2023, 2,589 **complaints were processed** and **1,540 decisions** issued. The other cases were dismissed (duplication with other ombuds, cases pending a court ruling or with a final judgement, commencement of legal proceedings, etc.). The average term of the compliant proceedings was 60 days.

Complaints and consultations filed with the Ararteko in 2023



Total procedures of the Ararteko in 2023

Complaints and consultations	8,199
Information and advice through the telephone service	5,210
Work meetings with administrations and social organisations	102
Participation in external activities	56
International activities and with other ombuds	22
Inspection visits	10
Open days for the public	3
Total	13,602

If we analyse those complaints, the administration in question had **acted incorrectly** in nearly **53%**, a percentage slightly up in the previous year (47%). The administration in question corrected and amended the action leading to the complaint in 89% of the cases. The Ararteko did not need to issue a formal recommendation in the majority of the cases.

Depending on the thematic area to which the complaints refer, we can see that there was a slight increase in the claims regarding mechanisms to combat social exclusion: 475 (compared to 458 of the previous year). Nearly 89% of the complaints were to do with different problems relating to the functioning of Lanbide [Basque Employment Service] and its procedures regarding the management of the Income Guarantee Payment (RGI) and the Housing Supplementary Benefit (PCV).

46% of the complaints processed were related to **social rights** (health, social inclusion, housing, education, etc.) The issues related to the admission of students in education or those referring to noise pollution as regards the environment were significant.

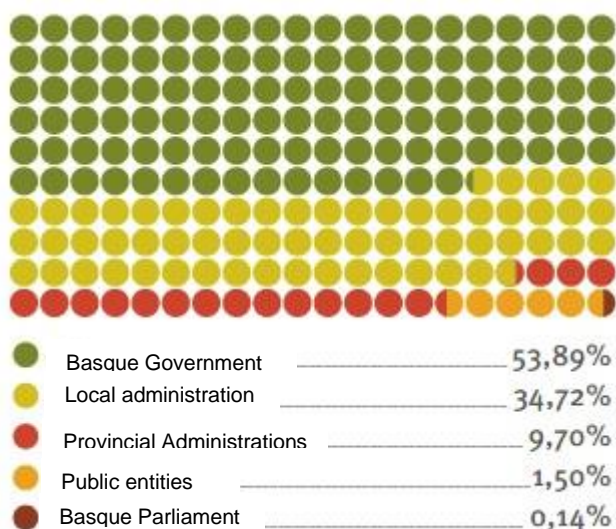
There were also a high number of complaints to do with **public assistance schemes**, just over 7%. Many of those cases (including the social inclusion ones) were related to public policies aimed at guaranteeing the **real and effective equality** of everybody, by removing the barriers that prevent or hinder women, older people, children and adolescents, people with disabilities, members of the LGTB community, immigrants, the Roma, etc. from exercising that right.

In terms of the proportion of cases processed affecting each of the **administrations**,

in the same way as in previous years, the Basque Government was the one that was the subject of most written complaints in 2023 (nearly 58%) and those referring to procedures of Basque local councils fell slightly (31%). Nearly 9% involved the provincial governments.

In any event, analysing the procedures of the administrations involved does not necessarily mean that they have acted in an incorrect way, but merely that a complaint has been brought in that regard.

Distribution of the cases processed by the administrations in question



DEGREE OF SATISFACTION

Some time ago, we embarked on a citizen outreach process to discover the opinion of the people who have requested our intervention, with the aim of improving the service that we offer. Therefore, at the end of the complaint process, we send a questionnaire to the person filing the complaint and ask them to answer, on a completely voluntary and anonymous basis, a series of questions to assess the service provided.

When assessing the results, it is important to remember that the administration in question was found to have acted incorrectly in the case of 53% of the complaints whose processing was completed in 2023.

When asked to assess the **assistance provided** by the Ararteko staff, **727% of the citizens considered that "the assistance has been good or very good"**.

Regarding the intervention of the Ararteko (availability, interest shown, formalities performed), nearly 70% said that it had been very positive or positive.

Over 80% would recommend resorting to the Ararteko for any problem with the Administration.

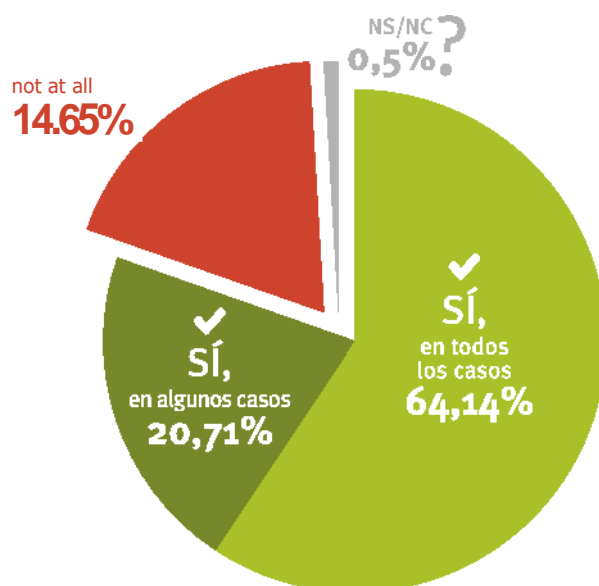
Furthermore, we asked about awareness of two key instruments of the Ararteko: the **website** as a basic element for information about our services and interaction with citizens (known by nearly 74% of users) and the **Service Charter** of the Ararteko, which sets out all the quality commitments and the rights of the users with respect to the institution, along with the way to exercise them (known by 50% of people who completed the survey).

The results allow us to conclude that when the opinions relate to direct intervention areas of the Ararteko - which depend on its own activity and personal resources -, the assessment of the work performed is positive.

The emphasis has likewise been for some time now on encouraging citizens to submit suggestions or opinions about the services provided by the Ararteko and the reform of the [Service Charter](#). In 2023, 17 requests and complaints were submitted.

Furthermore, the reform of the Service Charter has included the right to access the public information of the Ararteko and the exercising of the rights related to protecting personal data. A further 39 requests were submitted and managed in this regard.

Would you recommend anybody with problems with the Administration to resort to the Ararteko?



FOLLOWING A A RECOMMENDATION BY THE ARARTEKO, THE BASQUE GOVERNMENT'S MINISTRY OF PUBLIC GOVERNANCE AND SELF-GOVERNMENT MADE IMPROVEMENTS TO THE AWARDING OF THE 'BONO DIGITAL' HOME INTERNET SUBSIDY FOR COLLECTIVE GROUPS

A citizen contacted the Ararteko to express his dissatisfaction with the possible arbitrariness of the Basque Government when granting the 'bono digital' to vulnerable groups. He explained that he had requested the 'bono digital' subsidy to benefit from a lower rate for his internet connection service. He later received a favourable decision regarding his application; however, he noted that taking up the awarded subsidy would not financially benefit him, as it meant that he had to change to one of the partner operators of the subsidy programme; therefore, the cancellation of his current contract would involve a financial penalty.

In view of the legislation regulating grants and subsidies and the ruling in favour of the complainant, the Ararteko did not find any arbitrariness in the action of the administration. However, the Ararteko detected aspects that could be improved in the subsidy awarding procedures, in light of the provisions analysed and the response of the ministry to the support requests made.

Specifically, the Ararteko noted that the public interest pursued with this subsidy was to reduce the digital divide among the vulnerable groups, and therefore deemed it appropriate to suggest a reflection on the actions that may be appropriate to disseminate the existence of the 'bono digital' subsidies among the public services caring for the vulnerable.

Precisely in this regard, the Basque Ministry of Public Governance and Self-Government informed the Ararteko that it not only welcomed the suggestion, but also the actions already taken were in keeping; they were already coordinating with the Basque Ministry of Equality, Justice and Social Policies, and also the Ministry of Work and Employment, through Lanbide, to ensure the information reaches the widest audience.



