

THE OMBUDSMAN OF SPAIN



SUMMARY OF THE REPORT TO
PARLIAMENT **YEAR 2007**

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Noteworthy increase in ex officio enquiries during 2007

Ex officio enquiries —carried out on the Ombudsman’s own initiative— rose steadily in 2007, which is directly related to the resources available to this Institution, as well as to the effort made by the Ombudsman to improve the capacity for institutional reaction in dealing with situations that jeopardize the rights of citizens. Moreover, 17,373 new complaints cases were undertaken, and 38,738 citizens approached the Institution through the various channels available.

Improved monitoring and “early detection” activities led to a significant rise in the number of ex officio enquiries conducted—with 262 initiated in 2007 compared to 142 in the previous year. Moreover, a “levelling off” in number of citizen complaints received occurred, which is basically due to the reduced number of citizens’ groups set up in 2007 to channel requests to the Ombudsman.

Considering the number of citizen complaints by geographic origin, for yet another year the most noteworthy amount came from the Community of Madrid, where the Institution has its headquarters. The autonomous communities that follow Madrid on this list are Catalonia, Andalusia and Valencia. Only 2.25% of the total complaints were sent from abroad, with a noteworthy increase in the number of complaints sent from the United States—a total of 57 as opposed to 18 in the previous year. Of all of them, both national and foreign origin, 90% were directed directly to the Ombudsman, and 9% were referred from offices of autonomous community parliamentary commissioners, with most referred by the Ombudsman of Andalusia and the Síndic de Greuges of Catalonia for processing.

By business sector, matters related to economic activity in general (duties and taxation, telecommunications, transport) were again the most numerous, followed by those of health, Social Security and the social services.

Processing status

At 41.24%, the total percentage of complaints admitted for processing at the Institution in 2007 was similar to percentages of previous years. Of the 6,584 complaint cases whose processing had been effectively opened in 2007, a total of 2,733 could be closed by the end of the same year, once all of the requested administrative reports had been received and evaluated. 3,841 complaints remained pending, 2,993 of which were individual, 145 ex officio, and 703 collective complaints.



The Ombudsman, Enrique Múgica Herzog, presents the 2007 Annual Report to the President of Congress, José Bono, 3 June.

Photo: Povedano

Efficacy of supervision

As a result of the enquiries conducted in the different complaint cases, in 2007 the number of resolutions of all types rose with respect to the previous year, and 156 recommendations, 204 suggestions and 108 reminders of legal duties were sent. By the last day of the year, 95 recommendations and 112 suggestions had been addressed and their contents had either been accepted or rejected. This represents a higher response rate than in previous years.

Administration of Justice

The Ombudsman continued to receive many complaints stemming from undue delays in the handling of judicial procedures. Regarding civil jurisdiction, the most noteworthy complaints were those made by the very personnel who perform functions at court facilities, reporting an overwhelming workload that could not be processed under normal working conditions leading to a tremendous backlog involving thousands of unresolved cases.



Presentation of the 2007 Report to the President of the Senate, 5 June. From left to right: Mar España, General Secretary to the Ombudsman; M^a Luisa Cava de Llano, First Deputy to the Ombudsman; Enrique Múgica, Ombudsman of Spain; Javier Rojo, President of the Senate; Daniel Bardavío, Communication Director of the Senate Presidency; and Manuel Aguilar Belda, Second Deputy to the Ombudsman.

Photo: Povedano

Litigation involving landlords and tenants represents a type of procedure that typifies the enormous social impact that varying degrees of administrative breakdowns can have on the judicial system. The well-founded fears of property owners regarding ineffective eviction procedures, if it comes to that, strongly discourages them from putting empty rental homes on the market for prospective tenants. The Institution has requested information on the measures that the Ministry of Justice might adopt to resolve this problem.

In the area of domestic violence, the Ombudsman continues to follow up on incidents that have arisen subsequent to the recent entry into force of the Law on comprehensive Measures against gender-based violence. In the last year, there was a noteworthy enquiry to learn about the functioning of certain shelters for battered women stemming from reports by women who had sought refuge there.

Another issue that has been the subject of careful follow-ups by the Institution for a long time is one involving the setbacks that have arisen in the execution of sentences handed down by the European Court on Human Rights. Taking a new approach, the Ombudsman decided toward the end of 2007 to participate more actively in meetings organized by the Office of the European Commissioner on Human Rights, of the Council of Europe. These meetings aim to establish a more active role for the Ombudsmen of the member States of the Council of Europe in the execution of sentences by the European Court on Human Rights through the European Commissioner as well as decisions by the very Board of Ministers itself. Thus, the Ombudsman of Spain is taking part in a pilot project for the execution of sentences by the European Court on Human Rights that began toward the end of 2007.

Special attention continues to be given to the circumstances affecting hundreds of Spanish inmates in foreign prisons. Their numbers reach over 1,800 peo-

ple according to the Spanish Department of Foreign Affairs. Poor health and hygienic conditions and the lack of personal security in these penal institutions have been the subject of most of the complaints received by the Ombudsman.

Penitentiary Administration

In 2007 the overall prison population continued to grow, reaching a total of 67,357 inmates in December. Significantly, the largest percentage increase took place among the female prison population, which has climbed 27% since January 2004. This fact underscores the urgent need for “maternity units” to be built and equipped quickly in as many penal institutions as possible in order to improve the conditions faced by these inmates and, especially, by their young children.

To gain a better understanding of prison inmate living conditions, the penal institutions of Almería, Daroca, the Dueso were visited, Ourense, Puerto I, Puerto II, Segovia, A Lama, Melilla, Sevilla II and Zuera were visited last year.

As in previous years, various enquiries, either in response to certain complaints or as ex officio actions, were conducted to gather details in cases involving suicide deaths and reports alleging abusive treatment. Moreover, drug addiction treatment services and hygienic conditions in the penal institutions were the focal point of a great deal of the activity carried out with the relevant penitentiary authorities. Also closely followed in 2007 was the possible expansion of the “room for respect” program, including the promotion and training of prison staff (which has already begun with the implementation of new training courses). “Room for Respect” offers a healthy living environment with active participation by inmates, and was initially implemented at certain penal institutions as an ongoing experiment.

Citizen security and road safety

One of the most noteworthy actions in 2007 was the supervision of operations at the issuing offices for national identity cards and passports. Over the past few months several ex officio enquiries have been undertaken to understand the reasons for the significant delays plaguing these offices in several cities and municipalities. The convergence of several factors, such as the implementation of the electronic identity card and the insufficient supply of resources to these offices exacerbated the pre-existing problem, which should be addressed as soon as possible.

On another issue, steadfast attention is accorded to cases involving alleged abuses committed by officers belonging to law enforcement agencies. The Ombudsman continues to recommend to all administrative authorities—be they State, autonomous communities, or even local law enforcement agencies—that the response to even the slightest evidence of abuse or breach of regulations should result in a swift disciplinary investigation into the actions of the agents involved, regardless of whether or not a judicial investigation is conducted simultaneously.

Another matter that became a common subject of complaint involved procedures to resolve traffic violations and fines. During the processing of complaints year after year, it becomes increasingly clear that City Halls, especially those of large capital cities, can and should find ways to improve their case resolution capacity as numerous deficiencies continue to be observed without any sign that they are being adequately addressed.

Emigration and Immigration

The migratory flow of foreigners toward our country continues unabated. Nevertheless, in relative terms it is becoming more and more important to adapt the resources and procedures available to provide appropriate and lawful assistance to those already living in Spain under precarious circumstances or in the care of Spanish authorities.

The treatment given to people reaching Spanish soil illegally represents a large part of the work carried out by the Ombudsman. In 2007, several visits were made to both the principal detention centres as well as emergency care facilities, with particular emphasis on emergency installations located in the Canary Islands. The group whose circumstances continue to raise the greatest concern is that of unaccompanied foreign minors who in many instances reach adulthood while living in a temporary shelter. Problems associated with the lack of valid documentation for those arriving as minors and the concomitant doubts about their legal status—often due to irregular processing of cases by various offices and administrative authorities—can and must be addressed in a coordinated fashion, as the Ombudsman has stated on several occasions.

Other issues, such as reunification of family members or the right of parents of Spanish children to live in

Spain, generated a large volume of work. On several occasions the Ombudsman addressed the Administration either to halt the expulsion of the progenitor of a Spanish child from national territory or to call into question undue denials to allow re-entry to persons returning from their country of origin who were holders of residency permits or whose permit renewals remained pending due to circumstances beyond their control.

The Ombudsman proposes the creation of an institution that would speed up and, above all, coordinate the work of the various offices and departments of the General State Administration, included foreign service, and the Autonomous Administrations as well. In addition to matters strictly related to migratory movements, the Ombudsman considers it critical that the



Presentation of the 2007 Annual Report to the President of Congress, from right to left: José Bono, President of Congress; Enrique Múgica Herzog, Ombudsman; Mª Luisa Cava de Llano, First Deputy to the Ombudsman and Manuel Aguilar Belda, Second Deputy to the Ombudsman.

Photo: Povedano

Administrations pay greater attention in the very near future to discriminatory behaviour in all its forms and to the unfair treatment of people with different racial, ethnic or national backgrounds. An enquiry was carried out last year with the state law enforcement authority to examine the efficacy of internal controls to record inappropriate actions carried out by members of the State Security Forces and Corps. Moreover, meetings have been held to maintain contact with the Spanish Observatory on Racism and Xenophobia. All indicators seem to confirm that the tools currently needed to assess this issue and to ascertain the true extent of its impact are not yet fully available.

Continued on page 97

Noteworthy rise in the number of ex officio enquiries in 2007

In 2007, a remarkable increase in the number of ex officio enquiries took place, representing an 84.5% rise from the previous year. Also, fewer people approached the offices of the Ombudsman in 2007 in comparison with 2006, when exceptionally high numbers of people turned up due to the massive mobilization of citizens affected by various financial scandals of nationwide scope (see Table 1).

TABLE 1
Number of citizens who have filed collective as well as individual complaints during 2007 as compared to 2006

	2006	2007
Total citizens	89,518	38,738

Throughout the year a total of 17,373 complaints were handled, including both individual and collective complaints, as well as ex officio enquiries initiated by the Ombudsman institution itself.

In comparison with the 2006 data, a significant rise in the number of ex officio investigations becomes clear. Specifically, this represents an 84.5% increase, which means an average of about one new ex officio enquiry undertaken for each working day in the year. This is the first time that this has occurred in the twenty-five years the Ombudsman Institution has been performing its duties.

TABLE 2
Complaints filed and ex officio investigations opened in 2007 versus 2006

	2006	2007
Collective	16,398	2,857
Individual	14,903	14,254
Ex-officio	142	262
Total	31,443	17,373

The percentage of complaints, broken down by gender of claimants, can be seen in Table 3.

TABLE 3
Complaint forms filed by gender, 2000 to 2007

	2000	2001	2002	2003	2004	2005	2006	2007
Men	55%	65%	64%	60%	56%	64%	57%	59%
Women	45%	35%	36%	40%	44%	36%	43%	41%

Distribution of complaints filed by geographical area of origin.

The 17,111 complaints filed in 2007, 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 16,726 complaints of national origin (97.75%) as opposed to the 385 originating abroad (2.25%). In the following graphs and tables a clearer picture can be seen.

FIGURE 3
Breakdown of complaints by autonomous community: 2007



TABLE 4
Breakdown of complaints of national origin, by province and autonomous community: 2006 and 2007

Provinces and autonomous communities	Number		% of community		% of total	
	2007	2006	2007	2006	2007	2006
Basque Region						
Álava	76	68	22.09	7.26	0.45	0.22
Guipúzcoa	81	131	23.55	13.98	0.48	0.42
Vizcaya	187	738	54.36	78.76	1.12	2.38
Total	344	937	100.00	100.00	2.06	3.03
Catalonia						
Barcelona	1,727	3,048	78.86	82.56	10.33	9.85
Girona	182	313	8.31	8.48	1.09	1.01
Lleida	80	94	3.65	2.55	0.48	0.30
Tarragona	201	237	9.18	6.41	1.20	0.77
Total	2,190	3,692	100.00	100.00	13.09	11.93

TABLE 4. Continuation

Provinces and autonomous communities	Number		% of community		% of total	
	2007	2006	2007	2006	2007	2006
Galicia						
A Coruña	421	527	42.48	50.48	2.52	1.70
Lugo	126	75	12.71	7.18	0.75	0.24
Ourense	104	96	10.49	9.20	0.62	0.31
Pontevedra	340	346	34.32	33.14	2.03	1.12
Total	991	1,044	100.00	100.00	5.92	3.37
Andalusia						
Almería	170	273	9.68	7.11	1.02	0.88
Cádiz	250	395	14.24	10.28	1.49	1.28
Córdoba	185	509	10.54	13.25	1.11	1.64
Granada	193	396	10.99	10.31	1.15	1.28
Huelva	94	252	5.35	6.56	0.56	0.81
Jaén	95	424	5.41	11.04	0.57	1.37
Málaga	407	893	23.18	23.25	2.43	2.88
Seville	362	699	20.61	18.20	2.16	2.26
Total	1,756	3,841	100.00	100.00	10.50	12.41
Asturias						
Total	354	483	100.00	100.00	2.12	1.56
Cantabria						
Total	203	229	100.00	100.00	1.21	0.74
La Rioja						
Total	139	163	100.00	100.00	0.83	0.53
Murcia						
Total	459	649	100.00	100.00	2.74	2.10
Valencia						
Alicante	560	1,240	35.35	44.73	3.35	4.01
Castellón	160	175	10.10	6.31	0.96	0.57
Valencia	864	1,357	54.55	48.96	5.17	4.38
Total	1,584	2,772	100.00	100.00	9.47	8.95

TABLE 4. Continuation

Provinces and autonomous communities	Number		% of community		% of total	
	2007	2006	2007	2006	2007	2006
Aragon						
Huesca	61	120	13.26	19.93	0.36	0.39
Teruel	39	41	8.48	6.81	0.23	0.13
Zaragoza	360	441	78.26	73.26	2.15	1.42
Total	460	602	100.00	100.00	2.75	1.94
Castilla-La Mancha						
Albacete	111	196	17.26	7.64	0.66	0.63
Ciudad Real	204	521	31.73	20.30	1.22	1.68
Cuenca	47	398	7.31	15.50	0.28	1.29
Guadalajara	92	112	14.31	4.36	0.55	0.36
Toledo	189	1,340	29.39	52.20	1.13	4.33
Total	643	2,567	100.00	100.00	3.84	8.29
Canary Islands						
Las Palmas de Gran Canaria	366	627	57.19	65.24	2.19	2.03
Santa Cruz de Tenerife	274	334	42.81	34.76	1,64	1.08
Total	640	961	100.00	100.00	3.83	3.10
Navarre						
Total	119	115	100.00	100.00	0.71	0.37
Extremadura						
Badajoz	144	730	48.98	73.89	0.86	2.36
Cáceres	150	258	51.02	26.11	0.90	0,83
Total	294	988	100.00	100.00	1.76	3.19
Balearic Islands						
Total	324	329	100.00	100.00	1.94	1.06
Madrid						
Total	4.863	9,692	100.00	100.00	29.07	31.31
Castilla y Leon						
Ávila	57	122	5.83	7.63	0.34	0.39
Burgos	189	221	19.34	13.82	1.13	0.71

TABLE 4. Continuation

Provinces and autonomous communities	Number		% of community		% of total	
	2007	2006	2007	2006	2007	2006
Leon	181	261	18.53	16.32	1.08	0.84
Palencia	83	102	8.50	6.38	0.50	0.33
Salamanca	168	206	17.20	12.88	1.00	0.67
Segovia	58	180	5.94	11.26	0.35	0.58
Soria	31	87	3.17	5.44	0.19	0.28
Valladolid	158	356	16.17	22.26	0.94	1.15
Zamora	52	64	5.32	4.01	0.31	0.21
Total	977	1,599	100.00	100.00	5.84	5.17
Ceuta						
Total	53	189	100.00	100.00	0.32	0.61
Melilla						
Total	109	104	100.00	100.00	0.65	0.34
Unspecified origin(*)						
Total	224	---	100.00	---	1.35	---
Total	16,726	30,956				

* Complaints received by e-mail, until their origin can be determined.

As usual, there are a significant number of individual as well as collective complaints which originate in the autonomous communities with the largest populations, the largest being the Community of Madrid, followed by the Communities of Valencia, Catalonia, and Andalusia (see Table 5).

Filing of complaints to the Ombudsman

By Internet

www.defensordelpueblo.es

By Fax

Sending signed document to (+34) 91 308 11 58

In person

At Zurbano, 42; comer of Eduardo Dato, Monday – Friday 9am-2pm and Monday – Thursday 4pm–6pm.
Nearest metro: Rubén Darío, Line 5;
buses: 40 and 147

By standard post

Sending signed document to Zurbano, 42. 28010 Madrid

TABLE 5
Individual and collective complaints filed by autonomous community: 2006 and 2007

Autonomous Communities	Complaints individuals				Complaints collective			
	Number		% of total		Number		% of total	
	2007	2006	2007	2006	2007	2006	2007	2006
Basque Country	322	313	2.32	2.14	22	624	0.77	3.81
Catalonia	1,793	2,455	12.92	16.82	397	1,237	13.95	7.56
Galicia	822	637	5.92	4.36	169	407	5.94	2.49
Andalusia	1,563	1,716	11.26	11.76	193	2,125	6.78	12.99
Asturias	332	382	2.39	2.62	22	101	0.77	0.62
Cantabria	199	189	1.43	1.29	4	40	0.14	0.24
La Rioja	123	91	0.89	0.62	16	72	0.56	0.44
Murcia	345	363	2.49	2.49	114	286	4.01	1.75
Valencia	1,467	1,485	10.57	10.17	117	1,287	4.11	7.87
Aragon	415	366	2.99	2.51	45	236	1.58	1.44
Castilla-La Mancha	491	396	3.54	2.71	152	2,171	5.34	13.27
Canary Islands	596	626	4.29	4.29	44	335	1.55	2.05
Navarre	112	90	0.81	0.62	7	25	0.25	0.15
Extremadura	259	310	1.87	2.12	35	678	1.23	4.14
Balearic Islands	302	288	2.18	1.97	22	41	0.77	0.25
Madrid	3,569	3,881	25.71	26.59	1,294	5,811	45.47	35.52
Castilla y Leon	791	907	5.70	6.21	186	692	6.54	4.23
Ceuta	51	34	0.37	0.23	2	155	0.07	0.95
Melilla	105	69	0.76	0.48	4	35	0.14	0.23
Unspecified origin (*)	223		1.59		1		0.03	
Total	13,880	14,598	100.00	100.00	2,846	16,358	100.00	100.00

* Complaints received by e-mail, until their origin can be determined..

Complaints originating abroad

In 2006 there were a total of 385 complaints which originated abroad. This figure shows a slight increase with respect to the previous year, 2006, and it slightly modifies the downward trend that was established in previous years (see Table 6).

TABLE 6
Breakdown of complaints originating abroad, by country: 2004 to 2007

Country of origin	2007	2006	2005	2004	Country of origin	2007	2006	2005	2004
Albania	---	---	---	1	Lebanon	---	---	1	---
Algeria	---	8	7	5	Lithuania	---	---	2	---
Andorra	3	3	---	3	Luxembourg	2	---	1	---
Argentina	44	32	40	62	Malta	---	1	---	2
Australia	1	---	3	1	Mauritania	---	---	1	---
Austria	3	---	1	3	Mexico	11	9	14	12
Belgium	13	10	10	13	Mongolia	1	---	---	---
Bolivia	7	3	6	2	Morocco	27	24	26	27
Bosnia-Herzegovina	---	2	---	---	Namibia	---	---	---	1
Brazil	14	6	13	16	New Zealand	---	---	1	---
Bulgaria	---	---	1	2	Nicaragua	2	1	4	---
Canada	1	2	1	4	Norway	---	---	---	1
Cape Verde	---	---	---	1	Oman	---	---	---	1
Chile	10	5	6	11	Pakistan	2	1	1	---
Colombia	16	6	24	14	Panama	4	2	---	---
Costa Rica	1	4	2	3	Peru	12	17	11	8
Cuba	11	8	18	14	Philippines	---	---	---	1
Czech Republic	---	2	---	6	Poland	---	1	---	---
Denmark	2	---	1	---	Portugal	11	14	11	9
Dominican Republic	6	2	3	1	Puerto Rico	1	---	---	1
Ethiopia	1	---	---	---	Russia	2	---	1	---
Finland	2	---	1	2	Sao Tomé and Príncipe	---	---	---	1
France	25	59	38	32	Senegal	---	---	1	---
Germany	21	20	12	25	Serbia and Montenegro	---	---	---	1
Greece	1	1	---	1	Slovakia	---	3	---	---
Guatemala	1	---	---	1	Slovenia	---	---	---	1
Holland	6	2	5	3	South Africa	---	1	---	1
Honduras	3	---	1	3	Sweden	2	1	6	3
Hungary	2	1	1	---	Switzerland	3	7	7	12
India	---	---	1	---	Taiwan	1	---	---	---
Indonesia	---	---	---	1	Turkey	1	1	---	1
Ireland	2	3	4	1	Ukraine	1	1	1	---
Israel	2	---	1	2	United Kingdom	21	28	15	32
Italy	10	9	6	9	United States	57	18	15	26
Japan	---	---	---	4	Uruguay	2	5	7	7
Jordan	---	1	---	---	Venezuela	6	11	13	17
Kyrgyzstan	1	---	---	---					
Latvia	1	---	---	---	Total	385	345	354	424

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: 2007

Filing method	Number	% of total
Direct (individuals and collectively)	15,536	90.80
Via Ombudsmen in Autonomous Parliaments	1,544	9.02
Via other organisms and entities of the Administration	31	0.18
Total	17,111	100.00

TABLE 8
Complaints received via Ombudsmen of autonomous communities: 2006 and 2007

Origins (Autonomous Parliaments)	2007	2006
Arateko, Basque Country	66	87
Sindic de Greuges, Valencia	269	365
Valedor de Pobo, Galicia	87	65
Ombudsman of Andalusia	265	370
General Procurer of Asturias	40	6
Sindico de Agravios, Valencia	161	175
Department of Justice, Aragon	160	140
Ombudsman of Castilla-La Mancha	40	28
Ombudsman of La Rioja	53	---
Diputado del Común, Canary Islands	159	156
Ombudsman of Navarre	59	33
Procurado del Común, Castilla y Leon	185	253
Total	1,544	1,678

TABLE 9
Complaints received through diverse entities and organizations: 2006 and 2007

Origins	2007	2006
National organisms	---	1
Constitutional Tribunal	2	2
General Courts	3	4
Judicial Power	1	---
Presidency of the Government	---	3
Government Delegations	1	---
International organizations	---	2
Autonomous organizations	---	1
City Hall	1	---
Municipal Ombudsman offices	11	7
Municipal Consumer Information Offices	3	5
Foreign Ombudsman	9	19
Total	31	44

Breakdown of complaints by sector

Table 10 shows data relating to the specific subject matter of complaints filed in 2007, 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 2007 by management area and subject matter

Sectors	Individuals	Collective	Ex-officio	Total
Civil Servants and Public Employment	1,244	1,285	43	2,572
Civil servants from general administration, Social Security, and autonomous and local administration	981	932	38	1,951
Personnel from the armed forces and security corps	262	353	5	620
Public notaries	1	---	---	1
Defence and Home affairs	1,727	---	19	1,746
Citizen and road security	988	---	1	989
Prison administration	394	---	7	401
Home Affairs	327	---	11	338
Defence	18	---	---	18
Justice and Domestic Violence	1,800	---	15	1,815
Justice and Domestic Violence				
Justice Administration	1,261	---	14	1,275
General Registry Office	524	---	---	524
Victims of crimes	15	---	1	16
Economic Administration	2,960	3	39	3,002
Economic management, Internal revenue and taxes	1,339	3	24	1,366
Telecommunications and services	778	---	3	781
Transportation infrastructure	570	---	11	581
Industry and Commerce	236	---	1	237
Agriculture, livestock and fishing	37	---	---	37
Land Management	1,514	1,378	40	2,932
Zoning and housing	1,010	1,253	4	2,267
Environment	456	---	36	492
Land management and planning	48	125	---	173
Health and Social Issues	2,034	191	53	2,278
Labor and social security	830	---	1	831
Health	583	---	22	605
Social policy	359	---	28	387
Consumer Affairs	262	191	2	455

TABLE 10. Continuation

Sectors	Individuals	Collective	Ex-officio	Total
Immigration and Foreign Affairs	1,282	---	18	1,300
Residence permits and immigration	1,167	---	15	1,182
Foreign affairs	94	---	3	97
Racism and xenophobia	21	---	---	21
Education and Culture	1,693	---	35	1,728
Education	728	---	18	746
Activities and services	332	---	---	332
Bilingual issues	218	---	---	218
Data protection	156	---	2	158
Culture and sports	133	---	---	133
Communication media	126	---	15	141
Total	14,254	2,857	262	17,373

Taking into account the individual complaints received, the most significant number are directed toward the economic administration, followed by those concerning health and social policy, justice, and domestic violence.