THE BASQUE GOVERNMENT'S MINISTRY OF ECONOMIC DEVELOPMENT, SUSTAINABILITY AND THE ENVIRONMENT TO RESPOND TO THE REQUESTS FOR ACCESS TO PUBLIC INFORMATION BY MEANS OF THE APPROPRIATE PROCESSING

The Ministry has announced that it will put the appropriate means in place to comply with the recommendations of the Ararteko, and will respond to the requests for access to the public information by means of the relevant processing in accordance with the Transparency, Access to Public Information and Good Governance Act.

The complainant had asked to access public information of the Basque Government's Ministry of Economic Development, Sustainability and the Environment by means of different electronic means provided by the administration. The citizen had used the general information request mailbox. The administration sent him an email indicating, on the one hand, that the mailbox was not the appropriate channel to make that request and that it was not an interested party in the administrative procedure; on the other hand, it rejected the access sought by means of alleging the application of a limit established in the transparency legislation for which there were no grounds. In the ruling, the Ararteko stressed that the means and practice chosen to answer the complainant was not correct and that it was up to the administration to duly process the request and issue a reasoned decision, complying with the legal and technical requirements of the administrative procedure.

FOLLOWING A RECOMMENDATION BY THE ARARTEKO, THE UNIVERSITY OF THE BASQUE COUNTRY (UPV/EHU) TO EXTEND THE SCOPE OF APPLICATION OF THE REGULATION REGARDING EQUAL OPPORTUNITIES PERTAINING TO UPV/EHU STUDENTS WITH SPECIAL NEEDS TO ALL THE UNIVERSITY STUDIES.



According to information provided by UPV/EHU to the Ararteko and given that the change of regulations involved internal procedures, its intention was to shortly submit a reform proposal for the approval of the Basque Cabinet. In that case, it would come into force during the 2023-2024 academic year.

The decision of the Ararteko stemmed from a written complaint filed by a UPV/EHU student who had a level of physical disability assessed at 82%; she therefore required an education support technician to continue with her university studies on an equal footing with the other students. The interested party argued that she had had an educational support technician during the four years of studying for her Bachelor's Degree in Social Work; however, after requesting that resource to study for a

Master's Degree in Social Services Management and Innovation, that request had been rejected, pursuant to the Regulation regarding Equal Opportunities Pertaining to UPV/EHU Students with Special Needs.

The rejection decision indicated that the post-graduate course for which she had requested the resource was a diploma specific to the UPV/EHU; pursuant to the aforementioned regulation, the student was not entitled to an educational support technician as it was not an official qualification.

The Ararteko sought the co-operation of the UPV/EHU; the latter responded that, among other points, *"the right to request the UPV/EHU to allocate resources to students with disabilities and/or Special Educational needs is, as is the case the exercising any rights, subject to limits"*.

The university added that *"the recognition of the right of students with disabilities and/or special needs enrolled for diplomas specific to the UPV/EHU to be provided with means, support and resources would not only seriously compromise the sustainability of the current care and support system for people with disabilities and/or special needs, but it would make the very university-specific study system unfeasible"*.

However, the Ararteko found that the failure to allocate the resource requested by the student prevented her from accessing the only specialisation taught by the UPV/EHU linked to the bachelor's degree in Social Work that she had studied. The denial of the support resource that she requires, according to the terms in the current Regulation of Opportunities Pertaining to Students with Special Needs, is a form of discrimination on the grounds of disability.

Therefore, the Ararteko recommended that the UPV/EHU extend the sphere of application of the Regulation of Equal Opportunities Pertaining to UPV/EHU Students with Special Educational Needs, and that students with disabilities should be guaranteed access to those studies on an equal footing. The Ararteko thanks the UPV/EHU for its cooperation and its decision to amend the regulations as soon as possible.



THE BASQUE GOVERNMENT'S MINISTRY OF HOUSING DID NOT ACCEPT THE LEGAL ARGUMENTS OF THE ARARTEKO AND WOULD NOT DIRECTLY ALLOCATE HOUSING TO A COEXISTENCE UNIT BELONGING TO A SPECIAL NEEDS GROUP.

One person involved the Ararteko given the lack of an express response to a request to allocate housing using the extraordinary procedure. The complainant explained that their coexistence unit comprised six members, one of whom was a minor, and another was 22 years old and had a level of disability assessed at 81% and a high level of dependency due to cerebral palsy. She argued that the state of her child had worsened in recent years and that it was increasingly more complicated to carry out many of the most basic day-to-day actions.

The free market housing in which they live is not adapted; there is not sufficient space to use a wheelchair and the hoist needed for the correct hygiene of the child cannot be brought into the dwelling.

The complainant indicated that they had been registered with "Etxebide" [Basque Public Housing Service] since 2015, but they had not so far been allocated adapted social housing. Furthermore, they receive the income guarantee benefit (RGI) and housing benefit.

Even though she had been actively searching, she stressed that it had not been possible to find an appropriate dwelling on the free market and that was why she had approached the basic social services of her local council.

The basic social services assessed the situation and the local council agreed to submit the decision to allocate adapted housing by the extraordinary decision to the Basque Government's Housing Office.

Meanwhile, the complainant sent three letters to the Bizakai Housing Territorial Delegation in which

she reiterated the situation of her child and stressed the need to have access to adapted housing. She did not receive an answer from the delegation, but she did receive a telephone call from social services informing her that her request had not been approved.

The Ararteko sought the cooperation of the Ministry of Housing, which, in its response, argued that the complainant and her coexistence unit did not come under any of the envisaged cases that would allow the direct allocation of adapted housing to be assessed. Therefore, social services informed them that they had to wait for the allocation by the ordinary procedure.

However, Decree 39/2008 does envisage the possibility of access for groups with a special housing need. Expressly, those coexistence units in which at least one of its members are part of the following groups of *"...people with intellectual and developmental disability and people with mental illness, single-parent families."*

The Ararteko considers, and has legally argued, that the situation of this coexistence unit is included in the group with a special housing need, and, therefore, within the legally envisaged case practice. Therefore, the Ararteko recommended that the Ministry of Housing review its rejection of the request.

In its response, the Ministry stressed that the case of the complainant did not belong to those groups; furthermore, it believed that the person who had requested housing from the social services did not have the status of interested party.

THE ARARTEKO RECOMMENDED TO THE MINISTRY OF HOUSING TO ADOPT THE NECESSARY MEASURES SO THAT PEOPLE WHO ARE SEPARATED OR DIVORCED WITH SHARED CUSTODY OF THEIR CHILDREN CAN REGISTER AS HOUSING APPLICANTS



A citizen, with shared custody of her offspring, informed the Ararteko that she contested her removal from the “Etxebide” Social Housing Applicant Register. She stated that since July 2015 both parents had held joint custody of their daughters and that the nesting system was the one agreed in the legally ratified divorce settlement; in other words, they agreed that the daughters would permanently live in the family home and the parents would rotate in the use of their home on a weekly basis. Furthermore, she explained that she had been registered as a social housing applicant since 2019, but she had not been awarded any housing.

Given the lack of housing at an affordable price on the free market, in October 2022 she requested to be entered in a general social housing award process in her municipality. Therefore, a specific register of interested parties was set up by municipal ordinance, but the Mayor's Office ordered that her participation be excluded. Meanwhile, the complainant accredited receipt of an electronic notification from the Basque Government's Housing Ministry, in which she was informed that the Bizkaia Territorial Delegate had ruled that she be removed from the housing applicant register. The grounds were that they had found that she was a co-owner of a property and that, therefore, her need for housing was not duly accredited.

In January 2023, the complainant lodged an appeal with the Deputy Minister for Housing, reiterating that she was divorced and that the settlement agreed was that

of shared custody. She likewise expressed her surprise of the time between her registration and the decision to remove her; in fact, she pointed out that after registering as a housing applicant, her registration had been renewed in 2021 without any problem.

The rotating use of the family home, which coincides with the custody periods of the daughter, meant that at least six months a year, the former partner of the complainant is legally assigned the use of the family home, of which the complainant is co-owner; therefore, during that period of time, she would meet the requirements to be accredited as needing housing.

Conversely, the former spouse would also meet the legal requirement for needing housing during the half-year period when the complainant had the use of the family home of which he is co-owner.

Therefore, in the opinion of the Ararteko, an interpretation that addresses the purpose of the rule – which governs the exemptions to the requirement of lack of housing in cases of separation or divorce – should allow access to housing to people who are divorced or separated and whom a court has awarded the regular use of the family home.

Therefore, the Ararteko recommended to the Basque Government's Ministry of Housing to adopt the necessary measures so that people who are separated or divorced with shared custody of their children can register as applicants for rental social housing.

THE ARARTEKO RECOMMENDED THAT MUNGIA LOCAL COUNCIL ALLOW CASH AS A MEANS OF PAYMENT FOR THE FEES TO USE THE MUNICIPAL SPORTS SERVICES



One person complained to the Ararteko because paying by direct debit was the only authorised channel to pay the fees for using the municipal sports facilities in Mungia.

The complainant argued that the local council had been asked to also authorise the municipal sports centre fees to be paid in cash or, at least, by means of issuing a paying-in slip to make the payment at a bank.

However, the request had been dismissed, as the municipal ordinance regarding the fees for using sports services establishes that the collection of regular receipts and payments of the sports centre are to be in advance by bank direct debit. The local council argued that its decision was based on the convenience for the users of the service, given the technological advances.

The Ararteko, in his request for information, noted that the municipal decision could be seen as introducing restrictions as regards the means of payment authorised by tax legislation; furthermore, it could be contrary to the guarantees that the General Act for the Protection of Consumers and Users sets out for consumers and users.

In its reply, Mungia Local Council defended its action and argued that *“we do not believe that we are in breach of the General Consumer and User Act by requiring that payment for the use of the sports facilities be by direct debit, as it could be considered to be a means of payment in cash, and the Local Council has jurisdiction to regulate the means of payment within the limits established by tax law.”*

Notwithstanding that the Ararteko agreed with Mungia Local Council that it is lawful and, even – at certain times – necessary, to adopt measures aimed at facilitating the management of tax collection, initiatives introduced can, under no circumstances, be a restriction on the recognised rights of tax payers. Therefore, the Ararteko recommended that the council review the provisions of its tax ordinance and accept and include cash as a means of payment for municipal sports activities.

THE ARARTEKO RECOMMENDED THAT VITORIA-GASTEIZ CITY COUNCIL OVERTURN A FINE ISSUED FOR A TRAFFIC OFFENCE.

A citizen informed the Ararteko that he contested a fine issued by Vitoria-Gasteiz City Council for *“parking an authorised vehicle in a loading and unloading area during the hours it was enforceable”*, after his vehicle had been reported by a local police officer. According to the complainant, the legislation allows people with a disabled parking card to park in loading and unloading areas, and such a card had been clearly visible on the dashboard of his vehicle as he kept it there permanently. Along with his allegations, he provided a photo of the vehicle to show that he had the card in place, along with a copy of the card.

The Ararteko asked the city council to provide a copy of the administrative file on the penalty proceedings in

question. Furthermore, the council was also asked for information on the effectiveness of the *“parking in areas authorised for loading and unloading with a disabled card” municipal instruction*; on whether the officer had checked whether the parking areas for people with reduced mobility in the area were full; and whether the officer had checked whether the vehicle was hindering pedestrians or the traffic, and if that were duly recorded in the police report.

The city council sent a copy of the administrative file, but did not answer the questions that this institution had raised. After learning about the allegations, the police officer who had brought the charge ratified the fine and said that the disabled card was not visible on the reported vehicle. Therefore, there were contradictory versions.

In any event, the city council did not refer at any time to the parked car having hindered pedestrians or traffic, and the complainant had proved his right to use the area reserved for parking. Furthermore, the card not being visible is not a traffic offence for failure to comply with the General Highway Code. Consequently, the Ararteko deemed that the fine should be overturned.



THE ARARTEKO ASKED ÁLAVA PROVINCIAL GOVERNMENT'S DEPARTMENT OF CULTURE TO TAKE MEASURES TO ENSURE THE CONSERVATION OF A BUILDING PROTECTED AS A CULTURAL ASSET

A citizen, representing the owner of a building located in the municipality of Kuartango, turned to the Ararteko regarding the impossibility of obtaining the relevant permits for the necessary refurbishment of the building. In January 2021, planning permission had been sought from the local council. The building was on the municipal protected heritage list, approved by the Kuartango General Urban Development Plan. Therefore, the urban planning department consulted the Architectural-Historical Heritage Service of Álava Provincial Government. Furthermore, the building was located in the public domain along A-4351 road of the local network.

Therefore, Kuartango Local Council informed the complainant that, prior to planning permission being granted, authorisation was necessary from the Highway Service of the Provincial Government's Infrastructure and Mobility Department; an authorisation request was therefore submitted to that Department in September.

The Highway Infrastructure Director refused the authorisation. The ruling deemed that the building was located within the public domain of the road; therefore, according to the provisions of the Provincial Highways Regulations, only work essential for the conservation of the building could be authorised. In that case, it considered that the requested refurbishment work exceeded that conservation and maintenance tasks.

Months later, the complainant sought new permission from the Highways Service; in this case, it was limited to roofing work, arguing that that was fundamental for the conservation of the building and to avoid it falling it into disrepair.

The Highway Infrastructure Director again refused authorisation and argued that the only authorizable action would be to demolish the building completely, given the state of disrepair of the building and its proximity to the road surface.

The complainant wrote again to the Local Council to ask about the possible demolition of the building and submitting the decision of the Provincial Highway Department; the council answered that the building could not be demolished given its cultural protection standing. The Provincial Government's Architectural-Historical Heritage Service reiterated that the building had the status of basic protected cultural asset, and could therefore not be demolished.

As the responses were contradictory, the Ararteko recommended that Álava Provincial Government's Department of Culture start the relevant proceedings to order the implementation of the necessary measures to repair the existing damage and avoid the loss of the protected building. The Ararteko also suggested that the Infrastructure Department study the opportunity to ensure that urban section was properly managed in such a way to make the requirement to protect the cultural heritage compatible with the highway regulations.

THE ARARTEKO RECOMMENDED THAT THE EDUCATION MINISTRY REVIEW THE DISMISSAL OF THE REQUESTS TO REDUCE THE TEACHING DAY DUE TO AGE FOR THE 2023-2024 ACADEMIC YEAR, REJECTED ON THE GROUNDS THAT THE INTERESTED PARTIES HAD THE POSSIBILITY TO TAKE VOLUNTARY RETIREMENT.



Several people requested the intervention of the Ararteko regarding the decision of the Education Ministry not to apply the status of reduced teaching day due to age in their case. That status allows the teaching day, that is generally assigned to the teaching staff of non-university public centres, to be reduced by a third; with the obligation to make the resulting hours available to the management of the respective centre, in order for the teachers granted the reduction to be assigned those specific non-teaching duties that they will have to perform during that time.

The complainants indicated that they had been granted that reduction in previous academic years, but their requests regarding the current year had been dismissed, on the grounds that they could now take voluntary retirement. They argued that, by seeking early voluntary retirement, their pension would be reduced by a high percentage, even in the case of some of them that could accredit over 40 years of contributions. Thus, their only alternative was to return to the full-time teaching day from 63 years old, which

they considered was contradictory to the purpose of the status.

The Ararteko asked the Education Ministry for information on the legal grounds for not applying the Working Conditions Agreement and their willingness to review the rejection of the applications.

The reduction of the teaching day due to age is envisaged in the Education Act 2/2006, as a means of recognition and appreciation of the teaching work of the staff of public centres.

In the opinion of this institution, it is not easily explainable that such a status that is so well established, at least in its application to those workers who are, in general, between 60 and 63 years, can be lost. Therefore, the Ararteko recommended that the Education Ministry review the dismissal of all the requests to reduce the teaching day due to age for the 2023-2024, academic year, rejected on the grounds that all the interested parties had the possibility of taking voluntary retirement.

LANBIDE HAS TAKEN A RECOMMENDATION OF THE ARARTEKO INTO ACCOUNT AND WILL REVIEW THE SUSPENSION OF THE RGI OF A CITIZEN WHO COULD NOT TEMPORARILY PAY CHILD SUPPORT IN FULL



A citizen contacted the Ararteko after Lanbide [Basque Employment Service] first suspended and then cancelled the Income Guarantee Payment (RGI) that he had been granted, as a complement to his income from work, and stating he could not reapply for a year. The complainant, married for the second time, had 2 under-age children with his current partner. He had a further 5 children from his first marriage; they lived with his ex-spouse, who had sole custody, as a single-parent and large family.