As for collective complaints, the greatest number can be found in the area of land management, including

areas such as the environment, zoning and housing, among others.

The greatest number of ex officio investigations were those related to health and social policy concerns, civil service and public employment, the environment, economic administration, and education and culture, in that order.

Complaint processing status at the end of 2007

The data in Table 11 show the processing status as of December 31st for complaints filed in 2007.

TABLE 11
Processing status as of December 31 for complaints filed during 2007

	Ex-officio		Individual		Collective		Total	
	Number	%	Number	%	Number	%	Number	%
Admitted for processing:	259	100.00	5,246	40.82	1,079	37.77	6,584	41.24
Being processed	145	55.98	2,993	23.29	703	24.61	3,841	24.06
Concluded	110	42.47	2,247	17.49	376	13.16	2,733	17.12
Suspended	4	1.54	6	0.05	---	---	10	0.06
Not admitted for processing	---	---	7,605	59.18	1,778	62.23	9,383	58.76
Total	259	100.00	12,851	100.00	2,857	100.00	15,967	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, 2007 of pending complaint cases

	Ex-officio		Individual		Collective		Total	
	Number	%	Number	%	Number	%	Number	%
Pending information lacking from filer of complaint			511	36.42	---	---	511	36.34
Pending processing or study	3	100.00	892	63.58	---	---	895	63.66
Total	3	100.00	1,403	100.00	---	---	1,406	100.00

The causes for rejection of individual complaints in 2007 are shown in Table 13.

TABLE 13
Causes of non-admission of individual
complaints: 2007

Causes of non-admission	Number
Administrative authority regarding issues within its own jurisdiction	8
Lack of basis	240
Inexistence of claim	36
Judicial intervention	779
Bad faith	3
No previous administrative action	884
No action involving public authorities	731
No answer to resolvable defects	8
No answer to requests for information	315
No formal complaint, information sent	220
No formal complaint, information requested	270
No evidence of administrative irregularity	2.601
No legitimate interest	27
Other motives for non-admission	1.047
Period over a year	19
Anonymous complaint	1
Resolved without Ombudsman's intervention	144
Irreversible sentence	109
Intervention by Autonomous parliamentary commissioner	74
Personal conflict unrelated to the Administration	78
Without basis to impose an appeal	11
Total	7,605



View of the rear of the Ombudsman headquarters at Eduardo Dato, 31.

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 governmental bodies in 2007

Administration	Being processed	Concluded	Suspended	Total
General State Administration	1,258	1,033	6	2,297
Autonomous Community Administration	354	326	1	681
Local Administration	436	333	2	771
Attorney General's Office	119	63	---	182
Other public entities	54	62	---	116
Miscellaneous administrations	157	58	1	216
Investigation unnecessary	760	482	---	1,242
Total	3,138	2,357	10	5,505

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 2007 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, the Prime Minister’s Office and the Ministry of Culture received the fewest complaint cases.

TABLE 15
Breakdown of case processing handled by the General State Administration: 2007
Individual and ex officio enquiry complaints.

Ministries	Being processed	Concluded	Suspended	Total
Prime Minister	2	2	---	4
Prime Minister’s Office	3	1	---	4
Ministry of Public Administrations	11	9	1	21
Ministry of Agriculture, Fishing, and Food	5	1	---	6
Ministry of Foreign Affairs and Co-operation	135	90	---	225
Ministry of Culture	1	4	---	5
Ministry of Defence	21	7	---	28
Ministry of Economy and Finance	130	104	1	235
Ministry of Education and Science	52	69	---	121
Ministry of Public Works	138	146	1	285
Ministry of Industry, Tourism, and Trade	48	23	1	72
Ministry of the Interior	226	200	1	427
Ministry of Justice	216	127	---	343
Ministry of the Environment	22	7	---	29
Ministry of Health and Consumer Affairs	10	14	1	25
Ministry of Labour and Social Affairs	61	73	---	134
Ministry of Housing	6	2	---	8
Peripheral administrations	119	132	---	251
Miscellaneous administrations	52	22	---	74
Total	1,258	1,033	6	2,297

TABLE 16
Breakdown of case processing handled by the Autonomous Community Administrations:
2007 Individual and ex officio enquiry complaints

Autonomous Communities	Being processed	Concluded	Suspended	Total
Catalonia	6	17	---	23
Basque Country	6	5	---	11
Galicia	21	14	---	35
Cantabria	13	13	---	26
Asturias	13	12	---	25
Andalusia	33	19	---	52
Murcia	26	13	---	39
Aragon	8	6	---	14
Castilla-La Mancha	17	15	---	32
Valencia	37	29	1	67
La Rioja	4	5	---	9
Extremadura	7	17	---	24
Canary Islands	22	11	---	33
Castilla y Leon	27	20	---	47
Madrid	91	110	---	201
Navarre	2	5	---	7
Balearic Islands	12	10	---	22
Ceuta	3	1	---	4
Melilla	6	3	---	9
Miscellaneous administrations	---	1	---	1
Total	354	326	1	681

The term **“Proper procedure”** is used once an investigation carried out by the Ombudsman has determined that the action taken by the Administration complies fully with current legislation. **“Corrected action”** 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 **“uncorrected action”** is used (see Tables 17, 18, and 19).

TABLE 17
Types of conclusions in individual and ex officio enquiry cases, by administration: 2007

Administrations	Proper procedure	Corrected action	Incorrected action	Other	Total
General State Administration	517	316	53	147	1,033
Autonomous Community Administrations	126	72	18	110	326
Local Administrations	161	110	11	51	333
Attorney General’s Office	44	9		10	63
Other public entities	80	16	6	18	120
Investigation unnecessary	92	97	33	260	482
Total	1,020	620	121	596	2,357

TABLE 18
Breakdown of types of conclusions for individual and ex officio complaints received
by the General State Administration: 2007

Administrations	Proper procedure	Corrected action	Incorrected action	Other	Total
Prime Minister	1	---	---	1	2
Prime Minister's Office	---	---	---	1	1
Ministry of Public Administrations	6	1	1	1	9
Ministry of Agriculture, Fishing, and Food	1	---	---	---	1
Ministry of Foreign Affairs and Co-operation	45	19	6	20	90
Ministry of Culture	4	---	---	---	4
Ministry of Defence	4	---	2	1	7
Ministry of Economy and Finance	59	37	3	5	104
Ministry of Education and Science	25	29	4	11	69
Ministry of Public Works	73	43	19	11	146
Ministry of Industry, Tourism, and Trade	20	1	---	2	23
Ministry of the Interior	121	57	4	18	200
Ministry of Justice	53	54	1	19	127
Ministry of the Environment	7	---	---	---	7
Ministry of Health and Consumer Affairs	---	9	---	5	14
Ministry of Labour and Social Affairs	36	16	7	14	73
Ministry of Housing	---	---	1	1	2
Peripheral administrations	50	45	4	33	132
Miscellaneous administrations	12	5	1	4	22
Total	517	316	53	147	1,033

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TABLE 19
Breakdown of types of conclusions for individual and ex officio complaints received
by the Autonomous Community Administrations: 2007

Autonomous Communities	Proper procedure action	Corrected action	Incorrected	Other	Total
Catalonia	1	3	---	13	17
Basque Country	1	1	---	3	5
Galicia	5	4	---	5	14
Cantabria	4	6	---	3	13
Asturias	6	2	2	2	12
Andalusia	9	5	1	4	19
Murcia	6	2	---	5	13
Aragon	4	---	1	1	6
Castilla-La Mancha	4	3	2	6	15
Valencia	12	5	2	10	29
La Rioja	1	---	---	4	5
Extremadura	8	4	1	4	17
Canary Islands	6	2	1	2	11
Castilla y Leon	6	5	2	7	20
Madrid	42	28	6	34	110
Navarre	3	---	---	2	5
Balearic Islands	4	1	---	5	10
Ceuta	1	---	---	---	1
Melilla	2	1	---	---	3
Miscellaneous administrations	1	---	---	---	1
Total	126	72	18	110	326

2,857 collective complaints



View of the exterior of the Ombudsman headquarters at Zurbano 42.

The collective complaints processed in 2007 have generated a total of 2,857 cases. Complaints made by a significant number of citizens along with the concise content of their corresponding files are briefly described below:

- 296 workers of the State Postal and Telegraph Office, PLC complain about the denial of a petition addressed to the management of said entity requesting the application of article 51 of Law 7/2007, of the Basic Statute for Public Employment.
- 268 nursing assistants, included in the labour exchange for personnel of the Community of Madrid, express their disagreement with the criteria applied in processing transfers between centres.
- 101 residents of the neighbourhood of Astepe de Amorebieta (Biscay) express their opposition to the proposed location of a new electric power plant for the construction of the Vitoria-Bilbao-San Sebastián high-speed railway line, because of the impact on three buildings in that neighbourhood.
- 105 residents of Casar de Palomero (Cáceres) complain about the municipal government's alleged infringement of their right to free speech, the prohibition of opposition groups from using public places of business, and the access granted to certain individuals not under contract with the City Hall to municipal files and archives, and, thus, to confidential data on all local residents.
- 120 people affected by agoraphobia request to be taken into consideration so that tunnels and elevators be designed in a less claustrophobic way.
- 930 citizens complain about the day-care centre within the air force barracks of the Tablada military base (Seville), after thirty years of operation.
- 133 residents of the parishes of Santa Cristina and Feira do Monse (Lugo) complain that certain lands in those regions were not included within the boundaries of a rezoned area.
- 154 civil servants express their disagreement with the modification of section 2, article 44 of the General Regulation on Hiring of General State Administration Personnel and Supply of Professional Advancement Opportunities and Job Posts for Civil Servants of the General State Administration, carried out by Royal Decree 255/2006, March 3, on transfer procedures.

- 120 citizens express their disagreement with the judicial decision involving a person convicted of rape.
- 111 small retailers of the municipality of Santurtzi (Bilbao) express their disagreement with the Law on Joint Ownership (*Ley de Propiedad Horizontal*).
- 2,320 people presented a signed written statement on the occasion of a gathering of the Minorities Forum, regarding those affected by fibromyalgia.
- 196 relatives of the users of a privately managed convalescent home for the elderly, with certain spaces under contract with the Community of Madrid report various irregularities and deficiencies in the performance of duties at this facility.
- 233 residents, including the presidents of the Neighbourhood Councils, of the municipalities of Terradillos de Sedano and Nidáguila (Burgos) request the urgent implementation of both land and mobile telephony as well as Internet services.
- 148 concerned parties express their disagreement with the stipulations set forth in the Agreement for the selection of temporary statutory health care personnel for the Health Service of Cantabria.
- 134 civil employees of the Ministry of Defence complain about the professional group classification assigned to them.
- 14,062 people, headed by the president of the Association of Parents of Children with Cranial Plagiocephaly and other deformities, complain that these illnesses do not receive proper treatment, resulting in neurological retardation in the early childhood.
- 208 users request the installation of acoustic barriers to shield a campground from road traffic noise.
- 119 civil employees of the Penitentiary Centre of Badajoz complain that the Management has failed to reply to the document sent to them proposing that all prison staff be allowed to perform their job functions in shifts.
- 120 residents of the town of Villavaquerín de Cerrato (Valladolid) complain about the state of the telecommunication services in their area, because they lack television reception (broadcast channels) and telephony (land, mobile, and broadband internet).
- 653 people give notice of an appeal of unconstitutionality against Law 3/2007, of the Community of Madrid, on urgent ways to modernize the Government and Administration of the Community of Madrid.
- 193 claimants express their dissatisfaction with the seaside renovation works at San Pol de Mar (Barcelona).
- 389 residents of Valdemoro (Madrid) express their opposition to the urbanization accord affecting the Espartal estate, which is located in a protected zone declared to be of cultural interest and declared as an archaeological site.
- 260 agents express their disagreement with the restrictions placed on their right to free assembly, the military nature of the corps and with the disciplinary regime, among other items, contained in the present regulatory framework governing Civil Guard Corps staff.
- 598 people lodge an appeal of unconstitutionality against article 76 and the third temporary provision of Law 7/2007, April 12, the Basic Statute of Civil Servants, considering that it may breach articles 9, 14, 23, 27, 35 and 103.3 of the Spanish Constitution.
- 186 concerned citizens question Royal Decree 276/2007, because of the advantage that it gives in selection processes for the non-university educational personnel to applicants who have previously worked in temporary posts.
- 111 citizens request improved care for celiac patients, stressing the need for, among other things, epidemiological studies, development of awareness campaigns on the disease, systematic and analytical controls of raw materials and products meant for celiac patients, creation and distribution of gluten-free dietary lists, and financial aid to help defray the high cost of gluten-free foods.
- 125 people express their opposition to Law 3/2007, of the Community of Madrid, on urgent ways to modernize the Government and Administration of the Community of Madrid.

TABLE 20
Breakdown of collective complaint processing
as of 31 December 2007

Situation	Number	%
Admitted	1,079	37.77
Being processed	703	24.61
Closed	376	13.16
Not admitted	1,778	62.23
Pending processing	--	--
Total	2,857	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: 2007

Motives for non-admission	Number
Lack of previous administrative action	12
Inaction of public authorities	32
No evidence of administrative irregularity	1,356
Other reasons for non-admission	378
Total	1,778

As with individual complaints, the collective complaints handled in the various public administrations in 2007 are presented in Tables 22, 23, 24, and 25, broken down by organization and public entity. On this occasion, it was the miscellaneous administrations who handled the majority of complaints processed.

TABLE 22
Collective complaint cases processed,
by Administration: 2007

Administrations	Being processed	Concluded	Total
General State Administration	98	112	210
Autonomous Community Administrations	---	91	91
Miscellaneous administrations	602	25	627
Investigation unnecessary	3	148	151
Total	703	376	1,079

TABLE 23
Breakdown of collective complaints presented
to the General State Administration: 2007

Ministries	Being processed	Concluded	Total
Ministry of Health and Consumer Affairs	---	1	1
Miscellaneous Ministry departments	98	111	209
Total	98	112	210

CUADRO 24
Breakdown of collective complaints
presented to the Autonomous Community
Administrations: 2007

Autonomous Community	Being processed	Concluded	Total
Community of Madrid	---	91	91
Total	---	91	91

TABLE 25
Types of conclusions broken down by administration: 2008

Administrations	Correct action	Solution provided	Solution no provided	Other	Total
General State Administration	---	---	---	112	112
Autonomous Community Administrations	---	---	91	---	91
Miscellaneous administrations	---	---	---	25	25
Investigation unnecessary	---	2	146	---	148
Total	---	2	237	137	376

262 Ex officio complaints

In 2007 the Ombudsman handled 262 ex officio enquiry complaints, an extraordinary increase compared to 2006, in which there were only 142. This represents an increase of 84,5%. Ex officio actions are those 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, 2007 as well as the Administration that processed them.

TABLE 26
Ex officio enquiry complaints processed by the various government administrations: 2007

Administrations	Being processed	Concluded	Suspended	Total
General State Administration	39	25	2	66
Autonomous Community Administrations	66	58	1	125
Local Administrations	11	21	---	32
Attorney General's Office	1	---	---	1
Other public entities	2	---	---	2
Miscellaneous administrations	16	6	1	23
Investigation unnecessary	10	---	---	10
Total	145	110	4	259

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

Economic Affairs

The consequences of the judicial intervention, in 2006, of the Philatelic Forum and AFINSA philatelic investment firms, became evident in 2007, with the initiation of an ex officio enquiry stemming from complaints by those affected by these interventions. The Ombudsman presented a complaint before the Undersecretary of the Ministry of Health and Consumer Affairs, before the Institute of Official Credit (ICO), and before the General Directorate of the State Agency of Tax Administration of the Ministry of Economy and Finance, due to the difficulties encountered by the affected parties in securing loans through the Institute of Official Credit (ICO) against the future adjudications in judicial procedures involving the aforementioned societies.

Also noteworthy is the ex officio enquiry opened with the Ministry of Economy and Finance, regarding legislative reform of the special Regime of Household Employees, which will indeed improve working conditions. However, this does not reflect the cost to fami-

lies for domestic services as this is not deducted from the annual tax withholdings (IRPF). That is to say, it is not tax deductible, and, thus it has a significant impact on a family's capacity to save.

Basic Services

In 2007, the imminent rise in mobile telephone rates by some operators, led to the opening of an ex officio enquiry before the Ministry of Health and Consumer Affairs, and before the Ministry of Tourism and Trade, upon entry into force of the Law for the Improvement of Consumer and User Protection, which specifically prohibits the practice of rounding rates.

Another source of repeated complaints as well as the initiation of an ex officio enquiry in 2007 was related to Internet services. Certain websites, according to citizen complaints, fail to comply with constitutional principles by displaying images that impinge on a common sense of dignity, privacy and decency. Specifically, humiliating images of disabled persons have been uploaded on certain websites, leading the Ombudsman to open an ex officio enquiry on the subject before the Secretary of State for Telecommunications and to the Information Society of the Ministry of Industry, Tourism and Trade.

Civil Service

In the Area of Civil Servants and Public Employment, 19 ex officio enquiries have been initiated with all autonomous communities and with the cities of Ceuta and Melilla to conduct a detailed, monographic study on workplace harassment in civil service.

An ex officio enquiry has also been initiated before the First Vice-presidency of the Government on the standardization of the medicine co-payment system for state pensioners ("*Clases Pasivas*") with respect to all other retirees under the General Social Security Regulations.

As for the approval, in 2007 of the new Basic Statute of Public Employment, one of the most relevant pieces of legislation passed last year, an ex officio enquiry was opened before the Ministry of Public Administrations on civil servant access to semi-retirement schemes in the context of this new Statute.

As regards teaching staff, the Ombudsman initiated an ex officio enquiry before the Undersecretary of the then Ministry of Education and Science, to learn the criteria used as the basis for measures adopted in the new legislation regulating access to state employment in the field of education, which favours those with temporary contracts to those who lack previous teaching experience. The Ombudsman plans to conduct a follow up on the results of the application of this new system.

An ex officio enquiry was also opened before the Secretary General of Penitentiary Institutions of the Ministry of the Interior on the integration of prison health care personnel in the National Health System. The investigation remains in progress as it was not possible to conclude it by the end of the year.

Regarding selection and hiring procedures for personnel of the Spanish Administration abroad, an ex officio enquiry was opened in 2007 before the Secretary General for Public Administration of the Ministry of Public Administrations. An agreement was signed with the most representative union groups in order to standardize these civil service posts in terms of rights and obligations with all other Administrative personnel. The ratification of this agreement by the General Negotiation Table remains pending.

The Ombudsman also initiated an enquiry before the Secretary of State for Justice regarding the failure to pay out remuneration owed to auxiliary judges and magistrates due to the lack of a corresponding budgetary allocation in the autonomous communities of Extremadura and the Basque Country. The Ombudsman recommended that a satisfactory solution be found which would permit the payment of said remuneration.

The unsafe and unhealthful working conditions in the emergency 091 offices were also the cause of an ex officio enquiry before the Directorate General of the Police and the Civil Guard of the Ministry of the Interior. According to reports received, it was determined that the installations in question were provisional in nature and had been set up as a result of the renovation works being carried out in the permanent facilities. Once the remodeling of these facilities is finished, the installations will offer optimum working conditions.

Infrastructures and transport

Certain deficiencies detected in RENFE railway services led to the initiation of several ex officio enquiries in 2007. Thus, an ex officio enquiry was opened to analyze deficiencies in information technology and in the area of customer service regarding RENFE commuter train service and incidents occurring in Sants (Barcelona); and another was opened regarding the deficiencies found in the Barcelona area commuter train service. Additionally, damage to the Madrid-Seville high-speed railway (AVE) tracks in the Getafe area of Madrid became the subject of another ex officio enquiry.

A high tension power outage in Catalonia, cutting the electrical power supply to numerous clients in Barcelona, led to an ex officio enquiry opened before the Secretary General of Industry, Tourism and Trade.

Prisons

Fights, abuse and deaths in Spanish jails also led to the initiation of ex officio enquiries. In this regard, information reported in the media about a mother claiming that her son, a schizophrenic, had been repeatedly subjected to humiliating treatment at the Psychiatric Penitentiary of Picassent (Alicante) led to an enquiry. The burning of several buildings of the prison at A Lama (Pontevedra) also became the subject of an investigation; the stabbing death of an inmate by another prisoner at the Penal Institution of Aranjuez and the deaths of an inmate at Pereiro de Aguiar (Ourense) and another at the Melilla Penal Institution are also under investigation.

Ex officio enquiries were also opened as a result of information appearing in the media regarding the serious incidents that occurred at the Penal Institution of Picassent (Alicante), where several prison employees were kidnapped by some prisoners. Another case investigated involved inmates serving sentences for domestic violence crimes at the Penitentiary Institutions of Albacete, Leon, Villena and Fontcalent, who allegedly had been making telephone calls to threaten their victims.

Crime

Rising crime levels led to the initiation of various ex officio enquiries by the Ombudsman. Stemming from media reports, the Ombudsman opened an enquiry before the Directorate General of the Police and the Civil Guard of the Ministry of the Interior, and the Madrid City Hall, related to the great number of burglaries and robberies suffered by businesses, car parks and households in the neighbourhood of Tables (Madrid). Additionally, an ex officio enquiry was opened as a result of media reports on the death of a resident of Pamplona, which occurred during an altercation in which members of the family of the deceased alleged that they had been attacked by the local police. Another ex officio enquiry was opened as a consequence of media reports of altercations that took place in the Police station of the National Police Corps on General Pardiñas Street (Madrid).

Lastly, the Institution initiated an *ex officio* enquiry as a result of media reports on the deplorable conditions of the installations at the downtown district Police Station on Leganitos Street (Madrid).

Possible Police Abuse

During 2007, the Ombudsman opened various *ex officio* enquiries in response to cases involving alleged abuse or improper police treatment of citizens. These investigations were initiated, in the vast majority of the cases, as a result of media reports. An *ex officio* investigation was opened in the case of a citizen who had recorded derogatory treatment inflicted on him by officers of the Parla Police station (Madrid). Upon discovering that they were being recorded, the officers proceeded to arrest, handcuff, abuse him further, and partially erase the recording; another enquiry stemmed from abuse suffered by two detainees at the Police station of Les Corts (Barcelona), for which suspension of duties and pay of five officers of the Mossos d'Esquadra has been requested; the presumed torture of two detainees at the Hortaleza Police station was also the subject of an investigation, as well as the abuses committed by the Civil Guard against a Nigerian citizen residing in Palma de Mallorca, the death of a citizen in the Civil Guard Barracks of Montequinto (Seville), the aggression toward a Peruvian minor by National Police in the district of Vallecas (Madrid), and the humiliating treatment of a deaf couple and their daughter, a minor, by the Local Police of Sanlúcar la Mayor (Seville).

As regards humiliating treatment of immigrants, the Ombudsman initiated in 2007 two *ex officio* enquiries into alleged police abuse toward immigrants. The first investigation was opened before The General Department of Alien Affairs and Documentation of the Ministry of the Interior, to verify the condition of a person from Cameroon who was being held in the Alien Detention Facility of Madrid and who may have been subjected to abusive treatment during the processing of his expulsion. The second was opened before the Directorate General of the Police and the Civil Guard of the Ministry of the Interior, and the Attorney General's Office to clarify the circumstances involved in the death of a Nigerian citizen while being repatriated to his country of origin after expulsion by Spanish authorities.

Lastly, in response to media reports, an *ex officio* enquiry was opened to investigate the existence of police corruption in Ronda. This resulted in the detention of seven officers, including the Chief of Police, all of whom were members of the National Police Corps.

Gender-based Violence

The Ombudsman conducts a detailed follow up of the incidents that have been arising as a result of the entry into force of the Law on Comprehensive Preventive Measures against Gender-based Violence. In 2007

the Ombudsman opened an *ex officio* enquiry related to information reported in the media on humiliating treatment and abuse taking place at an abused women's shelter in the Community of Madrid, managed by the Asociación Nuevo Amanecer. In the course of the investigation, no conclusive proof of humiliating treatment was found, although a lack of control and management of situations of conflict was evident.

Sexual crimes involving minors

Spanish society is currently involved in a strong debate over whether or not it is acceptable for perpetrators of sexual crimes to obtain certain penitentiary benefits that would reduce their sentences. The controversy arose after a rapist was given unconditional release when he himself acknowledged that he had not been rehabilitated and the psychologists who had treated him warned of the risk of recidivism. An *ex officio* enquiry was initiated and the Ombudsman recommended that the Ministry of Justice should create a panel of experts to study punishment in cases of sexual crimes, as the legal instruments necessary to intervene in cases of sexual crime without the possibility of rehabilitation appear to be lacking.

As for sexual aggression toward minors, several cases resulted in an enormous social outcry. As such, the Ombudsman opened an *ex officio* investigation to determine if changes were to take place with respect to punishments handed down in cases of sexual crimes perpetrated against very young children or other helpless individuals. Such crimes do not require violence or intimidation to be carried out, and the victims are often totally incapable of defending themselves. The Attorney General's Office replied that there are currently no legal provisions to redirect punishment procedures for this type of sexual abuse toward minors.

Foreign Affairs

Ex officio enquiries were opened regarding complaints involving conditions suffered by Spanish prisoners abroad, or the consular services performed on their behalf. One case receiving a great deal of media coverage involved the jailing in the United States of America of a Spanish citizen whose family alleged that the Spanish authorities were not handling the case satisfactorily. The Ombudsman opened an enquiry before the Directorate General of Consular Assistance and Affairs, of the Ministry of Foreign Affairs and Cooperation, and was able to verify that both the Ministry of Foreign Affairs as well as the Spanish Consulate in New York were performing a large number of tasks and services in an effort to advise and assist this Spanish citizen.

On the other hand, the Ombudsman opened an *ex officio* enquiry in order to analyze the problems of Spaniards who commute to Portugal for work and who are being required by the Portuguese authorities to re-register their vehicles in that country.

Alien Detention Facilities

In 2007 the Ombudsman conducted several visits to Alien Detention Facilities and Youth Shelters for the purpose of analyzing the living conditions, location, number of spaces, and other pertinent details. The following facilities were visited: The *Casa San José* Shelter for the Protection of Minors, in Saragossa; the Emergency Services and Care Facilities for Unaccompanied Minors in both *La Esperanza* and *Tegueste* as well as the *Hoya Fría* Alien Detention Centre, the three of which are on Tenerife Island; The *El Matorral* Alien Detention Facility, the *Hondura* and *Playa Blanca* Care Facilities for Unaccompanied Minors, on Fuerteventura Island; and the First Aid and Alien Detention Facility in Almería.

Also, the Alien Detention Centre in Murcia was visited to investigate and shed light on the circumstances surrounding the apparent cases of food poisoning involving several detainees being held there. A visit was also made to the facilities of the Provincial Brigade of Alien Affairs and Documentation in Madrid (*Avenida de los Poblados*) in order to verify deficiencies in the installations that had been reported by numerous citizens.

Health Care

The significant rise in complaints regarding medical care and treatments for serious or rare diseases led to the opening of an enquiry in 2007, before the Ministry of Health and Consumer Affairs, and before all of the Health Departments of the various autonomous communities to learn about the problems faced by people suffering these types of illnesses, which involve enormous difficulties in diagnosis and treatment. Moreover, the Institution aimed to find out about plans under way in the various health administrations toward establishing specific and structural measures that might help meet the specific needs of citizens with these types of afflictions.

An ex officio enquiry was also opened, before the Ministry of Health and Consumer Affairs, to study, within the framework of the Interregional Council of the National Health System, the enormous difficulties encountered when concerned parties requested voluntary interruption of pregnancy, as per the relevant Law in force, involving centres and public services of the public health system. Also, an investigation was initiated before all of the councils of social affairs of the autonomous communities, in order to understand the problems involved in assessing and acknowledging the rights that Law 36/2006 provides for, on promoting personal independence and care for those in situations of dependency.

Consumption

In the Consumption section, an ex officio enquiry was initiated before the National Institute of Consumption of the Ministry of Health and Consumer Affairs, in order to learn about the measures adopted by this Min-

istry regarding the alleged detection of fraudulent practices carried out via Internet.

Social Policy

The imminent closing of Delphi, a manufacturer of automotive components in Cadiz, received wide coverage in the media in 2007. This company, located in Puerto Real (Cadiz) was planning to shut down its operations and make about 1,600 workers redundant. The Ombudsman opened an ex officio investigation before the Secretary General of Industry of the Ministry of Industry, Tourism, and Trade, the Secretary General of Employment, of the Ministry of Labour and Social Affairs, and the Employment Department of the Council of Andalusia. The purpose of this enquiry was to assess the potential consequences of the closing of Delphi, and to learn about the conclusions reached by an *ad hoc* work group that had been set up previously, as well as to ascertain the range of measures which might be adopted to promote the establishment of industrial activities in the area in order to avoid, thus, the possible transfer of the sector away from the bay of Cadiz.

Urban Planning and the Environment

The existence of city-planning projects that may be hazardous due to an adverse environmental impact continues to be one of the main concerns of the Ombudsman Institution, leading to the initiation of ex officio enquiries.

One of the enquiries opened was presented before the City Halls of Carboneras and Níjar (Almería), the capital city of Almería, and the Environment, Public Works, and Transport Departments of the Council of Andalusia. This enquiry involved the potential environmental impact on the Cabo de Gata Nature Preserve due to the urban enlargement projects and the building of 25,000 additional residences planned by the aforementioned cities, which are located within Preserve boundaries. After studying the information provided by the relevant authorities, it was considered admissible to finalize the enquiries with the City Halls, but not without reminding them of the risks involved in unbridled urban expansion in municipalities over a short period of time, which could have a serious impact on various aspects of the ecosystems within the Nature Preserve; if the natural environs were to become cut off by over-development, the damage could be irreversible. Moreover, the Ombudsman notified the Councils involved of the importance of a proper application of the Strategic the Environmental Evaluation, so as to create a General Plan in compliance with existing regulations. This Evaluation represents a basic tool for the proper oversight of the initial stages of urban planning projects, since the proposal contained in them may eventually be approved by the relevant administration and would, thus, serve as a guideline the final drawing up of the project.

Additionally, the Ombudsman initiated another ex officio enquiry before the City Hall of Villanueva de

Gomez (Avila), the Environmental and Public Works Departments of the Council of Castilla y Leon, and the Hydrographical Confederation of the Duero River, to study the potential environmental impact of a future project, approved by said Council, to create an urbanized area called “the Favera” in Villanueva, including construction of 7,500 houses and three golf courses. As a result of this investigation, it was learned that another had been initiated by the Public Defender to deal with the same issue. Thus, the enquiries were closed given the inappropriateness of keeping two separate investigations active.

One of the main projects of urban transformation in Madrid, the so-called “*Madrid Calle 30*” was also the subject of an ex officio enquiry opened before the City Hall of Madrid, with respect to the renovation of the M-30 motorway and the surfaces originally occupied by the former ring road. As a result of this investigation, it was discovered that the City Hall of Madrid had prepared four follow up reports analyzing the administrative situation, which were sent to the State Secretariat for the European Union. Moreover, a single environmental study is being conducted to gather all of the incidents for each project where work was executed. Thus a comprehensive assessment of the environmental impact of all of the works carried out as part of the M-30 renovation project is being prepared. The conclusions of this study, in addition to being sent to the European Commission and the European Union, will be sent to the Ombudsman. The enquiry is currently suspended until the works in progress are completed.

With respect to public infrastructures, the Ombudsman initiated an ex officio enquiry before the General Secretariat of Infrastructures, of the Ministry of Public Works, regarding the enlargement of the Atocha railway station, in Madrid. Although the Ombudsman Institution deemed both the Informative Study of the new railway complex as well as the arguments against the transfer to Abroñigal to be reasonable, it informed the Ministry that the advanced age of the residential buildings with respect to the railway facilities is not a valid argument to impose burdens, an environmental one in this case, on the rights and assets of citizens. If the proposed enlargement of the Atocha railway station is indeed to be considered beneficial to area residents, as the Ministry maintains, it behoves the Ministry to assure citizens that the project will not become a health hazard and that it offers the best solution to meet the demands of the rising number of railway users. In this manner the project could be carried out with the highest level of consensus possible.

The appearance in the printed press of a controversy involving the construction of a tower next to the Historical City Centre of Niebla (Huelva), led to the opening of an ex officio enquiry before City Hall of this town, the Council of Innovation, Science and Business, and the Directorate General of Cultural Heritage of the Department of Culture of the Council of Andalusia. No irregularities were found in the Council’s actions and the investigation was closed. The Ombudsman expects to receive the comprehensive Environmental Autho-

rization from the City Hall of Niebla, as well as the project for the required partial closure of the kiln.

An ex officio enquiry was also opened before the Hydrographical Confederation of the Tagus River and City Hall of Mostoles, as a result of the illegal settlement

of growing significance and size—already about 700 inhabitants—along the banks of the Guadarrama river where it flows through Mostoles. Apparently, sturdier houses share the area with a number of shacks, reaching a total of 260 substandard dwellings in an area near the riverbank, in the protection zone along the river. It was discovered that the structures were not located in the public watershed domain, but rather in watershed service zones. Furthermore, the Confederation has proposed the construction of a dike along the left bank to shore up water flow corresponding to the avenue of 500 years in order to protect those who live in the settlement. There are also plans to establish a joint collaborative Agreement among the Administrations involved so that they may act in a coordinated fashion, which is why the Ombudsman has decided to request a new report with a copy of the final Agreement.

Lastly, an enquiry was opened before the Secretary General for Land and Biodiversity of the Ministry of the Environment, with respect to the possible breach of the sewage treatment Directive (91/271/CEE) by a number of urban centres that either fail to treat their sewage at all or that do so in a substandard fashion. Since December 2005, the Directive has required towns with more than 2,000 inhabitants to treat sewage water properly. According to media reports, inadequate treatment may have an adverse impact on over 6 million people. There are currently 37 ex officio enquiries open on this matter.

Immigration

The ex officio enquiries initiated on immigration matters dealt with a wide variety of issues in 2007. One particularly noteworthy case, with extensive media coverage, involved the death of a Romanian citizen who set himself on fire in the street in full view of his family to protest the difficult financial situation they were suffering in Spain. Another ex officio enquiry was initiated to study police and judicial actions carried out stemming from the detention of two immigrants belonging to foreign mafias, and who, at the same time, served as interpreters for the National Police Corps in Tenerife. Lastly, an ex officio investigation was opened to analyze discrepancies in the criteria applied by various consulates in order to certify the financial dependence of parents in family reunification procedures.

Education

In the area of education, an ex officio enquiry was undertaken before the relevant authorities of all of the Autonomous Communities and before the Secretary General of Education of the then Ministry of Education

and Science as a result of the complaints received related to the variety of difficulties encountered by students who require medical care for their personal health-related issues while on the school campus.

As a result of the aforementioned enquiry the Ombudsman received information from most of the administrations consulted. It was evident that each found very different solutions to the same problem, such as creating joint action programs between the education and health administrations with the aim of offering immediate medical care to students whose chronic diseases required medication or other types of care (Galicia and the Basque Country), contemplating the schooling of affected students in institutions that, for various reasons, have health care personnel among their staff (Asturias and Castilla-La Mancha), defining joint action plan protocols between health care and educational administrations to coordinate activities at centres in case of crises of certain diseases (Canary Islands, Castilla-La Mancha, Castilla y Leon, Murcia and Navarre), or, finally, depending on the important collaboration of parents in helping to provide for the special health care needs of their children (Aragón, Madrid and Murcia).

Access for hearing impaired persons to audiovisual communication media

The audio-visual sector is currently being transformed by the incorporation of new technologies, and this is occurring within a legal framework in which the principles of standardization, universal accessibility and design for all have been provided for in Law 51/2003. These principles serve as guidelines for reforms in

terms of the consideration that must be accorded to those with disabilities. The Ombudsman decided to open an ex officio enquiry in light of article 9,1 of Organic Law 3/1981 in order to assess the current situation and to study future plans with the aim of ensuring compliance with the aforementioned principles and all other directives intended to provide protection and assistance to the hearing impaired.

For this purpose, among other actions, the Ombudsman requested reports from the various entities and organizations in charge of the main public-owned, audio-visual media, both national as well as autonomic, in order to ascertain their current degree of success in incorporating technological and other measures to promote accessibility for the hearing impaired—with particular emphasis on the subtitling of programs—as well as to gather any additional data that might be helpful in assessing the current state of affairs on this subject.

The entirety of information received indicates that, although an acceptable degree of awareness exists regarding the need for technical and other types of measures to be adopted in order to break down any existing barriers to audio-visual mass media for the hearing impaired, the implementation of such measures is irregular, and, in practically all cases, remains quite far from achieving the goal of providing full accessibility to all media content and programs. Budgetary considerations, technical issues and other factors play a large role in this area, which deserves to be treated as a high priority because it involves a large group of people whose rights to be informed, to be entertained, and to be actively involved in political and social life must be guaranteed.

72 recommendations and 69 suggestions admitted

As a result of the processing of complaints investigated during 2007, a total of 469 resolutions were made for the various Public Administrations (see Table 27).

TABLE 27
Resolutions presented to Public Administrations, by type and situation on December 31, 2007

Resolutions	Accepted	Rejected	Pending	Total
Recommendations	72	23	61	156
Suggestions	69	43	92	204
Reminders of legal duties	---	---	---	108
Warnings	---	---	---	1

TABLE 28
Recommendations, by Public Administration to which they were presented.
Situation on December 31, 2007

Administrations	Presented	Accepted	Rejected	Pending
General State Administration	87	40	10	37
Autonomous Community Administrations	27	15	6	6
Local Administrations	39	16	6	17
Miscellaneous administrations	3	1	1	1
Total	156	72	23	61

TABLE 29
Suggestions, by Public Administration to which they were presented, status as of December 31, 2007

Administrations	Presented	Accepted	Rejected	Pending
General State Administration	96	37	23	36
Autonomous Community Administrations	26	13	3	10
Local Administrations	80	18	17	45
Miscellaneous administrations	2	1	---	1
Total	204	69	43	92

TABLE 30
Reminders of legal duties sent in 2007, to the Public Administration to which they were presented

Administrations	Total	Administrations	Total
General State Administration	31	Miscellaneous administrations	3
Autonomous Community Administrations	19	Total	108
Local Administrations	55		

156 recommendations, 204 suggestions

During 2007, the Ombudsman made a total of 156 recommendations and 204 suggestions. At the close of the annual report, 72 recommendations and 69 suggestions had been accepted, as seen in Tables 27 to 29. In addition, one warning was 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.

DESCRIPTION OF ACCEPTED RECOMMENDATIONS

GENERAL STATE ADMINISTRATION

Ministry of Public Administrations

To the **Government Delegation in the Community of Madrid** so that in applications for family reunification of children of only one member of a couple, the parenthood or legal guardianship be considered certifiable through a duly legalized notarial deed.

Ministry of Foreign Affairs and International Cooperation

To the **Directorate General of Consular Assistance and Affairs** so that the General Consulate of Spain in Quito (Ecuador) should issue visas to any foreigners with legal residence in Spain who lack authorization to return.

It was also recommended that the family reunification applications should not include an appraisal of the residence during the consular phase and that said appraisals by the Consulate should comply with what is set forth in immigration law.

Recommendation to the **Spanish Agency for International Cooperation (AECI)** regarding the criteria for the awarding of MAEC-AECI scholarships.

Ministry of Defence

To the **Undersecretary of the Ministry of Defence** regarding notification of judgements.

Ministry of Education and Science

To the **National Secretary of Universities and Research** regarding regulations governing the certification procedures for university professors.

Ministry of Public Works

To the **Spanish Airports and Air Navigation Authority (AENA)** regarding evaluation of physical examinations in the selection process for becoming a fireman.



Interior of the Ombudsman headquarters (partial view).

Ministry of the Interior

To the **Undersecretary of the Ministry of the Interior** regarding the international adoption process and its impact in social action plans.

Recommendation to the **Directorate General of Penitentiary Institutions** involving cases requiring the transfer of mentally ill inmates from penal institutions to a penal psychiatric facility with overnight stays in one or more transit penal institutions, that information be provided, however succinctly, upon request by family members or others with a legitimate interest regarding said inmate's whereabouts and condition—except in cases where extenuating circumstances make it inadvisable to do so, or where the patient-inmate concerned has submitted a declaration that this would be contrary to his or her wishes.

Recommendation to the **Directorates General of the Police and the Civil Guard** regarding the recertification process for the speciality of traffic.

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.

Recommendation regarding access to the Official Bulletin of the Civil Guard.

Recommendation regarding processing of productivity bonuses.

Numerous recommendations were made to increase the material and human resources or to provide larger facilities at various issuing offices of the national identity card: the offices at Ramón Pérez de Ayala street on Tenerife Island; the police station of Vilanova la Geltrú in Barcelona; the police station of Arrecife in Barcelona; the Police Commissary of Don Benito in Badajoz; the issuing offices in Tortosa, Tarragona; the issuing offices on Santa Engracia Street, in Madrid; and the issuing offices of Segovia.

Various recommendations were also made to increase the material and human resources to issue the national identity card during vacation periods at the following offices: The Police Commissary of Arrecife on Lanzarote Island; at all of the police stations in Valencia and at the police commissary of the district of Abastos in Valencia. Supplementary staff were requested for Christmas, Easter and summer vacation periods.

Recommendations were made to increase the material and human resources or larger facilities at various issuing offices of the national identity card sufficiently so as to make it possible to apply for renewal of the national identity card in the same day.

Recommendation to the **Directorate General of Traffic** to consider the possibility of revising the Traffic Law, on circulation of motor vehicles and roadway safety, to establish, on one hand, that should proof be provided by the owner of a vehicle involved in a traffic violation that said vehicle had been at a garage for repairs, said proof should exempt the owner from the vehicle owner's obligation to identify the driver committing the violation; and, on the other hand, to establish that said obligation should correspond to the owner of the repair shop regarding infractions involving any vehicles deposited in his or her garage.

Recommendation so that, upon submission of a complaint by a citizen reporting facts involving a civil servant that may constitute an infraction warranting disciplinary action, that the appropriate investigation be carried out including declaration by the civil servant affected and, should they exist, any other persons who had been present as well as any other means of proof provided for in administrative regulations. An additional recommendation was made to increase staff at the Provincial Head of Traffic of Valencia.

Recommendation to modify the computer handling system for traffic fines of the Directorate General of Traffic, to adapt it to the linguistic stipulations in procedural legislation in force.

Ministry of Justice

To the **Minister of Justice** for the protection of the minor's right to privacy in the publication and notification of judicial decisions.

Recommendation to create the post of Attorney General in the juvenile division of the Attorney Gener-

al's Office of the Superior Court of Justice of the Community of Valencia.

Recommendation to the **Secretary of State for Justice** with respect to delays in the issuance of reports by the National Institute of Toxicology and Forensic Sciences.

Recommendation to translate into the Italian language documents sent by the Ministry of Justice to Italy in cases involving transfer of prisoners convicted in Spain.

Ministry of the Environment

To the **General Technical Secretary** on the need to classify certain behaviours that affect animal and plant species as offences.

Recommendation to the **Hydrographic Confederation of the Duero River** to presume direct and legitimate interest in cases involving proximity sanctioning procedures related to offences affecting legally protected environmental interests.

Recommendation to presume direct and legitimate interest in cases involving sanctioning procedures for water violations related to proximity to the location where the offence was committed or conduct or actions affecting or dependent upon the state of the public watershed domain.

Ministry of Labor and Social Affairs

To the **Secretary of State for Social Security** regarding adaptation of the criteria for denial of maternal benefits stemming from part-time contracts, recognizing said subsidy in cases where the applicant holding two part-time contracts continues to work for one of them.

Recommendation to the **General Technical Secretary of Labour and Social Affairs** regarding the obligation that notifications must comply with the Law of the Legal System for the Public Administrations and of Common Administrative Procedure, which requires them to contain sufficient substantiation for their content and specific details for each case regarding the antecedents and legal bases involved, as well as any allegations made to the contrary.

Recommendation to the **Directorate General on Immigration** regarding revision of the immigration law for the purpose of standardizing the characteristics of the reports on housing for reunited family members.

Recommendation on the creation of an action protocol regarding notification of the court decisions handed down involving unaccompanied foreign minors subject to repatriation procedures.

Recommendation to the **Directorate General of the Institute for Social Services and the Elderly (IMSERSO)** regarding the need that appropriate instructions be handed down in order to discourage the current practice by staff at the Pozoblanco Care Centre for the Physically Disabled—and, as the case may be, at other centres—of impeding or restricting visits or communication via telephone and mail with users.

Recommendation to the **Directorate General of the National Institute of Social Security (INSS)** regarding the need to adopt measures toward the elim-

ination of obstacles which impede courts from supplying the CIF identity number of disabled persons of which they hold legal guardianship in applications to obtain social security benefits for them.

Recommendation to the **Directorate General of Public Services for State Employment** regarding the obligation that valid periods for acknowledgment of unemployment benefits be in compliance with Article 228.1 of the General Law of Social Security, and that notification be carried out in accordance with Article 58 of the Law of the Legal System for the Public Administrations and of Common Administrative Procedure.

AUTONOMOUS ADMINISTRATION

Autonomous Community of Andalusia

To the **Department of Justice and Public Administration** regarding remuneration for legal assistance to minors in the execution phase of the judicial order imposed.

Autonomous Community of Aragón

To the **Department of Education, Culture and Sports** regarding compliance with the established deadlines as regards processing of cases or issuance of academic titles.

Principality of Asturias

To the **Department of Social Welfare** regarding certification of the unforeseen unemployment status requirement in applying for residential rental benefits.

Autonomous Community of the Canary Islands

To the **Department of Education, Universities, Culture and Sports** regarding changes of clothing for children beginning the second cycle of early childhood education at public schools on the Canary Islands.

Autonomous Community of Galicia

To the **Department of Education and University Organization** regarding the obligation of the universities of Galicia to apply the right to a public fee waiver to disabled students for academic services.

Recommendation to the **Department of the Environment and Sustainable Development** regarding legitimizing associations so that they may intervene in affairs included among their social functions.

Recommendation to the **Department of Health** regarding the feasibility of adopting measures meant to reduce delays in access to outpatient allergy services at Juan Canalejo Hospital, in Corunna.

Recommendation regarding the feasibility of adopting appropriate measures meant to reduce the noteworthy delays in access to cardiology outpatient services at the Hospital of Ourense.

Community of Madrid

To the **Department of Education** regarding the obligation to abide strictly with the judgement deadlines in the application process for financial aid for students with excellent academic performance.

Recommendation to the **Department of Justice and the Interior** regarding modification of the Law for the Coordination of Municipal Police.

Recommendation to the **Management of SUM-MA 112** regarding express judgement to appeals presented.

Autonomous Community of La Rioja

To the **Department of Education, Culture and Sports** regarding the obligation that the right to a public fee waiver to disabled students for academic services be applied at the University of La Rioja

Autonomous Community of Valencia

To the **Department of Social Welfare** regarding conducting a feasibility study on augmenting the means and resources needed to promote satisfactory treatment to chronic mental patients who require hospitalization, without impinging upon the care offered to patients who benefit from outpatient services.

Recommendation to the **Department of Justice and Public Administrations** regarding the increase in budgetary items needed to prioritize juvenile court action protocols in the Autonomous Community of Valencia.

Recommendation to the **Department of Health** regarding the possible adoption of measures intended to avoid delays in carrying out scheduled surgical procedures.

LOCAL ADMINISTRATION

City Hall of Cabezuela del Valle (Cáceres): Regarding the need to pass internal regulations for the Pensioners Home in said city, as well as the need to regulate its participating entities and to designate its representatives.

City Hall of Fuenlabrada (Madrid): Regarding the processing of a signing off from the municipal register. Recommendation about the contest procedures for access to local civil service positions.

City Hall of Gijón (Asturias): recommendation that a classified information-investigative file be opened so as to freeze the period of prescription for a possible disciplinary infraction by a local police officer, stemming from the presentation of each complaint submitted in the same local police facilities and not just resulting from those presented before the jurisdictional authorities. Also, at the same time, recommendation to organize annual courses for the local police—with incentives for participation in them—on the subjects of attention and treatment of citizens as well as basic rights involved in police actions.

City Hall of Madrid: regarding measures taken to rectify irregularities at the Municipal Ice Palace of Madrid.