There was a legally ratified parent-child agreement in place, which awarded the children of his previous relationship child support of €300 per month; that had been agreed prior to the birth of his two minor children and had not been updated to take into account the current family responsibilities of the complainant. Since the signing of the agreement in 2010, and for nearly 10 years, the complainant complied with what that established, including the monthly payment of the child support.

However, due to sick leave for mental health problems related to a long-term clinical depression, the income from work of the coexistence unit gradually fell to €760 a month, and temporarily, he could not continue to pay the child support in full.

The complainant continued paying a lower amount of child support – €100 and €200 a month – without formally amending the parent-child measures before the courts, as he understood that it is a one-off situation that would be reversed at the end of his sick leave and whose length his doctor could not foresee give the nature of the pathology. He also informed Lanbide and provided documentary proof of the drop in his income from work.

However, Lanbide temporarily suspended and then cancelled the RGI benefit that the family had been awarded, and stated that he could not reapply for it for one year.

The Ararteko pointed out in his recommendation that the measure adopted by Lanbide was not reasonable. He stressed that the specific circumstances of the benefit holder had not been assessed, and neither had the information and document been taken into considered that were submitted to accredit the difficulties that the family was facing at that time. Furthermore, the Ararteko stressed that, given those circumstances, the alternative for which the Administration should have opted must not be, under any circumstances, the most serious for the claimant and his 9 dependents.

Lanbide responded that it had taken Ararteko's considerations into account, that it accepted the recommendation and that it would study the payment of the amounts that he should have received during that period.

EX OFFICIO PROCEDURES



The Ararteko requested information on the death of two prisoners in Basque prisons.

The Ararteko started an ex officio procedure as the result of the information gathered both from different media and from the statements made by the spokesperson of the Basque Government and the Basque Minister for Equality, Justice and Social Policies on two people who died in prisons coming under the jurisdiction of the Baque prison authorities. The circumstances of the deaths

in both cases pointed to two possible suicides. The Basque Government announced that it had opened the relevant cases to investigate what had happened in both cases; as the Ararteko managed to learn, the government was continuing with the internal investigation work to clarify the facts, along with reviewing the protocol to prevent suicide in prison.

The Ararteko recommended that the Department of Justice standardise and streamline the criteria regarding communications between the prisoners and their families and close relatives when minors are involved.

Each year, the Ararteko meets with representatives of third sector entities from the prison environment. Based on several complaints made during those meetings regarding communications in the prisons of the Basque Country, the Ararteko started an ex officio and personal procedure; staff of the institution visited the facilities of the three Basque prisons. They noted the difficulties regarding communications between the prisoners and their families and close relatives.

After gathering the information, the Ararteko concluded the action by recommending to the Basque Ministry of Equality, Justice and Social Policies that it streamline and standardise the criteria to award and regulate coexistence visits, as well as setting the general ground rules for verbal communication in the coexistence area and the extension of this practice established for under 13s and under 18s.

The Ararteko recommended that the Basque Government's Justice Department established standard criteria for the communications between prisoners and legal practitioners.

Representatives of third sector entities of the prison environments, representatives of the board of governors of the law associations, and of the prison legal aid system of the three provinces filed complaints with the Ararteko regarding communications in Basque prisons; the Ararteko thus opened an ex officio procedure. After gathering information on the three prisons of the Basque Country, the Ararteko concluded by recommending that the Basque Government's Ministry of Equality, Justice and Social Policies streamline and standardise the criteria applicable to this type of communications with legal practitioners; that it enable the interviews to be held with contact, provided that the parties consent; that the bars be removed from the booths; that slots be provided so the prison staff are not involved in sharing documentation; and that legal practitioners who so see fit can bring in the necessary electronic devices to carry out their work.

The Ararteko requested information from the six Basque municipalities with over 50,000 inhabitants about the setting up of low emission zones.

This institution began an ex officio procedure as the result of the information gathered from different citizen associations dedicated to promoting sustainable mobility that had reported the delay of some Basque councils in regulating the low emission zones (LEZ). There are currently six Basque municipalities affected by the legislation: Bilbao, Vitoria-Gasteiz, Donostia/San Sebastián, Getxo, Barakaldo and Irun.

Reducing greenhouse gas emissions is key in the fight against climate change. The Ararteko thus sought to analyse the status of the processing of the regulating of the low emission zones. This institution called for it to be carried out openly and transparently, enabling adequate citizen participation and assessing the possible consequences of the economic and social costs and benefits of the measures.



The Ararteko recommended that Bizkaia Provincial Council guarantee the fostering of foreign minors in the emergency foster programme in safety and dignity.

In a citizen complaint submitted at the end of 2021, the Ararteko received information about the existence of unsafe accommodation in the Vivero residential centre for foreign minors with no known family members (Galdakao, Bizkaia), opened after the fire at the Zornotza preliminary reception centre (Bizkaia) in early December. The Ararteko decided to open an ex officio procedure, during which the centre was visited and a meeting held with the provisional Child Services, along with analysing all the information deemed necessary. During the proceedings, this institution learnt of the provincial service's intention to open the Zornotza centre with a different preliminary model and with a new managing body; the Ararteko therefore focused its analysis on the elements deemed to be most basic and fundamental to set up an appropriate emergency foster or preliminary reception programme for minors, in this case foreigners, in vulnerable situations, to be implemented in one centre or another. Finally, the Ararteko recommend that the Provincial Government develop new specialised programmes for adolescents with behavioural problems or with serious behavioural problems; insofar as they address the need of those young people for more intense educational support, such programmes should be allocated with more educational staff and specific resources than the other programmes.

DISCRIMINATION AND ANTI-DISCRIMINATORY PUBLIC POLICIES IN THE BASQUE COUNTRY

This study analyses the current legal framework and puts forward proposals to address discrimination; it focuses on the virtuality of the equality bodies; the need for prevention, protection and redress measures; and the importance of gathering data, among the other necessary measure to comply with the obligations arising from the recognition of the right to equal treatment and non-discrimination.

The problems detected include the lack of an independent institution that is properly equipped in terms of fighting discrimination; dealing with shortcomings in the design and functioning of the advisory bodies representing minorities; presence of discrimination, prejudices and stereotypes in social media; and shortcomings in combatting hate speech or in gathering and analysing data on equality and discrimination; as well as in the strategies and plans to fight against discrimination.

The lack of study of the unfavourable impact of public policies on minority groups, the use of ethnic profiling in the actions by law enforcement, school segregation, and shortcomings in the persecution of racist incidents should likewise be mentioned.

The Ararteko gathered all that information in order to provide as accurate a picture as possible of the actions taken by the Basque public administration in this sphere.

The Ararteko ended the Study with a series of **recommendations** including:

Make progress in the drafting of an Equality and Non-Discrimination Act in the Basque Country.

Important steps were taken in that regard in 2023. It is highly relevant for the Basque Country to have its own legislative framework in order to better guarantee the right to equal treatment, respecting the dignity of each human being and protecting against any discrimination. The approval of this legislation will have a great impact on Basque sectoral legislation and on the proper direction of the action of the public administrations.





Setting up an equality body.

The existence of an equality body plays a fundamental role when ensuring the protection of the victims of discrimination. Furthermore, it will allow more collective interventions to be deployed to advance in driving preventive proposals and public policies, thus fostering changes at the level of people, institutions, and society as a whole.

In order for an equality body to be effective, accessible and transformative, it is essential that its design takes into account the need to respect certain unavoidable parameters: its independence, the availability of sufficient human, technical and economic resources, the attribution of functions of prevention, protection and reparation, along with powers of alternative and complementary conflict resolution. And, of course, it must be able to influence public policies.

Priority of the restorative approach

The restorative approach is a valid option to be able to put in place prevention, protection and redress measures against discriminatory actions and behaviour in addition to the administrative claim or any legal action taken. Restorative justice measures aim to create community spaces in which people who have suffered or are suffering victimization can be accompanied, listened to and their dignity restored.