Recommendation to increase the staff and resources of the local police, with the goal of preventing crimes and unlawful administrative acts related to the trafficking and consumption of drugs in public thoroughfares in the San Blas district of Madrid.

Recommendation so that the withdrawal of handicapped parking permits by the City Hall of Madrid be carried out via regulated procedure requiring the use of the appropriate documentation to avoid, as the case may be, the withdrawal (or similar action) of said permit without issuing a receipt or certification, in order to guarantee better protection of rights to those potentially affected.

Recommendation about the feasibility of revising the regulations regarding the granting of parking permits to people with reduced mobility in order to adapt them in all aspects to the provisions contained in European Council Recommendation 98/376/CE on the creation of parking permits for disabled persons.

Recommendation to increase the staff and resources of the local police, with the goal of controlling and imposing sanctions for unlawful activity related to drug trafficking, threatening and disruptive behaviour, alcohol consumption in public thoroughfares and sale of alcohol in clandestine shops in Almansa, Topete, and Carnicer streets in the city of Madrid.

City Hall of Malpartida de Cáceres (Cáceres): regarding the obligation to pronounce an express judgment in an appeal presented before the City Hall.

City Hall of Mieres (Asturias): Regarding the contests carried out with respect to the 2006-2007 Local Employment Plan.

City Hall of Parla (Madrid): Recommendation to increase the resources of local police with the aim of preventing crimes and unlawful administrative acts related to the trafficking and consumption of drugs in public thoroughfares and the walking of dangerous dogs without a leash or muzzle in municipal thoroughfares and squares.

City Hall of Santa Cruz de la Palma (Santa Cruz de Tenerife): So that they initiate with due diligence any disciplinary action related to minor, serious, or grave offences in order to prevent the facts that were reported on time and properly by injured parties, either to the relevant authority or to the administration in question, from not being subject to appropriate legal punishment and/or administrative disciplinary action due to prescription attributable to the poor functioning of the relevant departments of the Administration that delay the processing of the case not due to the actual facts reported but even to those for which the complaint or legal action was initiated.

City Hall of Torrelavega (Cantabria): Regarding adoption of appropriate measures for the proper organization of lorry parking along municipal streets, and for the installation of signs in places where such parking is expressly permitted in order to avoid the legal uncertainty that exists in current ordinances.

City Hall of Valencia de Alcántara (Cáceres): Regarding the publication of selection contests.

Provincial Council of Avila: Regarding the feasibility of informing those applying for domestic aid services information about their position on the waiting list, and that reasoned judgments be given stating that, in addition to the approval of a request, the points assigned are in accordance with the applicable scale and,

moreover, that said judgment be communicated to concerned parties with instructions for lodging an appeal.

OTHER

Valencia Bar Association: Regarding the assigning of a legal specialist for Legal Assistance for Minors.

SUGGESTIONS ACCEPTED

GENERAL STATE ADMINISTRATION

Ministry of Public Administrations

To the **Secretary General for Public Administration**, regarding the reimbursement of amounts corresponding to the charge for forced collection of amount payable to liquidate a debt incurred by the concerned party after the deadline for voluntary payment had passed.

To the **Directorate General of Civil Service** regarding judgment in the case of a request by a citizen to be transferred for health-related reasons.

To the **Government Delegation in the Autonomous Community of Andalusia** regarding the increase in search efforts for a missing citizen.

Suggestion regarding the possibility of granting a temporary residency permit for exceptional circumstances, in application of Order 14/2005 of the Secretary of State for Security by analogy, because the concerned party was the victim of the crime of family abuse.

Suggestion regarding the possibility to reverse a negative judgement and to subsequently grant a third renewal of a residency permit for a citizen whose expulsion order had expired during the second renewal period.

Suggestion regarding the possibility to reverse an expulsion order once the existence of family roots in Spain had been confirmed, as well as full compliance with all other items required in the granting of residency permits for exceptional circumstances.

Suggestion regarding the need to revoke an expulsion order for an Ecuadorian citizen because he was able to certify that he was the father of a very young Spanish minor.

To the **Government Delegation in the Autonomous Community of the Balearic Islands**, regarding the need to give a written reply to a complaint submitted by a citizen.

Suggestion regarding the admission for processing of a residency application submitted in accordance with Royal Decree 240/2007 for the spouse of a Spanish citizen who was physically present in Spain prior to the date of matrimony.

To the **Government Subdelegation in Barcelona**, regarding the possibility of reversing the decision to deny a request to renew a work and residency permit that had been handed down nine months after the application had been submitted.

To the **Government Subdelegation in Huelva** regarding the review of a case involving a Romanian

citizen as per existing regional regulations in force, and, where it was appropriate, reversal of the expulsion order for unauthorized presence, granting him the card corresponding to the authorization that had been conceded to him previously in the legalization process.

To the **Government Subdelegation in Málaga** regarding judgement in a case of early retirement due to permanent disability.

Suggestion regarding the possibility of delaying the execution of a repatriation to allow time for the administrative appeals court to make a judgment on a provisional measure requested with respect to expulsion procedures.

Ministry of Agriculture, Fishing and Food

To the **Directorate General of Fishing Resources**, regarding the supply of sufficient means and appropriate photographic and video equipment and material to Seprona officers.

Ministry of Foreign Affairs and International Cooperation

To the **Directorate General of Consular Assistance and Affairs**, regarding the possibility of rendering null and void negative judgments on applications for family reunification visas for children because the denials lack sufficient legal foundation.

Suggestion to review the negative judgments regarding residency visas for two Ecuadorian citizens with residency permits in order and who, due to *force majeure*, abandoned Spanish soil with neither re-entry permits nor the foreigner identity cards that had been taken from them.

Suggestion to review the negative judgment regarding a residency visa requested by a citizen whose re-entry permit had expired before she returned to Spanish territory, but who held a valid residency permit.

Suggestion regarding the granting of entry visas to a citizen who left national territory with his children without re-entry permits, but who was a holder of a valid work and residency permit.

Suggestion to render null and void a negative judgment on the issuance of an entry visa to a citizen that, due to grave circumstances, abandoned national territory without a re-entry permit and whose residency card was in the process of being renewed at the time, and subsequently granted to him.

Suggestion regarding the issuance of a family reunification visa for a minor because justification for said denial was made in an assessment that does not correspond to the consular office to make.

Suggestion to render null and void a negative judgment on a visa requested to gain access to national territory, after identity could be verified, because the residency permit belonging to the concerned party had been taken from him during his stay in his country of origin.

Suggestion to review the negative judgment handed down regarding a visa solicited by an Ecuadorian citizen who had departed Spain while his residency and work permit was in force, but who was unable to return be-

cause it had expired, and to proceed with the granting of a new permit as per the law.

Ministry of Education and Science

To the **Directorate General of Territorial Cooperation and High-level Inspection**, to review a case involving the voiding of a grant to confirm if the Administration's right to refund the amount had been authorized, and in case of confirmation, to proceed to credit the amount paid.

Ministry of Public Works

To the **Demarcation of State Highways in Valencia**, regarding attention given to neighbourhood complaints, with follow up contact and making their opinions known in meetings or through other appropriate means.

Ministry of the Interior

To the **Undersecretary of the Interior**, on the granting of financial aid for expenses for a dependent child, requested by a citizen.

To the **Directorate General of the Police and the Civil Guard**, regarding increasing staff and material resources at an office for the issuance of national identity cards.

Suggestion regarding the legal bases for requests for identification carried out by officers of the National Police Corps.

Suggestion that police authorities strictly comply with court injunctions, particularly when they refer to a provisional suspension of a repatriation order.

Suggestion regarding the disciplinary responsibility of Civil Guard officers.

Suggestion regarding notification to some claimants against the Civil Guard of the decision adopted with respect to their complaints.

To the **Directorate General of Traffic** regarding the *ex-officio* nullification of a fine procedure initiated by the Directorate General of Traffic.

Two suggestions regarding the *ex-officio* nullification of a fine procedure initiated by the Directorate General of Traffic.

Suggestion regarding the revoking of a fine imposed by the Directorate General of Traffic.

Ministry of the Environment

To the **Hydrographic Confederation of the Duero River**, on the need to provide an express reply indicating acceptance or denial of the request to clean up the Porma riverbed, submitted by the concerned party.

Suggestion about the need to provide express reply to the request for information submitted by the concerned party.

Ministry of Labor and Social Affairs

To the **Undersecretary of Labour and Social Affairs**, on the filling of vacancies for all of the job posts occupied by temporary transfers for over two years.

AUTONOMOUS ADMINISTRATION

Autonomous Community of Andalusia

To the **Department of Equality and Social Welfare**, regarding the need to modify the certification date on which degrees of disability are established, in such a way that, the disabled minor duly certified, the certification date coincides with the day that the parents submitted the application for certification of the disability.

Autonomous Community of Aragón

To the **Department of Education, Culture and Sports**, regarding the immediate processing of certain proposals related to the issuance of an academic degree.

To the **Presidential Board**, on the handling of an offer for public employment in 2004 so that it would be finalized rapidly.

Autonomous Community of the Canary Islands

To the **Department of Education, Universities, Culture and Sports**, regarding the express resolution of appeals made by concerned parties.

Cantabria

To the **Department of the Presidency of Land Management, Urban Planning and Housing**, regarding civil servant job mobility, avoiding delays in competitions and procedures for job transfers and ensuring that all vacant posts provided for in the budget are included in the notification of discretionary appointment competitions.

Autonomous Community of Extremadura

To the **Department of Education**, regarding the reply to claims submitted by a citizen.

Community of Madrid

To the **Department of Culture and Sports. Madrid Institute for Sports, Leisure and Recreation**, regarding the obligation to effect notification provided for in Article 58 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure, including the full text of the judgment adopted.

To the **Department of Education**, on the certification of payment of a specific bonus to a citizen as Adjunct Director of Studies.

To the **Management of Summa 112**, regarding the appeal lodged by a citizen.

Murcia Region

To the **Department of Sustainable Development and Land Management**, regarding the appropriateness of handing down an express judgment for the request for information presented by a homeowners' association.

To the **Department of Education, Science and Investigation**, regarding the payment of amounts owed to a participant acting as spokesperson for an

evaluation commission for non-school education programs.

Autonomous Community of Valencia

To the **Department of Social Welfare**, on the need to arbitrate pertinent measures to provide an immediate and satisfactory institutional response to the needs of a person affected by a serious chronic mental illness, either through its own resources or through coordination of other resources and public and private initiatives provided for in Article 1 of Law 5/1997, 25 June, through which the system of social services of the Autonomous Community of Valencia is regulated.

LOCAL ADMINISTRATION

City Hall of Barcarrota (Badajoz): Regarding the need to carry out a noise level test, initiate sanctioning proceedings to the noisy establishment, and adopt the provisional measure of suspending business activity.

City Hall of Bétera (Valencia): Regarding enforcement of legislation against noise pollution caused by the *Fallas* celebrations.

City Hall of Calahorra (La Rioja): Regarding the legal obligation to expressly resolve a request for information, notifying the concerned party of the reasons why this cannot be supplied (06017423).

City Hall of Cerecinos del Carrizal (Zamora): Regarding the initiation of sanctioning proceedings against a telecommunications company for an alleged breach of municipal legislation.

City Hall of Collado Villalba (Madrid): Regarding an ex officio declaration on the voiding of a fine, initiated by the City Hall.

City Hall of Fuenlabrada (Madrid): Regarding the actions of a local police officer.

City Hall of L'Hospitalet de Llobregat (Barcelona): About the obligation to draw up an organizational chart of the job posts of the aforementioned City Hall.

City Hall of La Guardia de Jaén (Jaén): On access to urban planning data and the obligation to provide new notification to the concerned party.

City Hall of Las Palmas de Gran Canaria: On the obligation to conduct inspections and related actions in the framework of the authority that, as regards urban affairs, is the duty of the municipal Administration.

City Hall of Las Rozas (Madrid): Regarding the certification of residential status in a municipality in order to participate in a subsidized housing contest.

City Hall of Llucmajor (Balearic Islands): Regarding the obligation to provide to citizens with sufficient information so that they may exercise public urban action or any other that may correspond to them.

City Hall of Madrid: Regarding the inappropriateness of administrative idleness and the obligation to provide express responses.

City Hall of Moralzarzal (Madrid): Regarding the lack of response to complaints filed by concerned

parties to express their disagreement with the imposition of special taxes.

Suggestion on the obligation to carry out inspections and similar actions within the framework of the authority that, as regards urban affairs, is the duty of the municipal Administration.

City Hall of Toro (Zamora): Regarding complaints about receipts corresponding to fiscal years 2001, 2002, 2003, and 2004 due to a keep clear zone that does not belong to a citizen.

City Hall of Torrevieja (Alicante): Regarding attention given to neighbourhood complaints, with follow up contact and making their opinions known in meetings or through other appropriate means.

Provincial Council of Alicante: Regarding the notification of payments to the members of a community of irrigation workers

Provincial Council of Guadalajara: Regarding the liquidation of the property tax corresponding to fiscal years 1994 to 1997, for a house located in Sigüenza.

OTHER

Chamber of Commerce and Industry of Orihuela (Alicante): Regarding the charge for income tax corresponding to 2003 compounded by a surcharge and made through enforced recovery after notification had been sent to the wrong residence, although the procedure for enforced recovery had been carried out on the correct residence and had been properly notified.

REMINDERS OF LEGAL DUTIES

During 2007, the Ombudsman issued 31 Reminders of Legal Duties to the General State Administration, 19 to the Autonomous Administrations and 58 to local and other organizations (see Table 30).

GENERAL STATE ADMINISTRATION

Ministry of Public Administrations

To the **Government Delegation in the Autonomous Community of Cataluña**, regarding the legal obligation to abide by Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure, and to the regulations for the exercise of sanctioning power regarding the obligation to communicate to the complainant whatever decision is adopted regarding the initiation of the corresponding sanctioning process.

To the **Government Delegation in the Autonomous City of Melilla**, regarding the need to be meticulous in the fulfilment of legislation in force and to make actions comply with the law, with respect to a citizen who had been unduly subjected to a court order for his expulsion.

To the **Government Subdelegation in Alicante** regarding the legal duty obliging immigrant services dependent upon this Subdelegation to fulfil strictly the regulations governing ways to certify the attempts to notify concerned parties in sanctioning procedures.

Ministry of Foreign Affairs and International Cooperation

To the **Directorate General of Consular Assistance and Affairs**, regarding the legal duty corresponding to consular offices under the responsibility of this Directorate to fulfil the basic regulations of administrative procedure. Regarding the legal duty that the consular offices should expressly resolve all requests and appeals that are made.

Reminder about the Administration's legal duty to accept as validly submitted the documents of any other public registry, in accordance with Article 38 of the Law of the Legal System for the Public Administrations and of Common Administrative Procedure.

Ministry of Defence

To the **Secretary of State for Defence**, regarding the legal duty obliging them to make their actions conform with what is provided for in Organic Law 4/2001, 12 November, regulating the Right to Petition.

To the **General Subdirectorate for Appeals and Administrative Information**, regarding the legal duty to resolve in time and form, the claims and applications that have been submitted in accordance with Law 30/1992, of 26 November, modified by Law 4/1999, of the Legal System for the Public Administrations and of Common Administrative Procedure, as well as to state that, as per Article 103 of the Constitution, actions taken by the Administration must serve the interests of citizens.

Ministry of Economy and Finance

To the **Regional Economic-Administrative Court of Aragón**, regarding the legal duty it has to resolve in a period not to exceed one year the complaint presented by the concerned party, in accordance with what is provided for in Article 239 of Law 58/2003, 17 December, on General Income Tax, which establishes that the duration of the process, at any of the offices, shall be one year counting from the submission date of the complaint.

To the **Regional Economic-Administrative Court of Castilla y León**, regarding the legal duty to resolve in time and form, the claims and applications that have been submitted to them (05016696).

To the **Regional Economic-Administrative Court** of the Autonomous Community of Valencia, regarding the legal duty based on what is set forth in Articles 239 and 240 of the General Income Tax Law 58/2003, 17 December, regarding the obligation to resolve pending claims against negative judgments handed down by the Administration of the State Agency for Income Tax Administration of Sagunto (Valencia) in the request for rectification of automatic income-tax payments.

To the **Regional Land Registry Office of Teruel**, regarding the legal obligation to initiate ex officio proceedings to rectify discrepancies, as provided for in Article 19 of the rewritten text of the Real Estate Registry Law.

Ministry of Education and Science

To the **Subsecretary**, regarding the need to give appropriate instructions to the centres dependent upon that Subsecretary, to achieve effective fulfilment of Articles 18.1 and 19.1 of Organic Law 3/1981, 6 April, via submission of a written report requested by the Ombudsman during the period stipulated, as well as via priority and urgent assistance provided to the Ombudsman in its investigations and inspections.

To the **Provincial Board of Education and Science in Melilla**, regarding the legal obligation in the future to provide information requested by concerned parties and to answer requests or complaints made by citizens based on what is provided for in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure, and also so that union representatives receive the information referred to in Article 9.1 of Law 9/1987, 12 June, from representative Organizations, determination of work conditions and participation of staff at the service of public administrations derived from the right to participation through the representative capacity recognized for union organizations in Articles 6.3. c), 7.1 y 7.2 of Law 11/1985 2 August, On Union Freedom.

To the **National University for Correspondence Education**, regarding the legal obligation to ensure compliance with the precepts set forth in the Law of the Legal System for the Public Administrations and of Common Administrative Procedure and with the regulations in force at that time governing the third session of processing of doctoral dissertations.

Ministry of Public Works

To the **Secretary General of Transport**, regarding the legal obligation to assist the Ombudsman in its investigations and to act with efficiency and efficacy in offering service to citizens; and also, should it be deemed to lack authority on the subject, to refer the case to the organization that it considers relevant if the latter belongs to the same public administration.

To the **Spanish Airports and Air Navigation Authority**, regarding the legal obligation concerning it to finalize adaptation works at all Spanish airports, to the prescriptions contained in legislation on health measures against tobacco addiction for the sake of protection of the right to good health.

Ministry of the Interior

To the **Directorate General of the Police and the Civil Guard**, on the legal obligation to resolve, swiftly and satisfactorily, the claims and requests that have been submitted to them, replying to whichever questions or requests are raised, in accordance with what is contained in Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure .

Reminder of their legal obligation to fulfil certain precepts of the Law on Criminal Prosecution and Disciplinary Regulations of the National Police Corps, for the clarification of actions with potential penal or discipli-

nary implications committed by officers of the State Security Forces and Corps.

Reminder of the legal obligation that policemen must obtain all testimony and evidence available to ascertain facts that may lead to punishments and sanctions. Such evidence must then be placed at the disposition of the relevant judicial authority and/or, as per the case, of the disciplinary instructor, in accordance with, among others, that which is contained in Articles 282 and further, and 769 and further of the LECrim and 36 of the disciplinary Regulations of the National Police Corps, interpreting them in a teleological, contextual, and systematic sense.

Reminder of the legal obligation incumbent on the Administration to resolve, swiftly and satisfactorily, the claims and requests that have been submitted to them, in accordance with that which is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure .

To the **Chief of Police of Madrid**, on the legal obligation that is incumbent on the National Police Corps to fully and diligently abide by judicial decisions.

To the **Directorate General of Traffic**, regarding the legal obligation to modify their activities as per Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure and, consequently, to expressly resolve the request submitted.

To the **Alien Detention Centre of Madrid**, on legal obligation requiring the centre to have certain services and elements, as well as to adopt the necessary practices to assure a satisfactory treatment of citizens who have been deprived of their freedom.

Ministry of the Environment

To the **Hydrographic Confederation of the Duero River**, on its legal obligation in the area of environmental assessment of public works to relevant administrations.

To the **Northern Hydrographic Confederation**, on its legal obligation regarding taking additional or complementary measures for a sanctioning procedure upon discovering the existence of an unauthorized dump or on that does not meet the conditions of authorization in order to avoid damage to the public watershed domain.

To the **Hydrographic Confederation of the Tagus River**, on its legal obligation imposed by judicial order to resolve the procedures related to the public watershed domain in the periods established by the applicable procedural regulations.

Reminder of the legal obligation of the water administration to offer express response to the requests for public water concession in a period not to exceed 18 months, in fulfilment of what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure, modified by Law 4/1999, 13 January, and in the sixth amended provision of the rewritten text of Water Law, approved by Royal Legislative Decree 1/2001, 20 July.

Ministry of Health and Consumer Affairs

To the **Spanish Department of Food Safety and Nutrition**, on the legal obligation to expressly resolve before established deadlines, any requests, complaints and appeals submitted by citizens, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

Ministry of Labour and Social Affairs

To the **Provincial Director of the National Institute of Social Security of Seville**, on their legal obligation to resolve, swiftly and satisfactorily, the complaints and requests that have been submitted and to offer responses to whatever questions or requests have been raised, in accordance with what is contained in Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

Ministry of Housing

To the **Directorate General of Architecture and Housing Policy**, regarding the legal obligation to apply the principle of efficiency in the processing of any administrative cases they are in charge of, as per Article 103 of the Spanish Constitution y 3.1 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure, avoiding incurring in the significant delay observed in the complaint case in question.

AUTONOMOUS ADMINISTRATION

Autonomous Community of Andalusia

To the **Department of Governance**, on the legal obligation incumbent upon them, in accordance with Article 41 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure, to remove whatever obstacles might impede, hinder or delay the concerned parties' exercise of rights or respect for their legitimate interests, doing whatever is necessary to prevent all irregularities in the handling of procedures.

Cantabria

To the **Department of Employment and Social Welfare**, on the legal obligation to verify strict compliance with applicable regulations in the area of entities, centres and social service benefits — be they of public or private financing—in order to guarantee the quality of services offered to users and of other social services that are offered in the Autonomous Community of Cantabria, in accordance with what is contained in Article 87 of Law 2/2007, 27 March, on social rights and services.

Autonomous Community of Castilla - La Mancha

To the **Institute for Women**, regarding the legal duty to expressly resolve, within the established periods, all

requests, complaints and appeals submitted to them by citizens, in accordance with Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

Autonomous Community of Castilla y León

To the **Department of the Environment**, on the legal obligation environmentally to evaluate the decision to modify a Plan of arrangement of the natural resources.

Reminder of the legal obligation that is incumbent on the General Secretary of the Environment to hold legal entities liable when, in case of universal succession, the successor assumes all responsibility incurred by the predecessor, in accordance with what is set forth in Law 11/2003 of 8 April, on Environmental Protection in Castilla y León.

To the **Department of Health**, on its legal obligation to enforce Article 32 of Law 26/1984, 19 July, General for the defence of consumers and users, which establishes that consumer-related infractions be subject to corresponding administrative sanctions.

Autonomous Community of Extremadura

To the **Department of Agriculture and the Environment**, on its legal obligation to provide to whomever is interested in an open procedure information regarding its stage of completion and access to relevant documents; and on another legal obligation to recognize the right of concerned parties to make whatever allegations or to provide whatever documents they deem to be appropriate prior to the judicial hearing, in accordance with Articles 31, 35, 84, 85 of Law 30/1992, of the Legal System for the Public Administrations and of Common Administrative Procedure.

Autonomous Community of the Balearic Islands

To the **Department of Commerce, Industry and Energy**, on the legal obligation to appropriately safeguard the environment as an authority over polluting industrial activities; to impose sanctions for non compliance, and, in very serious cases, to suspend activity or close down establishments, in accordance with what is contained in Article 45 of the Constitution, Articles 31 and 36 of Law 21/1992 of Industry; 7, 8bis and 9 of Royal Legislative Decree 1302/1986 on environmental impact assessment, and in compliance with its Regulations, approved by Royal Decree 1131/1988.

To the **Department of the Interior**, on the legal obligation to expressly resolve the request submitted, and thus to adapt its activities to comply with what is contained in Law 30/1992, 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

To the **Department of Housing and Public Works**, regarding the legal obligation that installations of the type mentioned in the complaint be previously drawn up in technical drafts, as per Royal Legislative Decree 1302/1986, on environmental impact assessment and the 1961 Regulation on classified activities.

Community of Madrid

To the **Department of Education**, regarding the legal obligation to meet resolution deadlines contained in the rules governing contests for financial aid for students with excellent academic performance, carried out by this autonomous community.

To the **Department of Families and Social Affairs**, on the legal obligation that is incumbent on them to act according to the principle of efficiency and in full compliance with legislation in force.

Reminder about their legal obligation to post on Departmental bulletin boards during the 10 first days of every month a list of the spaces filled during the previous month at elderly residential care facilities belonging to the regional public network, with express indication of the score and the residences where elderly people were admitted, in accordance with the Order of that Department 13/1998, on the information and publication of the space allocation process.