Need to gather and analyse data to comply with non-discrimination obligations.

Preparing studies to design public policies and compiling disaggregated data on equality to detect patterns is fundamental to highlight discrimination and its hidden figures, provide evidence in legal and administrative proceedings, or to monitor trends. Furthermore, preparing rigorous studies on the effective enjoyment of rights or the impact of crises on discriminate vulnerable groups is of interest. In any event, data gathering requires an appropriate legislative framework.

The need for action to address hate speech.

Information and discourse on problematic, biased and stigmatising issues focused on certain abusive or criminal actions attributed to members of vulnerable groups and disseminated in public opinion and on social networks, especially if it affects the public debate, legitimise opinions that act as catalysts for discriminatory behaviour and systemic discrimination. The media has an important role to play in preventing this.

The different existing proposals to deal with hate speech need to be taken into consideration, mainly those that are less developed because they do not have a criminal impact, as well as to develop an instrument, protocol or strategy adapted to the situation and context of the Basque Country.

Other recommendations to highlight:

- Better multi-level coordination with the General State Administration and between the different Basque public administrations
- Develop planning instruments and strategies that focus on the fight against discrimination and provide for monitoring and evaluation indicators.
- Foster the participation of social organizations and groups subject to discrimination in advisory bodies.
- Need for information, advice and support for actual or potential victims of discriminatory or racist actions.
- Establish prevention, protection and redress measures against discriminatory actions and behaviour in addition to the administrative claim or any legal action taken.
- Put in place guarantees in automated decision-making mechanisms.
- Bolster and extend training programmes on human rights and non-discrimination.
- Raise awareness among Basque citizens about the harms of the reproduction of discriminatory imaginaries.



VIDEO SURVEILLANCE FOR
CITIZEN SECURITY IN THE
PUBLIC SPHERE OF THE
BASQUE COUNTRY.
ANALYSIS FROM THE
PERSPECTIVE OF
FUNDAMENTAL RIGHTS

The Ararteko notes that the Basque administrations are generally complying with the regulatory requirements in terms of video surveillance for citizen security, but considers that regulation, internal management and transparency must be improved.

This study carried out by the Ararteko aims to contribute to the Basque public administrations with competences in the field of security to the dissemination of knowledge on the guarantee of rights, by suggesting aspects for improvement that serve as a basis for an adequate reconciliation between citizen security and respect for fundamental rights. The purpose is for Basque citizens to know how to exercise their public rights and freedoms in the context of video surveillance, so that citizen security is an essential instrument for guaranteeing the rights and freedoms of the individual.

In this context, the use of image and sound recording technologies for citizen security purposes must be carried out in accordance with the system of guarantees regulating video surveillance, in order to provide transparency, and confidence in the legitimacy and proportionality of the actions of the police.

It is the responsibility of the Ararteko institution to guarantee the rights of citizens in terms of the protection of personal data and privacy, all the more so when – in the context of relations with the administration – data is collected using technologies that can be particularly intrusive, particularly through the use of mobile devices such as drones, batons and cameras on police uniforms.

Therefore, this study was deemed necessary in order to analyse the use of different video surveillance systems in public places and the degree of compliance by the public administrations of the Basque Country with the guarantee system established in the regulations.

The Ararteko first conducted a survey of administrations with police officers; i.e., the

Basque Home Office and 14 representative local councils.

The results obtained are evaluated throughout the study, which includes 9 conclusions and 16 recommendations.

The data collected includes the number of fixed installations and mobile devices reported by the participating entities. For example, the Ertzaintza [Basque National Police] has 2037 fixed cameras and 134 uses of mobile devices in 2022; the Vitoria-Gasteiz Local Police, approximately 600; Bilbao 265; Donostia/San Sebastián, 350; and Getxo, 265

In its conclusions, the Ararteko highlights the **need for the Basque administrations with jurisdiction to scrupulously observe the principle of proportionality provided for in the regulations on video surveillance for the purposes of public security**. Thus, this ombudsman's office proposes to evaluate, prior to the request for authorization of video surveillance, whether the measure may interfere with the right to privacy.

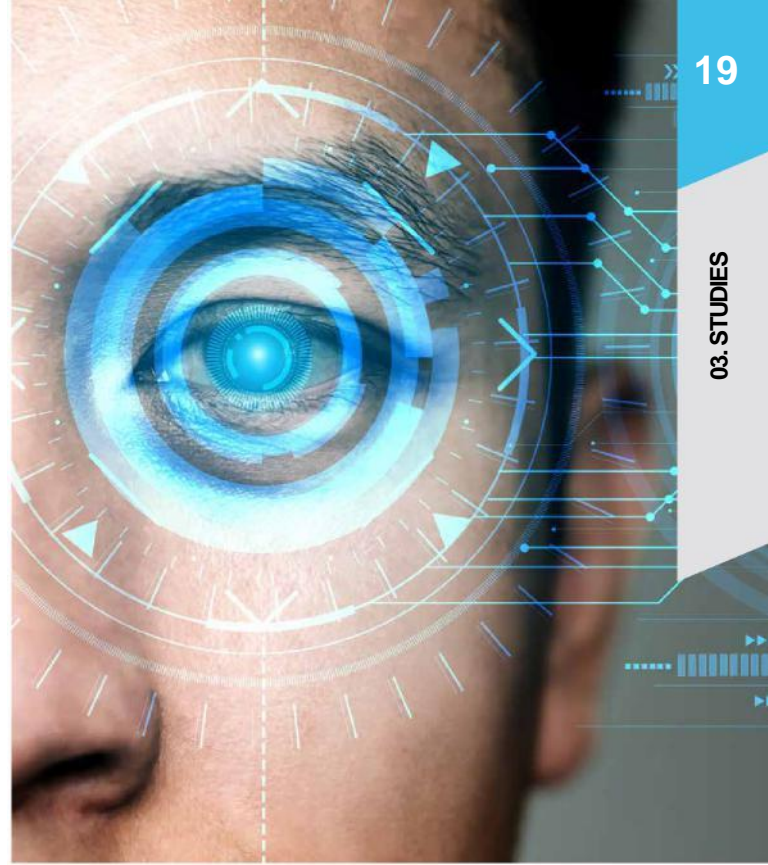
It also highlights the need to adopt provisions to make up for the absence of the regulation of mobile devices such as cameras on police uniforms, drones or batons, inter alia, within the regulatory framework for the public administrations of the Basque Country. It therefore recommends a description of the specific cases of use and scope of capture in time and space using mobile devices.

The decision to use video surveillance may have its legal place in the need to safeguard citizen security when the purpose pursued by the administration is to ensure citizen coexistence, the eradication of violence and the peaceful use of roads and public spaces, as well as to prevent the committing of crimes, misdemeanours and infractions related to public safety.

In another section, the Ararteko recommends including specific time periods adjusted to the specific case of danger in applications to authorise the use of mobile cameras. It also suggests, as a measure of active transparency, that the Basque Government publish the authorisations for the use of both fixed and mobile video surveillance systems.

Specifically in terms of publicity and transparency, Ararteko notes that, in general, the participating public administrations use information posters to warn about the use of fixed video surveillance systems, although it considers it appropriate that other means are also used to inform about the capture of images using mobile devices.

Furthermore, it highlights the **importance of establishing internal protocols or instruments for the management of video surveillance recordings, given**



the lack of regulation of minimum periods for keeping recordings. The existence of clear guidelines for action would ensure the confidentiality, traceability and integrity of the recordings and, where appropriate, make them available to legitimate third parties.

As regards processing of image data, the Ararteko considers it positive that most of the participating administrations refer to the existence of procedures to deal with the exercising of rights. However, it points to the need to specify the authority to which requests can be submitted.

The study confirms that most administrations have records of personal data processing activities related to video surveillance, but also recommends that they be periodically reviewed and published on the transparency portals of each administration.

Finally, the public administrations collaborating with the study refer to the application of security measures to preserve the confidentiality of video surveillance images. This is a positive aspect that, in Ararteko's opinion, should be accompanied by the training of personnel with powers to manage and process personal data related to video surveillance.