Reminder of their legal obligation to expressly resolve before established deadlines, any requests, complaints and appeals submitted by citizens, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

Reminder of their legal obligation to establish legal reasoning for administrative actions in such instances as those contained in Article 54 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

To the **Department of Health**, on the legal obligation that is incumbent on the Madrid Healthcare Services to expressly, swiftly and satisfactorily resolve any requests submitted, in order to comply with what is set forth in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

To the **Directorate General of Architecture and Housing**, on the legal obligation to take into account any documents submitted by concerned parties, rectifying any errors and making fair judgments in each case, in accordance with what is contained in Articles 35.e) and 89.2 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure, and what is expressed in Article 103.1 of the Spanish Constitution.

Murcia Region

To the **Department of Sustainable Development and Land Management**, on the duty to cooperate and collaborate with other administrations in the area of environmental assessment, in accordance with what is contained in Law 30/1992, of the Legal System for the Public Administrations and of Common Administrative Procedure.

Autonomous City of Melilla

To the **Department of Health and Social Welfare**, on their legal obligation to ensure compliance with what is contained in Article 35 of the Immigration

Law, requesting swift and satisfactory issuance of residency permits for unaccompanied foreign minors under the guardianship of that Administration.

LOCAL ADMINISTRATION

City Hall of A Coruña: On the legal obligation to send to the Ombudsman all reports requested within a maximum period of 15 days, in accordance with what is contained in Article 18.1 of Organic Law 3/1981, of 6 April, on the Ombudsman, and to provide preferential and urgent assistance as per what is set forth in Article 19.1 of the aforementioned organic law.

City Hall of Alcalá de Guadaira (Seville): On the legal obligation imposed by judicial order to expressly resolve any appeals submitted by concerned parties, complying, thus, with what is established in Article 42 and 115.2 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure, modified by Law 4/1999, 13 of January.

City Hall of Alcalá de Henares (Madrid): On their legal obligation to resolve, swiftly and satisfactorily, any claims and requests submitted to them, in accordance with what is contained in Law 30/1992, thus, limiting their actions to the criteria of efficiency and service to citizens, and the attempt to ensure that deficiencies in administrative performance do not affect concerned parties or infringe upon their legitimate rights (06036516).

City Hall of Altea (Alicante): On their legal obligation to provide priority and urgent assistance to the Ombudsman in its investigations, and to send all reports requested within a maximum period of 15 days, in accordance with what is contained in Article 18.1 of Organic Law 3/1981, 6 April, on the Ombudsman.

City Hall of Artà (Balearic Islands): Regarding the legal obligation imposed by the legal system to make well-founded, express judgments and to provide swift and thorough responses to requests submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of Arteixo (A Coruña): Regarding the legal duty to ensure fulfilment of the obligation corresponding to owners of all types of properties and buildings to maintain them in terms of good appearance and in conditions conducive to health and safety, in compliance with what is established in Article 19 of Law 6/1998, 13 April, on Regulations on Land and Property Appraisals.

City Hall of Badajoz: Regarding the legal obligation to provide atmospheric data in the possession of the Administration in a timely manner. Failure to do so could result in liability in accordance with what is contained in Law 27/2006, on the right of access to information, public involvement, and access to justice in environmental matters.

Auntamiento de Calonge (Girona): Regarding the legal obligation stemming from Article 36 of Law

30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure, in the text given to the same by Law 4/1999, 14 January, on translating into Spanish documents, files, or sections thereof, which are to take effect outside the territory of the Autonomous Community.

City Hall of Camargo (Cantabria): Regarding the legal obligation imposed by the legal system to make well-founded, express judgments and to provide swift and thorough responses to requests submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of Camuñas (Toledo): Regarding the legal obligation to ensure that noise decibel levels do not exceed the limits established by law, and, thus, to enforce and ensure compliance with Law 37/2003 on Noise Pollution.

City Hall of Carracedelo (León): Regarding the legal obligation derived from Article 42.1 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure, to provide an express judgment for all requests and appeals submitted to them by concerned parties.

City Hall of Castro Urdiales (Cantabria): On the legal obligation to adopt the measures necessary to prevent urban-planning infractions discovered from being fully carried out due to administrative inaction and the mere passage of time. This would represent a failure by the municipal administrations to fulfil their legislative mandate, as established in urban-planning laws, to inspect, conserve and restore the area encroached upon, and to act with due diligence to prevent offenders from benefitting from administrative delays, which would be detrimental to other citizens.

Reminder of the legal obligation derived from Article 42.1 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure, to provide express resolutions on any requests and appeals that are submitted by concerned parties.

City Hall of Cenicientos (Madrid): Regarding the legal duty to ensure fulfilment of the obligation corresponding to the owners of all types of properties and buildings to maintain them in terms of good appearance and in conditions conducive to health and safety, in compliance with what is established in Article 19 of Law 6/1998, 13 April, on Regulations on Land and Property Appraisals (06040013).

City Hall of Ceutí (Murcia): Regarding the legal obligation imposed by the legal system to make well-founded, express judgments and to provide swift and thorough responses to requests submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of Cieza (Murcia): On their legal obligation to initiate sanctioning procedures related to ur-

ban infractions and to process them efficiently and effectively as established in Article 103.1 of the Constitution and in Article 3.1 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure, modified by Law 4/1999, 13 January.

City Hall of Colmenarejo (Madrid): Regarding the legal obligation imposed by the legal system to make well-founded, express judgments and to provide swift and thorough responses to requests submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of Córdoba: Regarding the legal obligation to fulfil what is contained in the Order of 28 July 2000, which regulates materials and operational service requirements at the social service centres in Andalusia.

City Hall of Deltebre (Tarragona): Regarding the legal obligation stemming from Article 36 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure, in the text given to the same by Law 4/1999, 14 January, on translating into Spanish documents, files, or sections thereof, which are to take effect outside the territory of the Autonomous Community.

City Hall of Formentera (Balearic Islands): On the legal obligation incumbent upon them that the appointment of temporary staff members, even when the need is urgent, be made according to the terms contemplated in Articles 18 and 19 of Law 3/2007, 27 March, on Civil Service of the Balearic Islands Autonomous Community, informing all job-seekers of the nature and type of civil service positions being offered so that they may compete based on the conditions of equality, merit and capacity.

City Hall of Fuenlabrada (Madrid): Regarding the legal obligation to adapt competitions to Article 6.1 of Law 7/1985, 2 April, regulating the basis of the local government system.

City Hall of Granada: Regarding the legal obligation to avoid discriminatory content in their resolutions.

Reminder of their legal obligation to expressly resolve before established deadlines, any requests, complaints and appeals submitted by citizens, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of Guadalajara: Regarding the legal obligation to expressly resolve in writing any requests or complaints that have been submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of Laredo (Cantabria): Regarding the legal obligation to provide notification as per the Law on administrative actions, to act within legally estab-

lished timeframes and boundaries, and to remove hindrances to the free exercise of the rights of concerned parties', providing them with information and guidance.

City Hall of Las Palmas de Gran Canaria: On the legal obligation to adopt the measures necessary to prevent urban-planning infractions discovered from being fully carried out due to administrative inaction and the mere passage of time. This would represent a failure by the municipal administrations to fulfil their legislative mandate, as established in urban-planning laws, to inspect, conserve and restore the area encroached upon, and to act with due diligence to prevent offenders from benefitting from administrative delays, which would be detrimental to other citizens.

City Hall of Las Rozas (Madrid): Regarding the legal obligation to comply with Articles 1, 2.1, 25.2 sections b), d), f) y m), of the Law regulating the basis of the local-government system, 15 of the Law on Roadways and plans involving crossings and expressway networks, to attend to complaints by residents whenever it is in their power to do so, offering satisfactory information to concerned parties on legal requirements for the questions posed, and offering them swift and efficient attention before the relevant organizations and authorities.

City Hall of Leganés (Madrid): Regarding the legal obligation to expressly resolve before established deadlines, any requests, complaints and appeals submitted by citizens, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure .

City Hall of Logroño: Regarding the legal obligation to ensure compliance with Article 24 of the Ordinance regulating local consumer services of that City Hall, which provides that municipal consumer organizations shall refrain from influencing resolutions outside of their territorial or material jurisdiction, as per the law regulating the basis of local governance and other enforceable legislation, and shall notify concerned parties of the organization to which their case had been referred or should be referred.

City Hall of Lleida: Regarding the legal obligation to make well-founded, express judgments and to provide swift and thorough responses to requests submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of Madrid: Regarding the legal obligation to make well-founded, express judgments and to provide swift and thorough responses to requests submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

Reminder of the legal obligation to make well-founded, express judgments and to provide swift and thorough responses to requests submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal Sys-

tem for the Public Administrations and of Common Administrative Procedure.

Reminder of the legal obligation to make well-founded, express judgments and to provide swift and thorough responses to requests submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

Reminder of the legal obligation to obtain and keep for the possible perusal of the relevant judicial authority and/or, as the case may require, of the later disciplinary procedure, neighbour and witness testimony and photographic proof pertaining to the case under investigation.

Reminder of legal duty to provide express response to requests for information made by concerned parties, except in cases that clearly lack foundation, complying, thus, with what is provided for in Articles 35, 42 and 89 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure, and Article 18 of Law 7/1985, 2 April, regulating the basis of the local-government system, modified by Law 57/2003, 16 December, on Measures for the modernization of local government.

City Hall of Mazarrón (Murcia): On their legal obligation to provide priority and urgent assistance to the Ombudsman in its investigations, and to send all reports requested within a maximum period of 15 days, in accordance with what is contained in Article 18.1 of Organic Law 3/1981, 6 April, on the Ombudsman.

City Hall of Mérida (Badajoz): Regarding the legal obligation to make well-founded, express judgments and to provide swift and thorough responses to requests submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of Molina de Segura (Murcia): Regarding the legal obligation to expressly resolve before established deadlines, any requests, complaints and appeals submitted to them by citizens.

City Hall of Oviedo: Regarding the legal obligation to make well-founded, express judgments and to provide swift and thorough responses to requests submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure, and to objectively serve the general interests and to act in accordance with the principles of efficiency and effectiveness, complying, thus, with what is set forth in Article 103.1 of the Spanish Constitution.

City Hall of Palma de Mallorca: Reminder of their legal obligation to expressly resolve before established deadlines, any requests, complaints and appeals submitted by citizens, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of Ribadesella (Asturias): Regarding the legal obligation to make well-founded, express judgments and to provide swift and thorough responses to requests submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of Riotorto (Lugo): Regarding the legal obligation to make well-founded, express judgments and to provide swift and thorough responses to requests submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of Rozas de Puerto Real (Madrid): Regarding the legal obligation to make well-founded, express judgments and to provide swift and thorough responses to requests submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of San Javier (Murcia): Regarding the legal obligation to ensure compliance with demolition orders, and to execute them alternatively at the expense of the person or persons liable once the indicated deadline has not been met, in accordance with Article 228 of the Land and Urban Planning Law of the Murcia Region, and to objectively serve the general interests and to act in accordance with the principles of efficiency and effectiveness, complying, thus, with what is set forth in Article 103.1 of the Spanish Constitution.

City Hall of Sevilla: Regarding the legal obligation to expressly resolve before established deadlines, any requests, complaints and appeals submitted by citizens, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of Siero (Asturias): Regarding the legal obligation to make well-founded, express judgments and to provide swift and thorough responses to requests submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of Sóller (Balearic Islands): On the legal obligation to adopt the measures necessary to prevent urban-planning infractions discovered from being fully carried out due to administrative inaction and the mere passage of time. This would represent a failure by the municipal administrations to fulfil their legislative mandate, as established in urban-planning laws, to inspect, conserve and restore the area encroached upon, and to act with due diligence to prevent offenders from benefitting from administrative delays, which would be detrimental to other citizens.

City Hall of Tías (Las Palmas): Regarding the legal obligation to make well-founded, express judgments and to provide swift and thorough responses to requests submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of Torres de la Alameda (Madrid): Regarding the legal obligation to expressly resolve any requests and appeals submitted by concerned parties, and to notify the latter as per administrative procedural rules.

City Hall of Torrevieja (Alicante): Regarding the legal obligation to inspect, conserve and restore the area encroached upon, in enforcement of what is contained in Article 103 of the Constitution and in Article 3 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

Reminder of the legal obligation to exercise with due diligence powers granted by law in matters involving disciplinary action in urban planning by performing inspection and conservation duties and restoring areas encroached upon, and by acting in accordance with the principles of efficiency, economy and effectiveness, as contemplated in Article 103 of the Constitution and in Article 3 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of Valoria la Buena (Valladolid): On the legal obligation to hold legal entities liable when, in case of universal succession, the successor assumes all responsibility incurred by the predecessor, in accordance with what is set forth in Law 11/2003, of 8 April, of Environmental Prevention of Castilla y León, and in Zoning Law 5/1999, of 8 April.

City Hall of Vigo: Regarding the legal obligation of the Administration to resolve, swiftly and satisfactorily, the claims and requests that have been submitted to them, in accordance with that which is contained in Law 30/1992, of 26 November, modified by Law 4/1999, of the Legal System for the Public Administrations and of Common Administrative Procedure.

City Hall of Villagarcía de la Torre (Badajoz): Regarding the legal obligation to expressly resolve, in all cases, the complaints and appeals that have been submitted by concerned parties, and to provide notifications as per administrative procedural rules for every case — without using requests deemed by the administration to be potentially lacking in legal grounding as a pretext for non-compliance.

City Hall of Zarza de Montánchez (Cáceres): Regarding the legal obligation to make well-founded, express judgments and to provide swift and thorough responses to requests submitted by concerned parties, in accordance with what is contained in Article 42 of Law 30/1992, of 26 November, of the Legal System for the Public Administrations and of Common Administrative Procedure.

OTHER

Chartered Institute of Notaries of Bilbao: Regarding the legal obligation to pass express judgment in the requests submitted to them (06039954).

Bar Association of Andalucia: Regarding the legal obligation to offer effective ex officio legal council to minors subject to the Organic Law on the criminal liability of minors.

Neighbourhood Council of Mioño. Castro Urdiales (Cantabria): Regarding the legal obligation of the Public Administration to provide access, in accordance with environmental information regulations, to a technical draft which supports works subject to authorization and public information.

WARNINGS

LOCAL ADMINISTRATION

City Hall of Oseja de Sajambre (León): Said City Hall is hereby notified that, given its inertia and failure to ensure compliance with a certain motion as well as their lack of collaboration with the Ombudsman, a reference to this matter is to be included in the annual report of this Institution considering the attitude of this municipal administration to be hostile and a hindrance to the performance of duties that are invested in the Ombudsman by the Constitution.

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. With respect to requests for intervention, the Ombudsman did not find sufficient items of unconstitutionality in the 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) Law 34/2006, October 30, on access to the legal profession as Solicitors and Barristers.
- 2) Law 35/2006, November 28, on Income Tax on Individual Persons on the partial modification of laws governing Taxation on Partnerships, on Income of non-residents, and on Estates.
- 3) Law 39/2006, December 14, on promoting personal autonomy of dependent persons.
- 4) Law 14/2006, December 4, of the Cortes of Castilla y León, on the modification of Law 10/1998, December 5, on Land Management in the Community of Castilla y León.
- 5) Law 42/2006, December 28, on General State Budgets for the year 2007.
- 6) Law 15/2006, December 28, of the Cortes of Aragón, on the forestry management in Aragón.
- 7) Organic Law 1/2007, February 28, on revision of the Statute of Autonomy for the Balearic Islands.
- 8) Organic Law 2/2007, March 19, on revision of the Statute of Autonomy for Andalusia.
- 9) Organic Law 3/2007, March 22, on the effective equality of men and women.
- 10) Organic Law 5/2007, April 20, on revision of the Statute of Autonomy for Aragón.

- 11) Law 7/2007, April 12, on the Basic Statute of Public Employment.

Law 8/2007, May 28, on Land Management

- 12) Law 6/2007, on March 28, of the Cortes of Castilla y León, on the approval of the “Environmental City” (“*Ciudad del Medio Ambiente*”) Regional Project.
- 13) Law 7/2007, July 17, of the Catalanian Parliament, on the Catalanian Income Tax Service.
- 14) Law 3/2007, July 26, of the Madrid Assembly, on urgent Measures to modernize the Government and Administration of the Community of Madrid.
- 15) Law 13/2007, July 27, of the Parliament of Galicia, on the modification of Law 4/1988 May 26, on Civil Service in Galicia.

Appeals for Legal Protection

During 2007 four 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 Organization 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.

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

The following sections list the organizations and departments of the various administrations that failed to take appropriate action regarding the investigation requirements of the Ombudsman. Thus, they neglected to fulfil the duty of all public authorities to collaborate "in a swift and preferential manner" with this Institution in accordance with article 19 of the Organic Law 3/1981. In such cases article 18.2 of the aforementioned Organic Law authorizes the Ombudsman to declare the organization or administrative department in question to be "hostile or a hindrance to its functions", and also to shed light on this fact in Parliament via publication in the annual report, or, as the case may require, a special report. As per the aforementioned precepts, actions that took place in 2007 with an unsatisfactory outcome are described below. The first section describes the actions of administrations considered to be hindrances—those that have either hampered or even blocked the work of the Ombudsman altogether either because they had done so systematically or because such a deleterious activity had been carried out that it warranted special attention. The second shows complaints for which no reply had been received by the department to which they had been addressed in 2007 after as many as three requests or enquiries by the Ombudsman to gather information about a particular subject or question. In the third section, complaints listed are those for which the administrative department did finally respond to a third enquiry offering an explanation for the delay, but only after previous requests had either received an inadequate response or no reply whatsoever.

UNCOOPERATIVE ADMINISTRATIONS

GENERAL STATE ADMINISTRATION

Ministry of Public Works

To the General Directorate of Civil Aviation, on the recognition of titles of pilots and air controllers.

To the **Demarcation of State Highways in Málaga**, regarding the need to install soundproof barriers along the A-7 motorway.

Ministry of the Interior

To the **Directorate General of Traffic**, on non-compliance with a contract upon failure to pay the amount stipulated.

AUTONOMOUS ADMINISTRATION

Autonomous Community of Andalusia

To the **Andalusian Water Agency**, regarding the allegations made with reference to the General Urban Development Plan of Algeciras (Cádiz).

Principality of Asturias

To **VIPASA (Housing of the Principality of Asturias, S.A)** on existing deficiencies in public subsidized Housing.

Community of Madrid

To the **Department of the Environment and Land Management**, regarding refusal to certify disqualification documents.

To the **Department of Housing**, regarding an aid application for the acquisition of Housing.

Autonomous Community of Valencia

To the Department of the Environment, Water, Zoning and Housing, regarding the sale of a state-subsidized housing development; and also regarding restrictions on motorcycle use in rural areas.

LOCAL ADMINISTRATION

City Hall of Albaida (Valencia), regarding disturbances caused by a textile factory; and also regarding irregularities in the processing of a business license.

City Hall of Bárcena de Cicero (Cantabria), regarding the failure to reply to a request for a copy of a license.

City Hall of Benidorm (Alicante), regarding the denial of a license for the construction of a wall.

City Hall of Burgos, regarding noncompliance by said municipality with a community directive.

City Hall of Cáceres, regarding the illegal operation of a quarry; and also regarding disturbances caused by the Ronda Norte of said population.

City Hall of Castellón de la Plana, regarding the disturbances caused by the noise coming from the construction work near a school.

City Hall of Ciudad Real, regarding noncompliance by said municipality with a community directive.

City Hall of Ciutadella de Menorca (Illes Balears), regarding the need to translate into Spanish all documents and administrative acts that affect areas outside the Balearic Islands and Catalonia, and also whenever an express judicial decision is handed down to an appeal submitted.

City Hall of Coslada (Madrid), regarding architectural barriers of said municipality.

City Hall of El Hoyo de Pinares (Ávila), regarding a complaint about an obstacle in a public thoroughfare that impedes access to a housing development; and regarding the transfer of part of a plot in the municipality

City Hall of Huércanos (La Rioja), regarding a complaint lodged due to the passive attitude of the City Hall in response to the blockage of a public thoroughfare.

City Hall of Láchar (Granada), related to the noise and disturbances caused by a leisure-related business.

City Hall of Langreo (Asturias), regarding the annoyances caused by the dust and noise of a factory.

City Hall of Llanes (Asturias), regarding rubbish on the beach in Llanes; and regarding a complaint about illegal dumping.

City Hall of Los Llanos de Aridane (Santa Cruz de Tenerife), regarding the failure to carry out a judicial order to demolish a mobile telephone network antenna.

City Hall of Lozoyuela (Madrid), regarding compliance with a building permit.

City Hall of Montserrat (Valencia), regarding doubts about the source and amount of water needed for a golf course; and regarding the annoyance caused by a sheep corral.

City Hall of Móstoles (Madrid), related to the poor operation of an urban planning entity; and regarding the possible environmental infraction of a mobile telephone network antenna.

City Hall of Orihuela (Alicante), regarding the annoyances caused by a public hoarding.

City Hall of Oviedo, regarding disturbances caused by the operation of industries.

City Hall of Peñíscola (Castellón), regarding the request for details about a general urban planning project.

City Hall of Ponteareas (Pontevedra), related to the noise and disturbances caused by a leisure-related business.

City Hall of Punta Umbría (Huelva), regarding possible irregularities in the installation of hotel and restaurant services on the beach.

City Hall of San Fernando de Henares (Madrid), regarding the disagreement with the installation of mobile phone network antennas.

City Hall of San Sebastián de los Reyes (Madrid), related to noise and disturbances caused at basketball courts.

City Hall of Sanlúcar de Barrameda (Cádiz), regarding disagreement with rezoning and expropriation set forth in the new general urban planning project.

City Hall of Santa Ana de Pusa (Toledo), regarding nuisances related to a livestock trail.

City Hall of Santa Olalla del Cala (Huelva), regarding disagreement with the rezoning of a natural area, including a building permit.

City Hall of Santo Domingo de la Calzada (La Rioja), related to the noise and disturbances caused by a leisure-related business.

City Hall of Soto del Real (Madrid), regarding a request for information on measures against defaulters.

City Hall of Telde (Las Palmas), regarding noise and disturbances caused by a neighbour.

City Hall of Torrejón de Ardoz (Madrid), regarding the possible environmental infraction of mobile telephone network stations.

City Hall of Valdés (Asturias), regarding disagreement with the installation of a mobile telephone network antenna.

City Hall of Valle de Carranza (Vizcaya), regarding a complaint about the construction of pre-fabricated houses on non-urbanized land.

COMPLAINTS FOR WHICH NO REPLY HAS BEEN RECEIVED IN 2007, AFTER THE THIRD REQUEST

GENERAL STATE ADMINISTRATION

Ministry of Public Works

To the **Demarcation of State Highways in Eastern Andalusia**, regarding the expropriation of a property due to public works.

Regarding expropriation of a property to build the ML-300 ring road.

Regarding the expropriation of a property to carry out construction of the ML300 ring road around Melilla.

To the **Demarcation of State Highways in Western Castilla y León**, regarding an expropriation case.

To the **Demarcation of State Highways in Málaga**, related to the partial expropriation of a property in 1995 due to the execution of works on the Costa del Sol expressway.

AUTONOMOUS ADMINISTRATION

Autonomous Community of Andalusia

To the **Department of Justice and Public Administration** regarding a recommendation made on the subject of legal assistance for foreigners.

Autonomous Community of the Balearic Islands

To the **Department of Education and Culture**, regarding the ex officio action undertaken as a result of the increase in complaints referring to the difficulties students have in obtaining healthcare services on campus, which they occasionally require because of chronic or metabolic diseases and so on.

Autonomous Community of Valencia

To the **Department of Justice and Public Administrations**, regarding the existence of a judicial vehicle depot on private property.

To the **Department of the Environment, Water, Zoning and Housing**, regarding an illegal eviction.

LOCAL ADMINISTRATION

City Hall of Alhaurín el Grande (Málaga), regarding a traffic violation.

City Hall of Almenara (Castellón), regarding deficiencies in water supply services to a housing development.

City Hall of Altea (Alicante), related to the illegal occupation of lands for the construction of a reservoir.

City Hall of Alzira (Valencia), regarding a single family housing development under construction.

City Hall of Bello (Teruel), regarding the City Hall's failure to respond to a request that the Plenary of the Corporation study the possibility of naming a deceased resident as favourite son of the town.