In short, the Ararteko notes that **Basque administrations are generally complying with the regulatory requirements in terms of video surveillance for citizen security**. That said, in view of the challenges arising from the technological evolution of image capture systems, there are some aspects that can be improved in the areas of regulation, internal management and transparency in the field of video surveillance.

INSTITUTIONAL DECLARATIONS

The *institutional declarations* are the opportunity for the Ararteko to publicly reflect on different areas of interest to pass on a message to Basque society at the time of marking important milestones. The main institutional declarations in 2023 are summarised below.



5 JUNE.
World Environment
Day

We must deal with the plague of plastic waste, reducing its use from the very design of the products, at the time of purchase or, at least, with a correct management of waste through recycling that avoids its dispersion in the environment.

The excessive use of plastics in our society is in response to a need for instant consumption of everyday products, such as plastic bags and packaging, which automatically become an environmental burden for the planet.

Environment Day is seen as an opportunity to mobilise transformative environmental action. We must take into account scientific advances and promote a firm commitment by the public authorities and the business sector to develop ambitious policies relating to the entire life cycle of plastics. Special mention must also be made of the transformative power of local campaigns aimed at putting up barriers to plastic.



26 JUNE
United Nations
International Day in Support
of Victims of Torture

It is the responsibility of Ararteko to disseminate the culture of human rights in order to prevent crimes as serious as torture, and to promote the exercising of the right to truth, justice and reparation for the victims.

Torture is an imprescriptible crime against humanity. It destroys the physical integrity and personality of the victim, disregarding the inherent dignity of being a person. The prohibition against it is absolute and cannot be justified under any circumstances. In this regard, the United Nations and the international community as a whole have always condemned its practice as one of the most abhorrent acts that a human being can commit against another human being.

International law encourages effective redress for victims of torture, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. For this reason, Ararteko invites Basque institutions to persevere in their policies and gestures of support for all victims.



28 JUNE
Pride Day
LGTBI

It is important for Basque institutions to do everything they can to guarantee adequate protection against discrimination and hate speech against people on the basis of their sexual orientation or gender identity.

Thanks to the struggle of LGBTI groups and the legal and institutional changes that have been embracing their demands over the last few years, human diversity – in all its expressions – today clearly coexists in Basque society; that allows many people to channel their lives, their families, their families, develop their identity, their affectivity and their sexuality, without unfair obstacles and with full social recognition

On this day, the Ararteko wants to draw attention once again to the obligation of the Basque public authorities to continue eliminating the obstacles that stand in the way of the real and effective equality of these people. To this end, further public measures of positive action and social awareness, aimed at promoting tolerance and mutual respect, solidarity and empathy towards this group, are needed.



18 JULY
Nelson
Mandela International

It is essential to persevere in the effort to achieve a Basque prison administration anchored in the principles of dignity of the person and resocialization in the community, by promoting the integration of public policies.

The Ararteko has always given special attention to people in prison due to their particular situation of vulnerability and because of the limitations that any deprivation of liberty imposes on the enjoyment of the other rights. The Ararteko considers it necessary for the institutions and public authorities to provide real support to the third sector entities in the prison sector involved in the rehabilitation of people in prison, with a view to establishing an effective network for the reintegration of prisoners in the Basque Country.

On this day, Ararteko encourages all Basque institutions to continue working in coordination to promote penalties and measures in the open environment, to advance in the construction of a Basque reintegration network and to orient prison internment towards reintegration.



1 OCTOBER
International Day of
Older Persons

The Ararteko advocates for a Basque Social Services System that is a true pillar of the Welfare State.

On this day, Ararteko calls for the need to fully guarantee the human rights of the elderly. Public policies must be inspired by the principles of independence, participation, dignity, assistance and self-fulfilment, with the ultimate goal that people can develop their potential for physical, social and psycho-affective well-being, throughout their life cycle.

In the Basque Country, older people have a clear preference for dealing with situations of dependency in their own homes. Therefore, Basque social services need to help overcome the situations of isolation suffered by many older people by adopting all possible measures aimed at keeping the person at home, such as access to welfare benefits, home help, adaptation of housing, day and occupational centres, temporary and weekend stays in residences and day centres, support programmes for carers or services to promote personal autonomy.



18 DECEMBER
International
Migrants Day

The Ararteko demands safe migratory routes to avoid humanitarian tragedies.

On this day, the Ararteko joins the United Nations Organization in the call for safe and regular migratory routes to be established to avoid the ongoing tragedies that unjustly afflict thousands of people in the displacements they are forced to make. He also calls for a humanitarian response to the situation that migrants are experiencing.

The Ararteko reaffirms its commitment to defend compliance of the Universal Declaration of Human Rights, which proclaims that all human beings are born free and equal in dignity and rights, which requires the urgent development of specific measures to assist those who, due to imperative necessity, are forced to leave their homes





COURSE ORGANIZED BY THE ARARTEKO ON THE RIGHT TO HOUSING AND CONSIDERING CERTAIN SITUATIONS OF SERIOUS RESIDENTIAL EXCLUSION

As part of the XLII UPV/EHU Summer Courses, the Ararteko organised a course entitled "The right to housing and considering certain situations of serious residential exclusion or residential precariousness". Intervention of the public authorities in the Autonomous Community of the Basque Country" at the Miramar Palace in San Sebastián.

At the opening of the course, Manuel Lezertua said that *"situations of loss of housing as a habitual residence, serious difficulties in access or the absence of accommodation itself must be treated with special concern and rigor by the stakeholders involved in the preparation of public policies, due to their impact on people's lives and on the prevention of child poverty; as the only way to address generational inequalities"*.

The aim of this Ararteko course was to focus on specific situations, analyse the challenge of providing alternative housing for the most serious cases, learn about public policies aimed at alleviating the situations of homeless people, as well as discussing the difficulties of people with residential precariousness in accessing and maintaining housing.

XXXVI CONFERENCE ON THE COORDINATION OF OMBUDS OFFICES OF THE SPANISH STATE



Within the framework of the Conference, the young people participating in the "Our Voice" meeting presented the conclusions of their work, thus contributing to the general process of reflection and deliberation of the coordination days.

Under the title "Protecting children by protecting their rights: a challenge from the ombuds' offices", the conference held in Barcelona addressed the response of the public systems involved to vulnerable children and young people. This meeting complemented the analysis and diagnostic work carried out throughout 2023 by all ombuds' offices; it concluded with an institutional declaration signed by their incumbents.

For the first time in the history of the coordination days, **the conclusions included the opinions of minors**, collected in the workshop organized by Ararteko for that purpose in the months prior to the meeting in Barcelona. Their contribution to the analysis and proposals is part – together with that made by the teams of professionals of the ombudsmen's offices – of the input to the conclusions and "Prevent to protect" declaration of the ombuds' offices.

They also presented a video that illustrates the reflection process, the enthusiasm and drive to reach their conclusions, and in which they call on the ombuds' offices to continue working tirelessly for the rights of children and adolescents. As they say *"we ask you to take us more into account"* and *"to continue working to defend the rights of children and adolescents"*.

"LEGEEN GEROA-THE FUTURE OF LEGISLATION" SEMINAR

The Basque Parliament and the Ararteko held a seminar entitled "The Ararteko Act. Proposals for the Future. Rethinking Ombuds". This meeting, which was attended by regional and former regional and European ombuds, representatives of the Basque Parliament and of academia was conceived as a space for reflection to analyse the progress made to date and share various existing tools at the international level.

Lezertua shared the Ararteko's vision regarding the position and role that ombudsmen's offices should exercise as guarantors of citizen rights; they should respond to new social demands and legal changes, fundamentally at the European and international level, that affect the nature and functions of institutions to defend people's rights. The Ararteko highlighted some of the most relevant aspects to be taken into account by the legislator when defining the scope, competences, powers and functions that should be included when defining the mandate of a European ombudsman's office in the 21st century.

Since 1985, when the Basque Parliament approved the Ararteko Act the work of this institution has evolved in tandem with social and legal changes. Therefore, after almost 40 years, Lezertua believes that a more advanced legal framework is necessary for this institution, *"more in line"*, he said, *"with the challenges derived from the relevant social and legal changes that have occurred that have a significant impact on citizens and their expectations in terms of rights"*.