City Hall of Carrizo de la Ribera (León), regarding traffic signs.

City Hall of Cercedilla (Madrid), regarding the location of three rubbish bins which caused annoyances to certain neighbours

City Hall of Ciempozuelos (Madrid), regarding the failure to reply to a request to cancel the authorization of a permit to build a fence.

City Hall of Coslada (Madrid), to continue the processing of a case of property liability stemming from the disappearance of a vehicle being held at a municipal impound yard.

City Hall of Chiva (Valencia), related to the repeated cuts in service in water supply, as well as the lack of a proper sewer system, inadequate dumb wells, etc.

City Hall of Chozas de Abajo (León), regarding the notification of special taxes to finance public works to improve water supply and drainage, and to make street repairs in Antimio de Arriba.

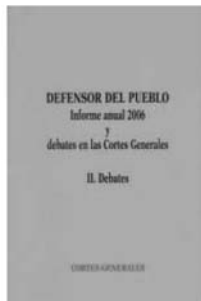
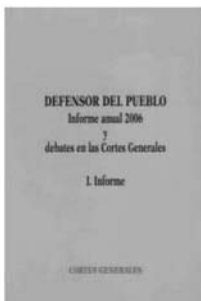
City Hall of Fresno de Torote (Madrid), regarding repairs to the causeways along a street.

City Hall of Guriezo (Cantabria), regarding the poor state of an access road to housing developments in the town, which at times become impassable for people and vehicles.

City Hall of Hostalric (Girona), regarding the failure to respond to a written submission.

City Hall of Jaraíz de la Vera (Cáceres), regarding the incomplete execution of an urban planning project.

Ombudsman publications in 2007



2007 saw the publishing of Recommendations and Suggestions 2006 and the Monographic Report on "School Violence: Bullying Among Peers in Obligatory Secondary Education 1999-2006". Likewise, a book commemorating the 25th anniversary of the Ombudsman Institution was published: "The Ombudsman in a changing Spain". Title pages were reproduced, along with the 2006 Report and corresponding parliamentary debates. These publications can be consulted on the website: <http://www.defensordelpueblo.es>

City Hall of Jávea (Alicante), regarding deficiencies in the installations of an urbanized area.

City Hall of La Pobla de Vallbona (Valencia), related to deficiencies in the functioning of the public postal service in the San Lázaro residential area.

City Hall of Llanes (Asturias), regarding the ex officio nullification of a traffic fine.

City Hall of Maside (Ourense), regarding the request by the concerned party to obtain receipts for the mechanically drawn vehicle tax on three cars, as well as for the property tax imposed on his housing development.

City Hall of Montserrat (Valencia), regarding numerous deficiencies in the water supply service.

City Hall of Muro (Illes Balears), regarding a liability claim stemming from the injury caused to an individual due to the poor state of a bus stop.

City Hall of Peñíscola (Castellón), regarding bollard-regulated access to the historical downtown area.

City Hall of Pola de Laviana (Asturias), related to the disturbances caused by extractors installed in a garage.

City Hall of Ponferrada (León), regarding the lack of a resolution for a property liability claim.

City Hall of Robledo de Chavela (Madrid), related to noncompliance of the city hall with the regulations governing access to the municipal gymnasium.

City Hall of San Fernando de Henares (Madrid), related to the suspension order for properly authorized works.

City Hall of Sariegos (León), related to the ownership of an estate in the town of Pobladura de Bernesga (León).

City Hall of San Miguel de Serrezuela (Ávila), related to the ownership of an estate in the municipal district.

City Hall of Torrejón de Ardoz (Madrid), regarding the parking space for a handicapped citizen.

City Hall of Vigo (Pontevedra), related to the annoyance caused by the Guixar freight train station.

Provincial Council of Toledo, as a result of the replacement of public streetlamps in the town of Santas Martas, which was paid for via a special tax.

Provincial Council of Valencia, related to the submission of a seizure order resulting from the actions of firemen belonging to the Provincial Firemen's Syndicate of Valencia.

OTHERS

Official College of Odontologists and Stomatologists of Valladolid, regarding the situation described in a complaint, according to which a citizen lodged a claim with the aforementioned Official College regarding the professional practice of two of its members.

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. 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.

The Ombudsman celebrated the 25th Anniversary of the initiation of its functions with a range of institutional events

In celebration of the 25th Anniversary of the commencement of activities by the Ombudsman Institution in Spain, a range of events were carried out throughout 2007. Moreover, Enrique Múgica completed his two-year term as President of the Ibero-American Federation of Ombudsmen

The commemorative acts that took place in celebration of the 25th Anniversary were the following:

- An **International Seminary** on this type of institutions was held in the Senate headquarters and was inaugurated by His Royal Highness, D. Felipe de Borbón, accompanied by the Ombudsman, with the participation of two outstanding speakers on the 1978 Spanish Constitution, Manuel Fraga Iribarne and Gregorio Peces-Barba Martínez, along with the then Ombudsman of Spain, Alvaro Gil-Robles y Gil-Delgado and the European Ombudsman, Nikiforos Diamandouras. All made speeches before of an ample representation of the heads of Ombudsman Institutions and Offices of the Attorneys General pertaining to different autonomous communities and Latin American countries.
- The publishing of a book, in collaboration with the Complutense University of Madrid, which contains a study on the activities conducted by the Ombudsman Institution over the last 25 years it has been performing functions, as well as the creation of a documentary produced by The History Channel on the Ombudsman Institution during that period.

The Ombudsman completes his term as president of the Ibero-American Federation

After his election to preside over the Ibero-American Federation of Ombudsmen (FIO) during the 2006-2007 term, the Ombudsman completed his duties with congratulations from all members of this organization during its XII Congress, which was held in Lima (Peru) from the 20th to the 23rd of November 2007.

Among the most significant actions that have been carried out during this presidency, and which had been most highly regarded by the Ibero-American Federation assembly, were the collaborative agreements reached with various entities and organizations of the Latin American region, such as the General Ibero-American



International seminar to celebrate the 25th anniversary of this Institution. HRH the Prince of Asturias greets Enrique Múgica Herzog, the Ombudsman, accompanied by Nikiforos Diamandouras, European Ombudsman, M^a Emilia Casas, President of the Constitutional Court, and Javier Rojo, President of the Senate.

Photo: Canal de Historia.

Secretariat (SEGIB), the Latin American Union of Attorneys and Bar Associations (UIBA) and the Ibero-American Youth Organization (OIJ), whose aim is to promote the presence and activities of the Federation in the defense and promotion of the human rights.

II Session of the King of Spain's Award for Human Rights Achievement, given by their Royal Highnesses, the King and Queen of Spain and created and sponsored by the Ombudsman, together with the University of Alcalá

The King of Spain's Award for Human Rights Achievement, aims to acknowledge the work of public or private organizations and institutions in Latin America that stand out in the defence, promotion and achievement of human rights and democratic values, or those that strive to research and implement action programs designed to promote these values. The prize was awarded

by the jury, in its second session, to the Guatemalan foundation Myrna Mack, in honor of its extraordinary work in reporting on the mechanisms of institutional impunity in that country. This foundation had carried out studies for this purpose and sponsored technical proposals of significant political impact in an attempt to improve access to justice, to fight the different types of denial of justice in a comprehensive way, and to transform the Armed Forces and security forces and intelligence agencies of that State.

Their majesties the King and Queen of Spain, accompanied by the Ombudsman and the Director of the University of Alcalá, presented this award to the President of this foundation in a solemn act celebrated in the Auditorium of this University on the 11 April 2007, in presence of distinguished members of the highest Spanish institutions as well as diplomatic representatives from various Latin America countries accredited in Spain.

Noteworthy increase in the collaborative agreements between various institutions to promote the Ombudsman's activities

Throughout 2007, a total of 14 collaborative Agreements were reached between the Ombudsman and various organizations, institutions and universities, to promote the development and awareness of the Ombudsman's activities, and also to try to improve the services offered to citizens. Among these, the following should be highlighted:

- **Agreement with the Complutense University of Madrid**, to carry out a study of the 25 years of activity by the Ombudsman.
- **Agreement with the Complutense Institute for International Studies (ICEI)**, on the development of several workshops on "Humanitarian Aid and Social Exclusion".
- **Agreement with the General Foundation of the Complutense University**, to hold a course organized by the Ombudsman called "On Violence in Schools."
- **Agreement with the University of Alcalá**, on the training of professionals in the information services area.
- **Agreement with the Ministry of Public Administrations**, to facilitate the submission of complaints at government offices and branches, participation in INAP training courses, and introduction to the communication system known as 060.
- **Agreement with the ESADE Foundation**, on the development of a program promoting educational co-operation.
- **Agreement with the Centre for Sociological Research (CIS)**, to carry out sociological research in various areas of Spanish society.
- **Agreement with the News Agency EFE**, on the creation of an audiovisual report on the King of Spain's Award for Human Rights Achievement.
- **Agreement with the History Channel**, on facilitating improved dissemination of its respective initiatives designed to commemorate the 25th Anniversary of



View of the main patio of the Ombudsman headquarters in Madrid at Eduardo Dato, 31.

the commencement of activities by the Ombudsman Institution in Spain.

- **Agreement with the Ombudsman of Uzbekistan**, on collaboration between both institutions.
- **Agreement with the Diwan Al Madhalim of Morocco**, on collaboration between both institutions.
- **Agreement with the Ombudsman of Rioja**, on collaboration between both institutions.
- **Agreement with the State Attorney's Office of the Principality of Asturias**, on collaboration between both institutions.
- **Agreement with the El Justicia de Aragón**, on collaboration between both institutions.

Public Service

Last year, the Ombudsman's website displayed basic information on its powers, activities and the procedure for submission of complaints, among other items. This information is also offered in various languages: French, German, Russian, Arab, Chinese and Rumanian. In the future this list will be expanded to include several other languages spoken by populations with significant representation in Spain to raise awareness of the Ombudsman's Office and their access to it should they consider intervention by this institution to be an effective way to defend their rights.

Furthermore, during 2007 a total of **12,636 telephone calls** have been handled either directly or via the toll-free 900 number, generally used to request information, and almost **3,000 visits by citizens** who were seeking information either regarding the processing of their complaints, the activities of the Institution, or the status of certain actions or processes involving the various Public Administrations.

The total number of telephone calls and visits handled in 2007, broken down by month, may be seen in the following table:

TABLE 31. Number of calls and visits received in 2007 with the objective of offering services to citizens

	Jan.	Feb.	Mar.	Apr.	May.	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total
Office visits	226	294	267	251	324	315	189	177	255	246	233	217	2,994
Telephone consultations	790	793	909	561	731	660	617	492	674	821	724	462	8,234
Free 900 number	341	457	388	347	376	377	394	222	368	458	411	263	4,402

The number of complaints received through the website continues to rise

Throughout 2007 a series of modifications have been made to the Ombudsman's website to streamline the procedure for submission of complaints by citizens using this system. On the other hand, the continued rise of complaints received via email is also noteworthy. 797 email complaints were received in 2007, which represents an increase of 10.1% since 2006, although traditional mail continues to be the most common means of submission. This can be seen in the table below, which offers a comparative breakdown of complaints in terms of method of delivery in 2006 and 2007.

TABLE 32. Breakdown of complaints according to the way in which they were received in 2007, compared with 2006

Complaints received vía	2006	2007
E-mail	724	797
By post	21,157	6,983
Fax:		
Burofax	23	30
Printed Fax	1,487	772
Web page:		
With certificate	167	98
Without certificate	6,821	7,648
In person	922	782
By telephone		1
Total	31,301	17,111

Noteworthy increase in number of visits to the Ombudsman's website

Throughout 2007 a total of 136,260 visits were made to the Ombudsman's website of which 119,204 were direct visits, accounting for 87.48% of the total, while the rest were made through a search engine.

The total number of pages visited within the website was 1,272,876, the second most visited page, after the

homepage, being the complaints form with a total of 55,940 visits. A breakdown of the visits made is detailed in the following table:

TABLE 33: Visits to the Ombudsman's website 2007

Pages visited	1,272,876
Visits	136,260

As for the country of origin of these visits, Spain represents the majority of visits at 85.41% of the total with 116,384 visits, followed by Colombia, Argentina, Peru, Bolivia and France. Among the visits originating in Spain those coming from the Community of Madrid occupy first place, followed in descending order by those coming from the Communities of Catalonia, Andalusia and Valencia.

Moreover, in 2007 accessibility to the Ombudsman's website has improved as a result of the Agreement reached with the Spanish Committee of Representatives of Disabled Persons (CERMI), by which a new accessibility system that has been implemented to make the website fully accessible to the disabled.

Economic and budgetary management

In addition to the constant objective of preserving the financial solvency of the Ombudsman Institution as a whole, a 10.89% increase in available assets and a budgetary execution reaching a total of 96.35% during the fiscal year should also be pointed out.

Delays in judicial proceedings continue to occur, although noteworthy improvements have been observed in Administration of Justice and the Supreme Court

For many years, the Civil Courtrooms of the Supreme Court have been plagued by delays, which, unfortunately, have become a constant item in reports prepared by the Ombudsman regarding the Area of Justice. However, noteworthy improvements in the resolution of cases have been made in the Civil and Administrative Dispute Courtrooms of the Supreme Court. These improvements stem from the signing of an agreement between the aforementioned Court and the Ministry of Justice resulting from a project meant to boost its case resolution capacity. The success of this agreement is evidenced by the fact that the Ombudsman did not receive a single new complaint in 2007 related to delays in the processing of admitted cases.

Civil Jurisdiction

With respect to delays in the area of civil jurisdiction at the First Court of Appeals of the Supreme Court, the agreement signed between the Court and the Ministry of Justice enabled the Ombudsman to observe significant improvements in the case resolution capacity of the First Court of Appeals. As a result of this agreement, measures were adopted which took into consideration, among other aspects, the temporary augmentation of legal staff in the Civil Area of the Technical Service Department of the Supreme Court.

Nevertheless, the Ombudsman continued to receive complaints regarding delays in civil court proceedings. Among the most noteworthy of these was the complaint filed by the staff of the Lora de Rio Courthouse, reporting delays in numerous cases as well as the poor state of the offices and the insufficient number of civil servants who, thus, had to take on enormous workloads.

Once the Ombudsman's investigation was under way, the Department of Justice of the Public Administration of Andalusia indicated that there was a contingency plan to move this court into a new facility, while renovation work was being carried out at the current courthouse. Complaints were also received regarding delays at the Courts of Elche, Villena, Palencia, as well as in the Community of Madrid, such as at the Coslada and Torrelaguna Courts, among others.

Moreover, there were a number of complaints by citizens regarding eviction proceedings, which, in light of

their repetitive nature, are of particular concern to the Ombudsman. Landlords are reluctant to rent out their uninhabited flats due to a lack of confidence in the legal system resulting from delays in the execution of eviction orders when renters fail to fulfill the terms of rental agreements. Citizens seek swift and effective justice, and, thus, the Ombudsman has requested information regarding measures to be adopted by the Ministry of Justice to resolve this issue.

Penal Jurisdiction

The majority of complaints received in the area of penal jurisdiction were related to delays in the processing of cases for a variety of reasons—the complexity of pending cases, lack of sufficient staff—which led to an accumulation of caseloads.

Furthermore, there were complaints regarding delays in the processing of cases in the Provincial High Court of Almería, or in the Superior Court of Justice of Andalucía and in the Court of Marbella. Proceedings had been pending against the Marbella City Hall since 2003, and, according to reports requested by the Institution of the Attorney General's Office, they had not been resolved by the closing date of this Report.

New Studies in Judicial Public Service

It is worthwhile to consider the suggestions made by the Ombudsman regarding urgent criteria needed to avoid delays in the reporting of expert scientific evi-

dence by the **National Institute of Toxicology and Forensic Sciences**, as there were numerous complaints related to delays in reporting of said evidence in spite of the excellent work conducted by the aforementioned **Institute**. As no standardized criteria had been established for all of its Delegations, the Ombudsman suggested that the criteria to prioritize the issuance of reports should be the following: cases involving inmates, child abuse and domestic violence, social alarm, or payment of compensation to victims. Upon approval of such measures, they should then be published for the common knowledge of all of the departments of the **Institute**. It was also suggested that the Ministry of Justice should carry out a study to ascertain the ideal increase in pathological staff required. The Secretary of State for Justice, upon request by this Institution, has undertaken the appropriate action to reduce delays in the submission of expert evidence.

Moreover, various investigations were initiated with respect to the **International Judicial Cooperation**, regarding enforcement of international agreements signed by Spain and other countries in the area of extraditions, international legal assistance, or the abduction of minors, among others.

Domestic Violence

A detailed follow-up for every case of domestic violence is carried out by the Ombudsman as per the entry into force of the Law of Integrated Means of Protection against Gender Violence. Most of the investigations conducted stem from complaints by affected citizens, followed by complaints by various groups, and also from reports appearing in the news media.

Battered women's shelters represented a significant number of investigations conducted by the Ombudsman, as a result of various reports which appeared in the news media related to complaints by battered women who had sought refuge in a shelter belonging to the Community of Madrid and another belonging to the Principality of Asturias. In both cases an ex officio investigation was undertaken with the aim of verifying reports of humiliating treatment, disclosure of confidential information, harassment of female residents, or deficiencies in the security systems that these centers are expected to provide. In the case of the shelter managed by the Nuevo Amanecer (New Dawn) Association, under the auspices of the Directorate General for Women of the Community of Madrid, no conclusive proof of humiliating treatment was found, although a lack of control was evident in situations requiring conflict management. Regarding the second case, the Ombudsman opened a joint investigation with the Department of the Governor's Office, Justice, and Equality of the Principality of Asturias, which included a visit to the shelter by Advisors from the Ombudsman's Office for the purpose of gathering data. The Area of Justice was able to confirm the proper performance of duties by staff as well as the suitability of the installations, through testimony from the residents themselves. Consequently, the Ombudsman decided to close the investigation.

Another noteworthy point is the **Guarantee Fund for Food Allowances**, included in the 19th Provision of Organic Law 1/2004 of Integrated Means of Protection against Gender Violence. Complaints were received in this area in 2007 due to the fact that specific legislation had not been published which might have allowed affected parties to receive unpaid food allowances from the Guarantee Fund as set forth in the aforementioned provision. The investigation was ended when the Ombudsman received an official statement declaring that Congress had passed the General State Budgets Law, which created a 10-million-euro Guarantee Fund to pay food allowances for minor dependents upon approval by court ruling in cases of separation and divorce. At the beginning of 2008, the regulations regarding conditions and requirements for access to this Guarantee Fund for the payment of food allowances entered into force, subsequent to passage by the Ministers' Council in December 2007.

Family Law

Family Law represents one of the branches of law that are the most sensitive to social change, and, therefore, one which is prone to the greatest discord if legislation is not adequately adapted to suit the changes affecting our society. In 2007, the Ombudsman received complaints and investigated various aspects of Family Law, such as non-compliance with visitation rights, failure to make food allowance payments, investigation of psychological and social service staff in Family Courts, as well as problems related to the registry of common law unions, among other items. Many of these investigations, derived from lawsuits affecting the broken family unit, remained open at the end of 2007, whereas others achieved a very positive result, such as the creation of the aforementioned Guarantee Fund intended to expedite payment of food allowances.

In any case, the Ombudsman argues that disputes involving the Family Law are best resolved by consensus as opposed to litigation. Thus, it would be advisable to reinforce family mediation services with highly qualified professionals, and also to establish general criteria for judges to refer to when issuing a ruling—which could help to avoid many conflicts.

Deficiencies in the Civil Registry

In successive annual reports, the Ombudsman has continually called attention to the deficient service offered by the Central Civil Registry, as well as by municipal and consular registries, as evidenced by the numerous complaints lodged and investigations undertaken with the appropriate authorities. In spite of the numerous measures adopted, a streamlining of the services offered has not been achieved to date. Irregularities investigated by the Ombudsman in 2005 included inappropriate distribution of the building spaces, insufficient personnel, inadequate and poorly located filing space, among others. The Ministry of Justice issued a report on the plan for improvements proposed to alleviate the aforemen-

tioned problems, but, in spite of efforts to improve the situation, citizens continue to appeal to the Ombudsman regarding delays in the rendering of service at the Central Civil Registry. As such, the aforementioned investigation originally undertaken in 2005 was reopened and is currently ongoing.

Complaints by citizens regarding the opening hours for public service are frequent for various Civil Registries. The most noteworthy, in terms of the gravity of facts investigated, were the Civil Registries of Guadalajara, with unjustified delays and lost applications for citizenship, and of Puerto del Rosario, with numerous complaints regarding delays, inadequate information, or poor service to private parties.

As for the consular Registries, with functions similar to those of municipal Civil Registries, a huge work backlog was observed due to mixed marriages between Spaniards and persons of other nationalities. The poor service provided by the General Consulate of Havana, Cuba continued to stand out, as it had in the previous year.

Sex Crimes and Underage Victims

An active debate currently exists in society as to whether it is appropriate that sex offenders be given access to certain penitentiary benefits that might lead to a reduction in their sentences.

Said controversy arose as a result of an item broadcast in the news media, which, in turn, gave rise to the opening of an *ex officio* complaint. At issue was the “second rapist of the Eixample”, who, having served 16 years of a 65 year sentence handed down in 1992, was granted full release on 20 May 2007, irrespective of the inmate’s own acknowledgement that he had not been fully rehabilitated and in spite of warnings by the psychological staff of the high risk of recidivism in his case.

A lack of legal instruments seemed to exist which would allow for action to be taken in cases involving sex offenders who were not deemed to be fully rehabilitated. Thus, in light of the information gathered, the Ombudsman considered it appropriate to make a recommendation to the Ministry of Justice suggesting the creation of a panel of experts whose objective would be to carry out an in-depth analysis of the Spanish penal system regarding sexual offences and felonies involving individual victims, and, were it necessary, to put forth a proposal for legislative reform. No response to this recommendation had been received by the end of 2007.

Another case that justifiably raised social outcry was that known as “Nanysex”, involving a man accused of having sexually abused several very young children. The Ombudsman opened an *ex officio* investigation at that time to follow up on a possible modification in legislation, since the Penal Code contains a distinction between “rape and sexual aggression”, which involve violence or intimidation, and “sexual abuse”, which occurs without violence or intimidation, but also without consent. In all such cases, the punishment is more severe if the victim is under 13 years of age. As for the case in point, the Attorney General must have concluded that no violence or intimidation had occurred, even though

the victims were very young children, and, thus, completely incapable of defending themselves. The Attorney General’s Office acknowledged that no legislative provision existed to redirect legal proceedings for this type of sexual abuse of minors.

The European Court of Human Rights

In previous years’ reports, several complaints were reported regarding the difficulty involved in the execution of sentences handed down by the European Court of Human Rights. These complaints gave rise to a recommendation by the Ombudsman to seek a legislative reform which would grant full institutional efficacy to the sentences given by this Court, with clear indication of procedural channels. In the last formal report received, a Declaration approved by the Committee of Ministers of the Council of Europe instructs the Ministers’ Delegates in the Council of Europe, among other aspects, to do the following: to hasten the adoption of measures which would improve and accelerate the execution of sentences handed down by the Court, to offer practical proposals to oversee their execution should this be deemed slow or negligent, and, finally, to prepare a recommendation for the EU members regarding domestic capacity for swift execution of sentences handed down by the Court, among other measures.

The Ombudsman decided to participate in meetings organized by the Office of the European Commissioner of Human Rights of the Council of Europe, whose mission is to establish a more active role for the Ombudsmen of the Member States of the Council of Europe in the execution of sentences of the European Court of Human Rights through the European Commissioner and via the Council of Ministers itself. In this regard, the Ombudsman of Spain is participating in a pilot project for the execution of sentences of the European Court of Human Rights which began at the end of 2007.

Spanish Inmates in Foreign Countries

According to information provided by the Ministry of Foreign Affairs, the number of Spanish citizens arrested or incarcerated abroad reached 1806 in 2007. Most of the numerous complaints received year after year on the subject originate in Latin America, and the countries of Bolivia, Ecuador and Colombia hold the largest populations of Spanish inmates.

The complaints describe poor living conditions in prison: lack of food, medical service, hygienic conditions, and security. In many cases, Spaniards are obliged to pay for protection in foreign prisons. Despite the Spanish Ombudsman’s limited authority in foreign countries, investigations are initiated with the Ministry of Foreign Affairs for the majority of the cases in order to follow up on complaints received.

Some complaints that received extensive media coverage were those related to the transfer of Spanish prisoners so that they could serve the remainder of their sentences in Spain. In this matter, one case based on a complaint lodged in 2004 was favorably resolved

when the concerned party, a Spanish inmate in Bolivia who, having served several years in a Bolivian prison, was declared innocent of a murder charge and permitted to return to Spain. Another positive outcome was the agreement signed with the Philippines regarding the transfer of Spanish inmates to Spain, subsequent to another complaint in 2004 involving a Spaniard sentenced to the death penalty in that country in a trial which was plagued with irregularities. The aforementioned agreement will allow the concerned party to return to Spain.

It is important to point out, as mentioned in the 2006 Report, the hardship faced by Spaniards convicted in Morocco whose transfer back to Spain may be denied if they fail to pay the steep fines imposed by Moroccan courts. The Spanish Consulate, on its own initiative, has been processing a document similar to the certificate of poverty in an attempt to have the debts of Spanish detainees waived, but this document lacks validity in Morocco. As a result, the Secretary of State for Justice recently informed the Ombudsman that the issuance of a document that would be accepted by the Moroccan authorities was being studied. The Ombudsman awaits further updates on the subject.

Another subject that receives a large number of complaints regards actions performed by Spanish Consulates in foreign countries. Complaints received by the Ombudsman often refer to the number of visits made by consular staff to prisoners as well as to financial aid provided to inmates. Complaints have been received in countries such as Italy or Morocco, as well as one note-

worthy case of an inmate who died in a Bolivian prison. In this case, an investigation determined that the inmate was already seriously ill upon incarceration and that consular actions in dealing with the affair had been appropriate.

A large share of the complaints received by the Ombudsman refer to the living conditions in jails outside of Spain: overcrowding, lack of hygiene and security, poor diet, etc. Joint investigations have been initiated with the Directorate General for Consular Affairs and Services in response to complaints lodged by Spanish inmates in Latvia, Portugal or Guayaquil, Ecuador. In the latter case, an investigation of the alleged beating of a Spanish inmate remains open pending submission of the consular report.

It is worthwhile to point out that the Ombudsman has initiated procedures in support of a case promoted by the Pro-Human Rights Association of Andalucía, which calls for the creation of a Penitentiary Orientation and Aid Service for Latin America, according to the Spanish model. Submission of a report by the General Council of Spanish Lawyers to study the feasibility of this service was still pending at the end of 2007.

In conclusion, coinciding with her trip to the FIO Congress in Peru, the First Deputy to the Ombudsman, M^a Luisa Cava de Llano, visited several jails in that country in order to follow up on the situation of Spanish inmates in Peruvian jails, and she obtained assurances that the Ombudsman of Peru would receive periodic updates regarding this matter.

At 67,357 inmates, the prison population reached an all-time record in December 2007

The increase in criminality and the inclusion in the Penal Code of a wider variety of criminal conduct are conducive to prison system conditions such as those existing today. In round numbers, the prison system arguably handles 20 percent more inmates than it did four years ago, and the amount of female inmates alone has risen by 27% since 2 January 2004.

Last year, the Ombudsman visited the following prisons: Almería, Daroca, El Dueso, Orense, Puerto I, Puerto II, Segovia, A Lama, Melilla, Sevilla II y Zuera.

Inmate deaths

The Ombudsman supports the premise that access to information and, above all, the proper distribution of it through official channels, would lead to a greater reduction in the number of suicide-related deaths. Nevertheless, it should be stated that progress has been made, with the number of inmate suicide deaths per 10,000 prisoners declining from 6.3 in 2005 to 4.1 in 2006. The Ombudsman trusts that the tendency toward reduction in suicide rates will be reaffirmed when the total for 2007 is calculated, and the relevant data has been requested to confirm this, both in terms of absolute figures and as a percentage of total prison population.

Abuse

One citizen appeared before the Ombudsman to declare that when her son was exercising in the Ward 5 gymnasium of the Valencia Penal Institution, a member of the prison staff invited him to participate in a boxing sparring session, which, at one point, involved a low blow to the testicles. The same prison employee transferred the injured man to the prison medical ward to be examined by the doctor on duty. As the pain persisted, it was ordered that the patient be transferred urgently to hospital, where one of his testicles had to be amputated.

The Ombudsman has enquired with the Attorney General's Office about the proceedings initiated and has requested a copy of the classified information served from the Directorate General of Penitentiary Institutions.

Without prejudging the outcome of the investigations being conducted, including judicial enquiries, the facts in this case are clearly inadmissible. Those who are charged with safeguarding the physical well being of inmates must not, under any circumstances, permit situations such as the one described to arise, with such dras-

tic consequences. The prison employee should never have sparred with an inmate, nor should he ever have struck him under such conditions and with such force.

Treatment of drug-addicted inmates

The Ombudsman enquired about the current likelihood of fulfillment of the objectives set forth by Royal Decree 1911/1999, of 17 December, through which the national strategy on drug use for the period of 2000-2008 was approved. The Directorate General of Penitentiary Institutions reported that preventive programs and activities related to drug use and its consequences were being carried out at all penitentiary institutions. As regards the training of prison staff—which in 2008 will surpass 50% of the total, as set forth by objective 11.2 of the cited Royal Decree—the established objective was achieved through convergence of the following: specific training during prison staff internships, decentralized refresher courses on risk prevention and injury reduction among drug addicted prison populations, training courses at the Villabona centre, preventive and health education programs for health advisors in penitentiary institutions, and other specific training courses.

Regarding the subject of addictive behaviours, the Ombudsman enquired as to whether the issue of tobacco consumption had been addressed. The Directorate General of Penitentiary Institutions replied that on 29 December 2005, the Judicial Order 19/2005 on the Prevention of Addiction to Tobacco had been approved, in compliance with Law 28/2005, 26 December, on the matter. They added that the Penitentiary Administration runs the tobacco addiction prevention campaigns and treatment programs established by the Ministry of Health and Consumer Affairs and the Autonomous Communities.

Release from prison for medical reasons

The Ombudsman enquired after a seriously ill inmate who was seventy one years old at the time the complaint was submitted, and who was seeking release

from prison due to serious illness with incurable suffering, as set forth in article 196.2 of the Penal Code.

In a later report requested, it was announced that he had finally been granted release from prison for medical reasons on 26 February 2007.

“Room for Respect” Program

The Ombudsman enquired about a new item, the so-called “Room for Respect” Program, an initiative that had already been discussed in the 2006 annual report. The Administration reported that, indeed, a program called “Room for Respect” had been established. The objective of this program is to establish common living areas in penitentiary institutions to allow personalized treatment and activity planning for each inmate in a healthy living environment. Participation in the program is strictly on a voluntary basis, which is a basic requirement for the proper development of the program. The aim is to implement this program at all penitentiary institutions in the future. Two training courses have already been offered with the participation of professionals from 22 different institutions.

Recently, the Ombudsman’s Office, which holds this initiative in high regard, has enquired about whether a standardized version of a “therapeutic contract” exists in order to formalize access to the “Room for Respect” program. Information was also requested as to whether a standardized version of the “Code of Conduct” exists for this program as well.

Inmate Rights

Classified Information on Abuse

In 2006 a recommendation was presented to the Directorate General of Penitentiary Institutions suggesting that when processing classified reports containing information on abuse or similar matters in which prison staff are accused, that said processing should be carried out by personnel who do not belong to the institution where the events described in the report allegedly took place. This Recommendation was accepted in 2007. The Directorate General of Penitentiary Institutions has since reported that the guidelines they normally follow are in line with the Recommendation issued, which they fully accept. Thus, they conclude, whenever a classified report contains confidential facts which require a follow-up investigation, this is to be handled only by members of the Prison Inspection Team—not by the prison warden or deputies in charge of the same penal institution where the events purportedly took place.

Notification to family members of the circumstances of the transfer from prison of mentally ill inmates

In the enquiry, a citizen lodged a complaint about the fact that her husband had been transferred from the Madrid II Penal Institution to the Alicante Psychiatric Prison, which she discovered only when she unsuccessfully attempted to contact him at the Madrid II Penal Institution.

A Recommendation was, thus, deemed appropriate to suggest that, in cases requiring the transfer of mentally ill inmates from penal institutions to a penal psychiatric facility with overnight stays in one or more transit penal institutions, that information be provided, however succinctly, upon request by family members or others with a legitimate interest regarding said inmate’s whereabouts and condition—except in cases where extenuating circumstances make it inadvisable to do so, or where the patient-inmate concerned has submitted a declaration that this would be contrary to his or her wishes. This Recommendation was accepted.

Health

For quite some time, the Ombudsman has considered it preferable to send doctors to penitentiary institutions as opposed to transferring inmates to hospitals or clinics, except in cases of dire necessity. This has a number of advantages from the standpoint of health, security, availability of police, etc. The Ombudsman has an ongoing enquiry regarding this question in order to oversee changes and developments in this area.

Additionally, the implementation of telemedicine programs continues to move forward, albeit gradually, in penitentiary institutions. In the Cáceres and Badajoz Penitentiary Institutions, these services have already been established in association with the Infanta Cristina Hospital of Badajoz. Furthermore, the announced installation of a radiology service at the Mallorca Penitentiary Institution and the telemedicine projects at the Penitentiary Institutions of Tenerife, Las Palmas, Madrid V and Madrid VI are currently in a developmental stage and have yet to be fully implemented.

Female inmates with children

As regards Mother and Child units in prison, the Directorate General of Penitentiary Institutions reported that planned Mother and Child units meet the requirements of the model penal facility whose maternal installations are physically removed from the main penitentiary complex in order to promote an environment that is conducive to child rearing. The rules governing these installations are always subject to the minors’ best interests, with more flexible timetables for female inmates.

Upon request by the Ombudsman, the Directorate General of Penitentiary Institutions reported that Project Implementation Plan was in the construction material drafting stage for Units in Andalusia, Madrid (both with completion dates scheduled in 2008) and the Canary Islands (2009). The Balearic Islands Maternity Unit construction project had been awarded and was scheduled for completion in 2008, and the final decision regarding the definitive site for the Community of Valencia Maternity Unit—slated for completion in the first quarter of 2011—was still pending. Additionally, the Administration has reported that children over the age of 20 months old with their mothers at penal institutions in Alcalá de Guadaira, Tenerife, Dueñas, Albolote, Las Palmas, Madrid V, Madrid VI, Mallorca and Valencia currently attend day care centres and schools outside prison.

The Ombudsman presents various recommendations to improve the operation of National Identity Card Offices

The problems encountered by citizens attempting to apply for or renew national identity cards or passports in 2007 resulted in intense and justified indignation. If the situation was worrisome during the previous year, it truly reached crisis proportions in 2007. The phased implementation of the so-called “electronic national identity card” was carried out without sufficient staff and equipment to handle a project of this scope.

The outcome, as a result of the lack of a system for previous appointments, has involved citizens spending many hours, sometimes even overnight, in queues, losing one or more days of work, women, men, and small children being exposed to the elements while queuing outdoors for prolonged periods, and a veritable wave of indignation throughout national territory.

Victims of Terrorism

Attention given to victims of terrorism, who have been deprived of such basic rights as life, physical and moral integrity, and freedom, represents an inalienable commitment for the Ombudsman.

Attention offered to victims of terrorism in crimes committed abroad prior to 1 September 2001 would require a new law. The Ombudsman has repeatedly enquired after the future “Comprehensive Protection Law for Victims of Terrorism”, previously announced by the Government, which would be the appropriate and necessary place to provide the legal shelter these victims indubitably deserve. Unfortunately, the legislature ended and the aforementioned law had not been passed. For this reason, it seemed suitable to suspend our initiatives until the resumption of legislative activities would allow us to continue to call for legal protection for victims of terrorist acts, such as the one that occurred in Marrakech in 1994.

With respect to specific actions, a case may be cited involving a citizen whose request for financial aid to defray the cost of psychological treatment for the after-effects of events that occurred in 1986 and 1987 had been rejected by decision of the General Directorate of Aid to Victims of Terrorism in October 2007. Against the aforementioned decision, the concerned party initiated an internal appeal. A report has been requested regarding the possibility that this appeal be deemed admissible given the *prima facie* causal relationship that seems to exist between the citizen’s psychological disorders and the terrorist actions (telephone threats, arrest of mem-

bers of the ETA terrorist organization who had personal data in their possession, *et cetera*). Receipt of said report remains pending.

Security Forces and Corps

When The Ombudsman receives a citizen complaint indicating that one or various members of the Security Forces and Corps have hit or humiliated a citizen in any way, an enquiry is initiated and pertinent reports are gathered. Given the gravity of such behaviour, administrative reports have been rejected for quite some time for containing only the version of the accused without inclusion of any other witnesses’ versions that may exist. The Ombudsman always demands the application of disciplinary actions and addresses the Attorney General in order to ensure due diligence prior to the criminal proceedings opened in nearly all such cases. Moreover, pursuant to article 25.1 of the Organic Law 3/1981, April 6, on the Ombudsman, the Ombudsman notifies the Attorney General whenever it has knowledge of allegedly criminal conduct or incident if it is not clear that appropriate criminal proceedings have already been undertaken.

Notification of the Attorney General pursuant to article 25.1 of Organic Law 3/1981, April 6

Article 25.1 of Organic Law 3/1981, April 6, on the Ombudsman, states “when the Ombudsman becomes aware during the performance of its duties of allegedly criminal conduct or information, it shall immediately

notify the Attorney General". In this period, and with respect to the actions of civil servants at the Ministry of the Interior, this was fulfilled in three separate proceedings: the first based on the circumstances of an arrest in Cartagena by national police, the second referring to abusive treatment by two members of the Civil Guard in Las Palmas, and the third related to the details involved in the arrest of a witness in Vigo and a subsequent false police report filed by national police officers. In the latter case, the Ombudsman has ascertained that legal information proceedings have been initiated and the case has been referred to the relevant court.

National identity card issuing offices

With respect to the operation of national identity card issuing offices, the administration reported that on November 2, 2007 the Board of Ministers approved the implementation of a system of previous appointments by telephone in order to obtain the National Identity Card. The Subsecretary of the Interior approved the Agreement by resolution on November 20th and it was published in the Official State Bulletin on November 29th. The administration informed that the system was projected for implementation during the second fortnight of December, including passport issuance as well, in the cities of Ourense, Valencia, and Burgos. The full deployment of the system was announced at the end of the first quarter of 2008, with both an automated, voice-recognition, telephone service (IVR) as well as live telephone operators. For this purpose the creation of a special telephone number with a 902 prefix was planned.

In a detailed analysis of the situation, the administration refers to a computer application, the increase in timeframe for issuance, personnel problems, and a surge in demand.

Regarding personnel problems, the following recommendations have been presented: Firstly, temporary staff hired for national identity card and passport offices in summer to replace vacationing civil servants should be on the job by the end of April or beginning of May so as to acquire sufficient experience to cope with the increased workload that typically occurs as summer vacation approaches. Secondly, permanent staff should be increased at the national identity card and passport offices, as should technological support so as to guarantee proper service that adapts to the needs of citizens without the requiring them to wait in long queues. Thirdly, while permanent staff is being taken on, the temporary staff that perform duties at the national identity card and passport offices should have their work contracts extended beyond the original termination date in December.

Furthermore, the Ombudsman has enquired after the situation of numerous individual offices, given the fact that the complaints originate throughout national territory. In a nutshell— but with enough detail to show the range of localities involved—complaints have been lodged in places such as the following: Santa Cruz de Tenerife, Alcalá de Henares, Seville, Barcelona, Vi-

lanova i la Geltrú, Arrecife de Lanzarote, Valencia, Tortosa, Zaragoza, Segovia, Algeciras, Las Palmas de Gran Canaria, Logroño, Reus, Huesca, Alcira, Madrid, and many more. In each case the Ombudsman has carried out action and in many it has presented resolutions.

In conclusion, it may be stated that the implementation of the electronic national identity card was carried out altogether too hastily and without sufficient planning in terms of personnel and equipment required for a project of this scope. This has resulted in serious inconveniences to citizens. It is hoped that these problems will be rectified during 2008. At any rate, the administration should take note that measures of such magnitude as a new model of national identity card, which require the eventual presence of millions of people in government offices, should not be implemented without adequate means and timeframes so as to avoid a repetition of the scenes suffered in 2007 in the national identity card and passport offices throughout Spain.

Traffic

Traffic violation proceedings. The Ombudsman receives numerous complaints from citizens with respect to traffic violation proceedings, one of the administrative areas that have the greatest impact on daily life. Indeed, there are many cases involving a fine or the removal of points from one's driving license that are understandably disagreeable, but which are handled properly and lawfully by the administration. In other cases, however, the intervention of the Ombudsman is needed to address irregularities, often leading to acknowledgement as such by the authorities and subsequent revocation of the sanction imposed.

In one case, the concerned party alleged that he had been fined for not displaying the license plates legibly and in plain view because they were smaller than the official size. The vehicle owner alleged that the police officer had committed an error of misjudgement. Despite the fact that said fine was assessed and the subsequent appeal dismissed, the Directorate General of Traffic, at the Ombudsman's request, reviewed the entire case and agreed to nullify the fine imposed, considering that the actions taken did not warrant a distortion of the concerned citizen's presumption of innocence.

In another case a citizen alleged the invalidity of a fine that had been imposed on him because it failed to identify the driver of the vehicle involved in the traffic violation, or to provide proof that it was indeed he himself who had been driving the car at the moment the infraction occurred. In the corresponding report, the Directorate General of Traffic indicated that the case reviewed due to the fact that the driver had not been identified had finally been dismissed.

A citizen stated that the City Hall of Madrid had agreed to dismiss and close the cases of two traffic fines, but it had not proceeded to reimburse the amounts unduly assessed and previously paid for said fines. Moreover, it was pointed out that the City Hall had upheld appeals made in other cases, but again had

failed to reimburse the corresponding fines that had been unduly assessed. After the appropriate steps had been taken, the City Hall of Madrid indicated that it had proceeded with the reimbursement of the corresponding amounts.

In another complaint, a citizen stated that allegations he had made in the case of a traffic violation initiated by the City Hall of Valencia had not been taken into consideration, nor had said City Hall provided any express reply to the appeal presented at the time. Having obtained the relevant report, the City Hall of Valencia acknowledged an error had been made recording the license plate number of the vehicle that had committed the violation, and, thus, they proceeded to drop the charge.

Filing of police reports

A citizen presented a complaint stating that his basic right to file a police report had been infringed at a National Police Corps headquarters in Castilla y Leon.

Having requested the relevant report, the Directorates General of the Police and the Civil Guard indicated that the conduct which was the subject of the complaint—referring to the refusal to file a police report for several private parties under the pretext that enquiries had already been initiated by the local police in response—had been justified at the time by the police inspector in charge. He argued that each crime for which judicial authority is established is the object of a judicial investigation, allowing for neither the possibility of transferring police officers who have taken part in the pre-trial police investigation, nor, thus, of proceeding with the intervention in the investigation of the same facts, of other officers from the same or other police forces, unless it is ordered by the pertinent judicial authority.

Nevertheless, the report concludes, from the exegesis of that which is set forth in articles 268, as regards the 282 and 284 of the cited Procedural Law, the obligation of the police officers to accept any type of report filed is clear, albeit with certain legal exceptions such as if said report is manifestly false or that the facts involved do not constitute a crime. Moreover, the Resolution of the acting Directorate General of the Police at that time, dated July 10, 1995, by which the organization and operation of the police reports and citizen services office is regulated, states in section B, point one, the function of admitting and processing police reports regarding the perpetration of crimes, as well as for the administrative infractions which are relevant to the National Police Corps, without the existence of any stated exception. Thus, the report concludes, it would be appropriate to examine, for disciplinary purposes, the facts that led to the lodging of said complaint. Consequently, the case was turned over to the Disciplinary Unit of the Personnel Division.

Several citizens stated that they had filed certain police reports with the Directorates General of the Police and the Civil Guard and that, despite their insistence and various subsequent written enquiries, they were unable to determine what had happened to them. As

such, they requested that the Ombudsman initiate an investigation.

Subsequently, it was suggested that the concerned parties be notified of the decisions reached regarding the police reports they had submitted. In response, the Directorates General of the Police and the Civil Guard stated that the Central Operative Unit of the Information and Judicial Police Authority of the Civil Guard had communicated in writing, as per the recommendation, the closing of the cases in the aforementioned police reports as well as the reasons for closure.

Weapons

In the 2006 annual report, there was reference to a recommendation presented to the General Technical Department of the Ministry of the Interior suggesting that they give priority to the revision of the Royal Decree 137/1993, January 29, by which Weapons Regulations are approved, so as to include the obligation of weapons manufacturers and sellers to provide written notifications to purchasers of imitation firearms and certain bladed weapons regarding lawful conditions of use and possession in order to prevent the committing of crimes due to ignorance of applicable legislation. In response to this recommendation, the General Technical Department of the Ministry of the Interior stated, in 2007, their intention to include the Ombudsman's proposal in the overall revision of the Weapons Regulations being prepared.

In another case, a citizen alleged that he had been fined for carrying in the glove box of his vehicle, along with other tools that are typical of his trade as a carpenter, a box cutter.

In this case, a report was requested of the Andalusia Government Delegation regarding the possibility of proceeding with an ex officio revocation of the fine because the possession of a box cutter by a professional carpenter in his private vehicle, which also serves as his work vehicle, was not deemed to be unlawful. In this case, it could be observed upon review of the subsequent report that the Government Delegation had proceeded with the ex officio revocation of the fine in light of the substantive error of classifying a simple work instrument as a weapon.

MILITARY ADMINISTRATION

Reminder of legal obligation regarding compliance with Organic Law 4/2001, regulating rights of petition

A citizen stated that on June 3, 2005 he had presented to the Provincial Directorate Registry of the Youth Institute of Andalusia in Seville a written document directed to the Minister of Defence with two requests: one regarding the Campamento de las Canteras and the other referring to the Torre del Oro in Seville. In reply to this petition, he received notification from the Ministerial Authority, dated June 24, 2005, informing him that his case had been transferred to the Ministry of De-

fence Registry for further study and direct communication with the petitioner. However, after more than a year had passed, nobody had contacted the concerned party.

Subsequently, the Ombudsman reminded the Ministry of Defence Registry of its duty to comply with that which is set forth in Organic Law 4/2001, November 12, regulating rights of petition. This reminder of legal obligation was accepted and the petitioner received express response to his petition by letter from the Registrar's Office of the Ministry of Defence.

Military Archives

A citizen stated that he was a historical researcher and that his research focused on the period of the Spanish Civil War. In order to carry out his research work, the researcher required access to various government archives, among which the Regional Military Tribunal Archive Number 32, in Saragossa, was particularly important.

According to the citizen's statements, the requirements to gain access to the documentation in this archive made the performance of research activities practically impossible.

The report submitted by the Undersecretary of Defence acknowledges the existing problems derived from the fact that the archive in question had not originally been intended for use as a historical research facility—for example, the documentation is stored in bundles

tied with string, and staff available is insufficient. For that reason, the administration indicated that, in order to ameliorate the aforementioned problems regarding access to the Regional Military Tribunal Archive Number 32 in Saragossa, the Third Regional Military Tribunal maintained contact with the General Council of Aragón and the University of Saragossa regarding the planned signing of an agreement with said institutions whose aim was to make said tribunal suitable for research and consultation of the documentation it contained through a process of computerization and hiring of skilled staff.

One person appearing, a researcher at the General Military Archive stated that he had presented a written request, dated January 10, 2007, to the General Registry of the First Regional Military Tribunal in order to gain access to a judicial proceeding and a certificate of prison stay.

Subsequently, on June 7, 2007, he submitted to the same archive a written document reiterating the matter and manifesting his surprise at not having received any reply to his original request. However, he has not received any response whatsoever.

In a report submitted, the Undersecretary of Defence states that the judicial body in charge of the archive where the judicial proceeding requested by the concerned party is kept was going to arrange an appointment for the citizen by telephone at the headquarters of the First Regional Military Tribunal so that he could carry out the necessary research, adding as well that such requests are quite numerous.

The Ombudsman recommends the drafting of a protocol for the family reinstatement of unaccompanied foreign minors

Beyond mere regulation of immigration flows, the essential question is how to manage the diverse interests that will always exist (foreigners who wish to come, Spaniards who need them, job market concerns, foreigners who want to have their families with them, mixed families, border control, and so many more) without jeopardizing the effectiveness of the rights corresponding to each and every human being. A new, comprehensive overhaul of existing management systems must be carried out, and a new model toward advanced integration of the various organizations involved must be established.