THE ARARTEKO ATTENDS THE ANNUAL CONFERENCE OF THE EUROPEAN NETWORK OF OMBUDSMEN IN BRUSSELS

This year, the participants at the meeting reflected on the challenges faced by European ombudsmen's offices.

In November, the Ararteko, Manuel Lezertua, participated in the annual conference of the European Network of Ombudsmen (ENO), which was held at the headquarters of the European Parliament in Brussels, under the title "Approaches to face current challenges".

The conference is organised every year by the European Ombudsman's Office and brings together the heads of national and regional ombudsmen's offices from all over the world. They addressed the management of migratory flows in the European Union and their adaptation to the standards of fundamental rights, among these new challenges; they also discussed the use that public administrations are making of artificial intelligence and the advantages and risks entailed.

CONFERENCE ORGANISED BY ARARTEKO AND THE UPV/EHU TO MARK THE 75TH ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

The Ararteko and the UNESCO Chair of Human Rights and Public Powers of the University of the Basque Country organised the conference "Human rights in the Basque Country. Taking stock of the control activity of the European Court of Human Rights in relation to the Basque Country" to mark the anniversary. The judge of the European Court of Human Rights María Elosegui, the United Nations Special Rapporteur on the promotion of truth, justice and reparation Fabián Salvioli and professors Joana Abrisketa, Xabier Arzoz, Alejandro Saiz and Ana María Salinas, spoke at the meeting.

2023 IALC ANNUAL CONFERENCE AND GENERAL ASSEMBLY

Manuel Lezertua participated in the Annual Conference and General Assembly of the IALC (International Association of Language Commissioners) 2023 where he presented the latest modifications to the Regulations of the Congress of Deputies on the use of co-official languages. Lezertua referred to a very recent fact such as the possibility that, after 45 years of the Spanish democratic system, Spanish MPs can now speak not only in Spanish but also in any of the three co-official languages of the State: Basque, Catalan and Galician, in parliament.

The Ararteko actively participates in the IALC as its legally assigned duties are to defend the linguistic rights of citizens arising from the co-official status of Basque and Spanish. It shares this task with similar institutions in other countries, which are members of the IALC.

"SHAME - EUROPEAN STORIES" EXHIBITION



Manuel Lezertua attended the opening of the "Shame - European stories" exhibition in Bilbao, an initiative of the Justice Initiative, the Guido Fluri Foundation and the Infancia Robada [Stolen Childhood] association; the exhibition featured photographs and testimonies of child and adolescent victims of sexual abuse in different areas.

In his speech, the Ararteko sought to honour the pain of the victims, by acknowledging what happened. He pointed out *"for an institution such as the Ararteko, this serious violation of rights cannot be limited of listening. These stories impel us to demand that they not happen again, to look for ways and means to guarantee childhoods free of violence and the reparation of the damage when, despite all the precautions, it occurs"*. In that regard, Lezertua referred to General Recommendation 2/2021, of 18 May, where the Ararteko proposes specific guidelines for action in cases of sexual abuse and exploitation of children and adolescents in the Basque Country.

10 OCTOBER WORLD MENTAL HEALTH DAY



The Deputy Ararteko participated in an event organized by FEDEAFES and stressed the need to continue to bolster a health strategy with a specific action plan related to mental health, and with an adequate network of social and health support services.

The 10th of October is World Mental Health Day, a celebration promoted by the World Federation for Mental Health to raise awareness of the needs of people with mental health problems. FEDEAFES (Basque Federation of Associations of Relatives and People with Mental Illness) held an event to mark the day in Vitoria-Gasteiz, in which the Deputy Ararteko, Inés Ibáñez de Maeztu, and representatives of other institutions took part.

In her speech, the Deputy Ararteko said that *"no person should be deprived of their human rights or excluded from decisions about their own health because they suffer from a mental health problem"*.

"Therefore", she stressed it is necessary to continue bolstering a health strategy with a specific action plan related to mental health, and with an adequate network of social and health support services; to continue to combat the stigma that accompanies mental illness; promote inclusive and healthy schools; and to develop specialized, multidisciplinary and community-based services".

Ibáñez de Maeztu also highlighted the special attention that the Ararteko institution has paid and will always continue to pay to the group of people with mental illness or disorder, in its many variants, due to their special vulnerability.

III INTER-INSTITUTIONAL AGREEMENT FOR THE COORDINATION OF CARE FOR VICTIMS OF GENDER-BASED VIOLENCE AGAINST WOMEN

Ararteko Manuel Lezertua signed this agreement, which aims to be an advanced framework for institutional cooperation in order to improve the care and protection of women and children, who are victims of gender-based violence.

The full participation of Ararteko as a signatory of this agreement will serve to establish specific collaboration guidelines that will speed up the processing of complaints and citizen consultations that reach Ararteko and allow a better channel to be given to the demands of women and children,

who are victims of gender-based violence, in all its complexity, with a gender perspective and in terms of human rights, with criteria common for all the institutions and administrations involved.

After the signing of the Agreement, Ararteko Manuel Lezertua said that *"this new agreement is essential to advance in inter-institutional collaboration aimed at improving care for victims of gender-based violence"*. Lezertua added that *"the Ararteko renews its firm commitment to the defence of the human rights of women and children, its unequivocal commitment to a Basque society free of sexist violence, its willingness to cooperate with all the signatory institutions, and, tirelessly, to achieve this preeminent objective"*.



2023 BASQUE JOURNALISM AWARDS

Ararteko Manuel Lezertua attended the 2023 Basque Journalism Awards gala in Bilbao, organised by the Association and the Basque Association of Journalists, in conjunction with the heads of the Basque media. The Ararteko presented the José María Portell Award for Freedom of Expression to the Catalan journalist Jordi Évole, awarded after the controversy raised by his latest work "No me llama Terner".

Freedom of expression is a basic pillar of any democratic system. A wide-ranging right that is essential for the dissemination of ideas, opinions, thoughts and knowledge about the world around us. It is an indispensable tool to get closer to the truth, to bring carefully hidden crimes and abuses to the surface. As Lezertua pointed out when presenting the award, *"Évole's work, his documentaries, his interviews, are magnificent examples of healthy and thorough exercise of freedom of expression, in a free democracy"*.



EITB MARATOIA: MINBIZIAREN AURKA AUKERA BERRIAK (AGAINST CANCER - NEW OPPORTUNITIES)

Raising funds for cancer research was the objective of EITB Maratoia 2023, in which the Ararteko, Manuel Lezertua, took part by answering the phone from the call centre set up at EITB's headquarters in Bilbao.

Cancer is a disease that affects us all. It is the leading cause of death in the Basque Country, with more than 45,000 people affected and 14,000 cases diagnosed each year. Seventy-four per cent of people admit to having someone close to them affected by cancer.

Since EITB Maratoia began 22 years ago, thanks to the solidarity of Basque citizens, more than 7 million euros have been allocated for 119 research projects: cancer (child, lung, breast, among others), stroke, neurodegenerative diseases, cardiovascular disease, Alzheimer's, autism, intellectual disability, mental illness, acquired brain damage, transplants or rare diseases, inter alia.

XIV EXCHANGE AND AWARENESS SEMINARS, ORGANIZED BY THE ARGIA FOUNDATION

The rights of persons with mental disorders or psychosocial disabilities

The Ararteko, Manuel Lezertua, participated in the opening of this conference organized by the Argia Foundation, a space for analysis and reflection on the state of implementation of the rights of people with disabilities in Spain included in the General Law on the Rights of Persons with Disabilities and their Social Inclusion.

In his speech, which focused on the perspective of guaranteeing the rights of people with psychosocial disabilities or mental disorders in the Basque Country, the Ararteko reviewed international and national regulations. He stressed the importance of the work of the third sector and the need to promote greater social awareness and the involvement of society and public authorities in the effort to remove the obstacles that stand between people with mental disabilities and the full enjoyment of their recognised rights.

People with disabilities due to mental disorders, in their many variants, due to their special vulnerability, are a group to which the Ararteko institution has provided and will always continue to pay special attention.

"OUR VOICE" MEETING OF CHILDREN AND YOUNG PEOPLE

The Ararteko organised the first "Our Voice" meeting of children and young people. The meeting was attended by 17 young people aged between 14 and 17, from seven communities in Spain: Andalusia, Aragón, the Canary Islands, Catalonia, Valencia, the Basque Country and Navarra.

This meeting of young people was held prior to the XXXVI Conference on the Coordination of Ombuds Offices which, in 2023, addressed the issue of vulnerable children and adolescents. Its objective was to provide a space for children and adolescents to participate in the debate, for them to be heard, and to gather their opinions and integrated them into the general reflection and deliberation process of the Coordination Seminars. Therefore, the young people started from their own experiences and reflected on what children and adolescents need to fully develop. Their first reflections were enriched by the direct testimonies of young people who, accompanied by the Agintzari entity, recounted their experience as children who lived in vulnerable situations.

There was also the opportunity to listen to a neuroscience expert, the psychiatrist, psychotherapist and UPV professor, Rafael Benito, on the impact of the lack of protection on the vulnerable. They also reflected on the rights of children and adolescents and, in particular, on those rights that are at stake for the vulnerable.

Participants made suggestions and contributions to the general reflection of ombudsmen's offices on how to improve the care offered by the social protection services system in those situations.



REPRESENTATIVES OF THE YOUNG PEOPLE'S COUNCIL PRESENTED THEIR REFLECTIONS AND PROPOSALS TO IMPROVE THE INSTITUTION FOR A BETTER DEFENCE OF THEIR RIGHTS

They asked the Ararteko to take into account their proposals to strengthen the defence of the rights of children and adolescents and highlighted the value of the Young People's Council as a participatory body where they can express their opinion and be active citizens.

On 20 November, on the day to mark the approval by the United Nations Assembly of the Convention on the Rights of the Child in 1989, Manuel Lezertua and Inés Ibáñez de Maeztu received the Ararteko Young People's Council to listen to and share the reflections on their work throughout the year.

The Young People's Council, as the institution's advisory body on the rights of children and adolescents, compiles the outcome of its work and, ultimately, the voice and opinion of the young people themselves on the issues submitted. In 2023, these contributions were particularly important as they focused on how to improve the Ararteko to defend the rights of children and adolescents. Indeed, throughout 2023, the Council focused – in tandem with other European participation councils– on the institutions for the defence of rights



and on the need for a betterer defence of the rights of children and adolescents. In the spirit of International Children's Day, the young people of the Ararteko Council made themselves heard as active citizens committed to the well-being and defence of the rights of all children and adolescents.

STUDENT VISITS & WORKING WITH THE GASTEIZTXO PROGRAMME

Spreading a culture of respecting all human rights among the youngest members of society and disseminating their rights is one of the lines of action of the Ararteko regarding children and young people. We are therefore continuing to work with the Vitoria-Gasteiz Municipal Department of Education to prepare the **Informativo Gasteiztxo** [Gasteiztxo News]. Students from different education centres visit the Ararteko's office and compile data and information related to the activity of the institution to then prepare a radio or television programme or a newspaper. We are also visited by groups from secondary schools and other educational centres in the Basque Country. In 2023, we received a group of students from the CIFP Iurreta center.





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- **Right to education:** The complaints related to the Basque education system rose significantly in 2023, and were double the previous year's number. The implementation of measures to foster equity and fight against school segregation were the reasons for many of the complaints. The most important grounds for the complaints were: lack or delay in resources for students with special education needs, school bullying, collecting fees in direct-grant schools, incidents on school and some canteens, and teaching the Islamic religion.
- **Right to be protected from any type of violence or abuse:** In 2023, greater emphasis was placed on the care being given

to situations of slight or moderate vulnerability; the conclusions pointed to: lack of recognition of the municipal social services as support for parenting; lack of resources and specialisation; doubts regarding the effectiveness of the intervention; fragmentation of the intervention; difficulties for planning the system, as well as of assessment and ensuing improvement. However, there were also good experiences, such as the local childhood panels, preventive programmes, multidisciplinary assessments, day centres or the evidence-based programmes. Regarding unaccompanied migrant children, the Ararteko's intervention once again focused on the two ends of the process: fostering – entering the protection system – and emancipation – leaving the system—.

- **Right to a family:** The issues referring to the policies to support families have remained constant over the years and that was also the case in 2023: disagreements regarding the application of parental leave and other work-life balance measures of people working for the Basque public administrations; problems with processing the large family status, particularly in the case of separated parents. In the case of the court-ordered supervised family meeting points, nearly all of the complaints were related to the content of the reports that the public services issued to be assessed by the courts. The newest actions in 2023 were those related to the infant schools coming under the Haurreskolak Consortium, due to the understanding reached to ensure they remained free of charge.
- **Right to health:** Particularly noteworthy were the complaints related to the pressure on the Basque health system, particularly primary and specialised care. And also, to do with mental health: care needs for people with eating disorders (TCA), requests for referrals to medium-

and long-stay centres specialised in serious child-youth disorders, and dual pathology.

- **Rights of children in the field of justice:** Yet again this year, mention should be made of a group of complaints related to the carrying out of formalities in civil registries by means of the compulsory appointment system, solved with the cooperation of legal practitioners. In the case of children and young people with parents in prison, the most important issues were: family and coexistence communication and visits, regarding which a recommendation was sent to the ministry in question; and the difficulty or even impossibility for prisoners to remain in contact with their children due to being sent to prisons outside the Basque Country.
- **Rights to play, rest and to artistic and sport activities:** The Gipuzkoa Provincial Government's requirement to link school sport to multi-sport at certain ages was the subject of half the complaints received in this area. As regards the other complaints, they covered different areas, from disagreements with the organisation of the school sport system to problems at sport centres where the activity is held or disagreements with trainers.
- **Right to non-discrimination:** Even though there is legal recognition to the equality and dignity of everybody, discrimination continues to be present in certain situations in Basque society, which prevents certain individuals or groups from being able to embark on a life project according to their abilities. That statement is applicable to children and young people, who, in some cases, experience multiple or accumulate discrimination, as in addition to being minors, other characteristics of ethnicity, origin, sexual orientation, etc. can also lead to discrimination.



DO YOU NEED TO DEFEND YOUR RIGHTS?

Contact the institution of the Ararteko

- ▶ To investigate whether the Basque public administration has committed any abuse, illegality, arbitrariness, discrimination, error or negligence in your case.
- ▶ So that the local council, provincial council or Basque Government solves your problem if they have acted incorrectly.
- ▶ To recommend improvements for the benefit of everyone.

What is the Ararteko?

- ▶ It is the Ombudsman of the Basque Country.
- ▶ It is an independent institution.
- ▶ It is a free service.

What do we do?

- ▶ We defend people against the Basque public administrations.
- ▶ We mediate between citizens and the administration.
- ▶ We monitor and act to correct irregular situations.
- ▶ We propose solutions and foster amendments to legislation.
- ▶ We report on our actions to the Basque Parliament.

When should you contact us?

- ▶ When you have a problem with any authority or public service under it.
- ▶ After having filed a claim with the administration in question and not receiving a reply or solution.
- ▶ And within one year from that point.

When should you not resort to the Ararteko?

- ▶ If the dispute is between private individuals.
- ▶ If the dispute has led to judicial proceedings.

How should the complaints be filed?

- ▶ By providing personal data (name, surname(s), address, telephone), copies of useful documents and, whenever possible, a document setting out the grounds for the complaint.
- ▶ By letter (Prado, 9 - 01005 Vitoria-Gasteiz).
 - ▶ Through the website: www.ararteko.eus
- ▶ Or in person at any of the three offices.

How can you contact us?

Direct assistance offices

In Álava

Prado, 9 • 01005 Vitoria - Gasteiz

Tel.: 945 13 51 18 • Fax: 945 13 51 02

In Bizkaia

Edificio Albia. San Vicente, 8 – 8º

48001 Bilbao

Tel.: 944 23 44 09

In Gipuzkoa

Arrasate, 19 - 1º

20005 Donostia - San Sebastián

Tel.: 943 42 08 88

Call us if you need more information



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