Entry into national territory

In 2007 a system was implemented to issue letters of invitation, which were to be authorized by the National Police Corps rather than by notaries. A significant number of complaints called into question the new procedure, the deadlines schedule, as well as the economic cost of the process. The Ombudsman conducted enquiries on the implementation of both the new models as well as on the legal foundation for the requirements established, particularly with respect to the physical presence of applicants as well as the required certificate issued by the president of the homeowners' association.

Regarding actions involving denial of entry, generally at the border control of Madrid-Barajas airport, some of those refused entry declared that they had been improperly treated by police officers and by staff in the denied entry holding area. Members of the Institution visited the holding and asylum rooms at the airport and found that, generally speaking, the conditions there were acceptable, although frequent cases of overcrowding were also observed that warrant the construction of new facilities.

Numerous complaints have also been made by people who either had to travel to their country without a re-entry permit or, having started their trip with their papers in order, had difficulty due to unforeseen circumstances such as the loss or theft of residency documents while abroad. The Ombudsman has observed in these cases visas that are frequently denied at the outset, and, in any case, their processing is very slow. This problem was the subject, among other actions, of a recommendation and various suggestions reminding the consular Administration of its obligation to safeguard the right to residency without placing restrictions that

run counter to existing legislation (e.g. unresolved renewal applications), and have a serious impact in the professional, personal and family lives of concerned parties.

Interception and treatment of illegal aliens in open seas

The Institution kept close watch on developments involving the freighter "Marine I", which was intercepted by a Spanish rescue ship and whose passengers were obliged to disembark in Mauritania. According to the Administration, the Spanish intervention was of a strictly humanitarian character, and, thus, the concerned parties were never under Spanish jurisdiction. The investigation remains open as the circumstances involved do not appear to explain why such an enormous police presence was deployed by our country in the place where the concerned parties were being held.

The Ombudsman considers it advisable to focus on the new problems posed by the tendency toward externalisation of migratory controls leading to doubts regarding the legal framework applicable to said actions (range of necessary agreements, statutes of our security forces on foreign soil, etc.), as well as the responsibility of the various States involved.

Border perimeter of the Autonomous City of Melilla

In 2007 the investigation continued on the installation of the "*sirga tridimensional*" ("three-dimensional border barrier") of Melilla to confirm that this security system would not cause physical harm to those who might get caught in it. Given the location of this new obstacle in

Spanish territory, the foreigners caught in it must be subject to due process to be returned. Nevertheless, the Administration only applies such procedures to foreigners who have succeeded in overcoming all of the obstacles on the border perimeter. In the opinion of this Institution, this suggests that a selective enforcement of existing legislation is taking place, which is, thus, gravely unacceptable.

Visits to first aid and detention facilities for aliens

This Institution visited the new Almeria Port facilities replacing earlier temporary facilities, and the general evaluation is favourable. The Ombudsman also visited the National Police Corps Headquarters, known as “Los Cristianos” or “Playa de las Américas”, in Southern Tenerife. It was observed that these facilities were not suitable to be used as a detention centre for illegal aliens. Within these facilities foreign minors were found waiting to be transferred to youth shelters, which was clearly unacceptable. The investigation continues to ascertain the future conditions of supplementary facilities—similar to those built in Almeria—that are slated for construction next to the aforementioned police headquarters.

Unaccompanied foreign minors

Deficiencies in the established protocol to confirm the underage status of unaccompanied foreign minors (MENAS) as well as access to documentation for these minors are frequent causes of complaint. Poor operation and lack of administrative effectiveness, in many cases, means that a great deal of minors who have been granted the right to apply for a residency permit must leave the youth shelters once they reach legal adulthood without the legal documents they need to legitimise their presence in Spain. On top of this, mention must be made of the practice at certain youth shelters (e.g. Melilla) of seizing residency permits from minors when they reach adulthood.

Standard procedural protocols do not exist to guide the administrative agencies that handle family reunification cases involving minors. The complete lack of relevance granted to the minor’s right to be heard by the governmental authority, as well as the presumption that it was not possible to oppose a judgment for repatriation, and that, in many cases, the affected minor was not even formally notified of such decisions, has given rise to a recommendation to develop a standard procedural protocol.

Police actions to carry out family reunification orders are also the subject of complaints (e.g. entering centres at daybreak, in-flight restraint circumstances, etc.).

Visits to Centres for Foreign Minors

Follow up visits were made to those carried out in previous years and additional centres were also visited, such as the “San José” (Zaragoza), which admits

MENAS coming from the Canary Islands. The overall evaluation of this centre is favourable. All of the 16-year-old minors were being schooled and the older ones had been placed in occupational training workshops and social work centres. However, with respect to documentation for minors, problems were observed in terms of retroactivity in effect, periods of permit validity, criteria for renewal of permits and the granting of exceptional work permits. Moreover, a need was also seen for transfers from the Canary Islands to be conducted with a stricter protocol with respect to files and data regarding minors.

Two centres of the so-called DEAMENAC were visited (Emergency Shelter for Unaccompanied Foreign Minors in the Canary Islands), specifically “La Esperanza” and “Tegueste” in Santa Cruz de Tenerife. The DEAMENAC depend directly on the Canary Island Government, although they are managed by a non-governmental organization. In the “La Esperanza” centre, more than half of the minors had spent about a year in a section of the facility that was intended for emergency use. It seems that these centres are first and foremost *ad hoc* solutions developed specifically for the purpose of transferring minors to other Autonomous Communities. Overcrowding at these facilities should be pointed out, as should poor living conditions that are well below minimum acceptable standards.

During confidential interviews held individually with minors, they indicated that living conditions had improved noticeably in comparison with previous months. Nobody referred to any current cases of mistreatment or abuse. However, some testimonies described in detail certain violent episodes that appear to have taken place prior to January 2007 in “La Esperanza”, although no staff members working at the centre at the time of the visit had ever been identified as the perpetrators of this abuse.

In October of 2007 a visit was made to the Centres for Foreign Minors (CAMES) of “Playa Blanca” and “Hondura” (Fuerteventura), two new facilities put into operation by the Island Council of Fuerteventura and run by the same association that runs the DEAMENAC. The same person ran both centres, considering both for all intents and purposes as one facility. The living conditions at both facilities, as well as their construction and location are optimal. Nevertheless, certain deficiencies were observed: the lack of an educational program at the centre, or a personalized educational plan for each minor, which are features of other centre in the Canary Islands that are managed by the same entity.

The Island Council of Fuerteventura must supervise personnel conditions at the centre, augmenting their numbers and requiring the appropriate training of staff members.

Alien Internment Centres

This Institution has continued to conduct its normal supervisory functions at the Alien Internment Centres (CIES) located in national territory. In 2007 centres in Fuerteventura, Murcia, and Tenerife were visited. The

Fuerteventura, Murcia, and Tenerife were visited. The “El Matorral” CIE (Fuerteventura) had already been visited in 2005, and in the new visit no substantial structural improvements were observed. In the Murcia CIE, in September 2007, the construction work that was in progress at that time had been temporarily halted due to bankruptcy of the construction firm that had been awarded the contract. As the structure of the centre does not meet the standards required by law, the suspension of its operation has been requested until the renovation works can be completed.

The «Hoya Fría» CIE (Santa Cruz de Tenerife) deserves a favourable mention for its facilities and conditions of health and cleanliness. However, the following should be considered: additional police personnel should be made a top priority (particularly female officers for night shifts), shady zones should be installed in the courtyard, and attorneys should be allowed both morning and afternoon access. Moreover new initial shelter facilities should be built to replace the tent pitched on the very grounds of the Alien Detention Centre.

Occasional actions have been carried out with respect to other CIES, such as the new centres in Barcelona and Madrid. In the latter, after a telephone report of alleged abuse suffered by an inmate, an urgent visit was arranged. No evidence of abuse was found; however, certain deficiencies were found regarding medical examination of new inmates as well as supply of toiletries and notification to the judge of solitary confinement measures. For this reason, a reminder of legal obligations was addressed to the Director of the centre. Furthermore, an enquiry was initiated regarding certain security concerns and obligatory features of the Malaga CIE that had been reported by a nongovernmental organization.

Attention and protection of illegal alien citizens who reported being victims of crimes

During 2007 follow up enquiries continued regarding the recommendation made previously that the illegal aliens who collaborate in the fight against the organized networks involved in illegal immigration or the illegal trafficking or exploitation of human beings, and who lack resources or whose family ties have been severed, should receive sufficient support, especially in the areas of social services and mental health.

Of the information received it can be seen that various initiatives are under way, although there are two areas that, in the Ombudsman’s opinion, merit further attention: 1) the moment when the Administration first begins to provide assistance to a victim, and 2) the lack of a detailed, step-by-step protocol for civil servants who receive the reports, in order that victims may receive adequate orientation and attention.

Expulsions of family members of Spaniards and EU citizens

The situation of foreign citizens lacking proper legal documentation, parents of minors with Spanish nation-

ality, was widely covered by The Ombudsman during 2007. Many urgent interventions were made by this Institution to prevent expulsion orders for illegal presence from being carried out, or when in spite of the alleged existence of this circumstance the instructing magistrate handed down an expulsion order.

Moreover, the Ombudsman took action in cases involving expulsions carried out or attempted due to the illegal presence of foreign nationals who had married Spanish citizens.

Notification of resolutions and other judicial decisions

In addition to the problems stemming from inadequate notifications, issues have arisen regarding the communication of precautionary measures to resolve suspended expulsion orders, as well as the impact of these decisions have on the detention of concerned parties. This Institution reckons that the execution of an expulsion order without allowing time for the judicial body to pass judgment on a request for urgent precautionary measures—and moreover in full disregard for the resolution handed down—contravenes article 106.1 of the Constitution, by which the administrative action must submit to the legal control of the courts. The numerous practical problems that have arisen corroborate the Ombudsman Institution in its conviction that all of the facts should be brought together for scrutiny in the courts for contentious administrative proceedings in matters involving the expulsion of foreigners and their provisional detention.

Safety in the execution of repatriation orders

Apart from the ex officio follow up on the judicial enquiry into the death of a foreign citizen in the process of being expelled and repatriated to his country of origin, this Institution has conducted investigations into the implementation of a safety protocol in the execution of repatriations. The Directorates General of the Police and of the Civil Guard referred to the Order, handed down on 1 October 2007, on the required procedures for repatriations and transfers. This Institution is evaluating the response received, since a more in depth analysis seems warranted regarding in-flight medical assistance available and means of restraint employed.

Situation of foreign citizens subject to non-executable expulsion orders

This Institution approached the General Directorate of Immigration in order to discuss several possible solutions for foreigners subject to non-executable expulsion orders. The Administration responded that Spanish law provides for sufficient means for their legalization and reckoned that the implementation of measures such as the proposals made by this Institution could encourage the activity of networks involved in the illegal trafficking of human beings.

The Ombudsman does not share these arguments and has requested a new report evaluating the issue, which has not yet been received. In the opinion of this Institution, cases involving the granting of residency permits for social integration or humanitarian purposes run counter to expulsion or repatriation orders. The proposal of this Institution involved the granting of work permits without affecting the eventual outcome of expulsion procedures. Moreover, the Ombudsman disputes the argument that this proposal might actually encourage the activities of networks involved in the illegal trafficking of human beings and, with it, illegal immigration. In the Ombudsman's opinion, the permission to work during a specified period of time is not equivalent to legal residence. The objective is to safeguard minimum standards of human dignity without necessarily granting identical rights to this group as those provided to legal residents.

Administrative management centres

The results of migratory management tend to prove that legislative planning and the real circumstances all too often follow very divergent paths.

The two basic management entities, the consular offices of alien affairs in the different provinces and those located abroad, do not function in a coordinated manner. Furthermore, they sometimes seem to respond to starkly different, and even contradictory, methods of reasoning. They do not even have interconnected IT systems and have had to face a steady increase in work volume. Moreover, there is a clear need to reinforce their capacity to attract and select qualified staff or positions abroad and to improve response times regarding the ever-changing needs of the workforce.

In addition to these circumstances, one must consider the consequences of recent statutory modifications that grant certain regional authorities the power to process and resolve initial work permit applications for prospective independent contractors or employees in their territory. This situation will inevitably multiply complications in the already deficient coordination of activities if additional measures are not adopted to avoid it.

For these reasons, during the appearance of the First Deputy before the Sub-commission on Immigration Policy held in the Congress of Deputies, the Ombudsman called for the establishment of a State Immigration and Emigration Agency. During the period needed to set up such an agency a comprehensive restructuring of management procedures should be implemented with the aim of modernizing and fully integrating the various organizations involved (ranging from the General State Administration to the autonomous communities) in terms of their jurisdiction—taking into account every phase of the process from the inside out including document procedures subsequent to arrival.

Such a model of advanced integration, intended to provide an effective and streamlined answer to work-

force needs via legal channels, would require the following: special legislation to for its implementation, a specific system to appoint its director and high cabinet members based on consensus among the central and regional governments, and clear definition of the areas involving joint activity.

It is the Parliament's duty, not the Ombudsman's, to establish specific methods for the legal regulation of such an entity. However, it seems clear that a measure of this scope should be accompanied by a jointly allocated budgetary fund between the State and the autonomous communities. The new Agency could employ these funds to ensure fulfilment of its duties, and, particularly, to provide financial support to communities with larger immigrant populations. In fact, the work of this agency should not stop at managing and streamlining the flow of workers, but should also include addressing the realities affecting the settlement of immigrants in our country, which frequently involve large distances travelled with respect to the original points of entry.

As for access to and communication with consulates and consular operations abroad, it should be pointed out that the rise in the number of users has led to significant processing delays, resulting in frequent complaints by citizens. Within national territory enquiries were conducted on immigration offices in Asturias, Barcelona, Castellón, Ciudad Real, the Balearic Islands, municipalities of Malaga and Valladolid, as well as several others in Madrid. In the capital city the situation became critical, although the noteworthy efforts made resulted in certain improvements in the service provided to users.

Regulations governing family reunification for parents of Spanish citizens

The entry into force of Royal Decree 240/2007, 16 February, regarding the entry, free movement and residency in Spain of citizens from member states of the European Union and other signatory nations of the Agreement on the European Economic Area, removed family reunification for parents of Spanish citizens from this legislation and placed it among the general immigration regulations. In the Ombudsman's opinion, such a modification lacks reasonable legal grounding and may impinge upon the principle of equality because it places the Spanish citizen in an inferior position to that of other citizens of the European Union or the European Economic Area who choose to move their place of residency to Spain. Moreover, doubts have arisen as to whether this regulation might represent an infringement on the EU Right to choose the place of residence as the right of a Spanish citizen not wishing to move his place of residence to another EU territory to live with his foreign parents in Spain is encroached upon because he must prove the reasons justifying that need. For that reason, The Ombudsman recommended that the Ministry of Labour and Social Affairs should nullify this legal provision. The recommendation was rejected.

Processing of family reunification cases under general regulations

For a long time a new regulation has been called for to make Immigration Law more precise as regards the means of support required of applicants seeking to exercise their right to family reunification. The consequences of this lack of regulatory definition are evident: discrepancies in criteria between Government delegations and sub-delegations, lack of general awareness and notification of these criteria, and the legal uncertainty stemming from such a situation. For this reason, this Institution considers the approval of this regulation to be indispensable and will continue to insist on the subject.

Immigration Law requires foreigners seeking to reunite family members to prove that they have suitable housing to accommodate them. The Ombudsman made a recommendation that the parameters of what is to be considered “suitable housing” and “conditions of inhabitability” should be defined and a greater degree of standardization should be applied to the specific items in these reports to avoid arbitrariness.

Complaints have continued on the difficulties involved in processing residency applications for family reunification in countries lacking a reliable civil registry. The number of complaints received from the consular office in Dakar should be pointed out. The Institution is actively following up on the practical approach of requesting DNA tests to determine family relationships and to provide certification in cases for which it is requested.

Also it has been observed that the consulates in Morocco, and perhaps others, appear to have adopted a general policy in opposition to the reunification of minors when one of their parents or other siblings remains in the country of origin. This led to a suggestion to the Directorate General of Consular Assistance and Affairs to reconsider these criteria. In a similar fashion, several other complaints appeared to indicate that certain consulates had proceeded to reconfirm requirements already verified in Spain, which appears to this Institution to be an overzealous practice that should be called into question.

Tacit approval in the renewal of residency and work permits

Immigration Law establishes a maximum period of three months for the processing of renewal applications for residency and work permits, after which time the requested permit is considered granted if an express resolution by the Administration has not been made. There are often cases when the Administration chooses to reject an application for renewal a number of months after the date it was first submitted. The Ombudsman asked the Directorate General of Immigration to instruct relevant agencies that tacit administrative approval precludes subsequent resolutions of denial.

Residency for exceptional circumstances

Immigration Law ponders the possibility of granting residency permits for the purpose of social integration, for humanitarian reasons, in collaboration with the Courts of Justice, or for other exceptional circumstances. But immigration regulations do not refer to any exceptional circumstances in particular, such as that of illegal alien parents of a Spanish minor, meaning that applications based on this circumstance are treated as inadmissible for processing if they do not contain any of the other aforementioned circumstances.

This Institution genuinely disagrees with the criteria employed in this regard by the Administration, and has stated so in a recommendation. It contained a reminder that the Supreme Court had already declared that the list of exceptional circumstances in Immigration Legislation for granting temporary residency permits cannot be considered exhaustive, and that the mandate of the Law may be applied. The Directorate General of Immigration rejected this recommendation. For this reason, this request has been referred to the superior authority in the governmental hierarchy.

This Institution has learned of the difficulties encountered by Nigerian citizens in obtaining residency permits due to exceptional circumstances. The procedures followed by Nigerian authorities require that the criminal records needed by applicants to complete their residency applications in Spain must be requested in person in Nigeria. Without these documents applications cannot be admitted for processing even if they meet all other requirements. At first, the Spanish Administration was reluctant to consider the proposal of this Institution to find a way to resolve this problem, although it later stated that it was studying the possibility of employing fingerprint comparisons to facilitate the issuance of the necessary certificates under reliable circumstances.

Equal treatment and nondiscrimination of persons due to racial, ethnic, or national origin

The Ombudsman has initiated various enquiries with the Spanish Observatory on Racism and Xenophobia, requesting information on the activities they perform to determine levels of racial intolerance and xenophobia. On the other hand, the Secretary of State for Security stated that no reliable work methods existed that allowed for a general prospective analysis of the rates or patterns of distinct treatment by State Security Forces and Corps toward ethnic minorities or foreign-born individuals. On the contrary, this Institution must insist on the need for such an analysis to be carried out on a regular basis.

On 21 September 2007, Royal Decree 1262/2007 was passed. It regulates the structure, authority and operating regulations of the Council for the promotion of equal treatment and non-discrimination of persons due to racial or ethnic origin.

In the Ombudsman's opinion, it can be difficult—if not paradoxical—that this Institution made up mainly of members of the Administration should conduct independent studies and analyses regarding discrimination suffered by people of different racial and ethnic backgrounds in gaining access to social benefits and services governed by the selfsame Administration. Additionally, we are waiting to see if the implementation of this new council will lead to the fulfilment of its main *raison d'être*, according to the European Union regulations to which it owes its existence: an independent assistance service for victims of discrimination.

Photograph requirements for official identity cards

A citizen approached this Institution to declare that, upon submitting a photograph of her veiled face for her foreigner identity card, she was informed that this pho-

tograph would be accepted only if accompanied by certification of her adherence to the Islamic faith. The Administration stated that when a case involves the first issuance of the National Identity Card (DNI) or an equivalent document, and the applicant appears with said head garment indicating, according to administrative criteria, that she would like to avail herself of an exception to the general legislation, she must demonstrate that such a request is due to religious reasons.

The Ombudsman reckons that the requirement to present certification of adherence to any religion is unconstitutional, because it infringes not only on the principle of hierarchy of norms (given that it is dealt with in an Instruction) but also the right to religious freedom as well. For this reason a recommendation was made to the Secretary of State for Security to strike from the Instruction of 11 April 2006 any mention of the need to certify membership in a religious faith in order for photographs for official identity documents to be accepted. The Ombudsman awaits a reply to said recommendation.

Legislative reforms in the area of education continue in 2007

Among the novelties in 2007 is one introduced in Organic Law 4/2007, 12 April, which lays down basic guidelines for the creation of a new, general, fair application process for prospective university students—based on the principles of transparency and objectivity in accordance with standards of the European area of higher education.

Non-university education

With respect to non-university educational levels, and taking into account annual reports from previous years, the body of complaints received in 2007 continued to indicate clear and gradual shift in focus from issues involving the initial stages of obligatory education toward those related to early childhood education and, more specifically, toward questions involving the first year of pre-school.

The fact that children are starting schooling at increasingly younger ages bears a strong correlation to the rise in the number of complaints referring to students with medical conditions requiring special healthcare services whose parents encounter difficulties in ensuring that their children receive the treatment they need at educational facilities during school hours.

This Institution reckoned that in the aforementioned circumstances, there was a remarkable lack of consistency with educational objectives intended to develop schooling programs for ever younger students, as well as with the principle of enabling parents to balance family and work obligations. Such parents must either opt against schooling any special-needs children who are still too young for obligatory education or be obliged to make frequent visits to the school in order to deal with the special health or medical needs of the child they have enrolled there.

With a general ex officio investigation on this subject under way, the Institution has received reports from most of the administrations consulted, making it possible to determine that the various administrations employ vastly different solutions for this issue—as follows: joint programs for collaboration between educational and health administrations to provide immediate care to students whose medical condition requires medication or other treatment (Galicia and Basque Country), schooling of special-needs students at educational facilities that, for various reasons, have trained nursing professionals among their staff (Asturias and Castilla-La Mancha), drafting of joint action protocols between health and educational administrations to provide guidelines in case of crises involving certain diseases (Canary Islands, Castilla-La Mancha, Castilla y León, Murcia and Navarre), or, lastly, the contribution

of parents in the collaborative effort needed to provide for the special healthcare needs of their children (Aragón, Madrid and Murcia).

On another subject, it may be stated that due to immigration and the resulting enrolment of many children of immigrant families at educational institutions in our country, complications have arisen leading to new complaints that the educational system must strive to resolve.

Thus, the settling of occasionally quite large immigrant populations in certain areas, and the resulting increase in school populations there, gives rise to situations of overcrowding, meaning that the number of students enrolled greatly exceeds the maximum capacity for which the educational facilities were designed. Furthermore, immigrant students are distributed unequally, and a large percentage with special educational needs have been concentrated at specific educational facilities. The overall impact of this situation on the quality of education received by the student body as a whole at these centres, including both native-born students and other immigrants, has been negative.

In other instances, the imposition of certain documentation requirements on foreign students seeking to enrol in elective courses or to obtain academic degrees for courses of study they have completed represents an infringement on the right to education, which has no legal basis in legislation in force.

In all of the aforementioned cases, according to observations, it was the requirement for certain documents that immigrant students sometimes have no means of obtaining—for the purpose of verifying the identity of those applying for enrolment in educational programs or trying to obtain academic degrees—that caused undue hardship reported by claimants. It was possible to get around this problem once the use of alternative documents for identification purposes was made available.

University Education

Organic Law 4/2007, 12 April modifies what is contained in Organic Law 6/2001, which regulates initial admission to the university based on passing one specific test. It provides for the government to regulate an admittance procedure for those who, lacking the re-

quired academic qualification, are able to certify professional or work experience or who have reached a certain age. Moreover, as for handicapped student access to the university, the revised drafting of Organic Law 6/2001 expressly prohibits direct or indirect discrimination due to disability.

Although the establishment of the basic characteristics of the new university admission examination was postponed until the beginning of the course the 2008-2009 by the Government, the admission procedure for first-time university students during the 2007-2008 academic year included a requirement to pass said admission examination regulated by Royal Decree 1640/1999, 22 October. This meant that universities were obliged to comply with admissions criteria contained in the previously repealed Royal Decree 69/2000, of 21 January when admitting students.

Moreover, during the 2007-2008 admission process, complaints received reflected the difficulties caused to students coming from the Spanish educational system by the entry into force of certain provisions contained in article 38.5 of Organic Law 2/2006, of 3 May, on Education, by virtue of which students coming from educational systems of other European Union countries or foreign countries that had signed international Agreements could gain unencumbered admission to Spanish universities without having to take the university admission examination in our country.

Specifically, the complaints received regarding this aspect of the admission procedure claim, on one hand, that the Instructions published by Resolution on 7 May 2007 regarding the Secretary of State of Universities and Investigation for the enforcement of these rules of admission were not communicated well enough in advance to students applying for admission to Spanish universities through this system, which meant that they were not eligible for it. On the other hand, the bulk of the complaints about the admission procedure reported that the Instructions favour students from other educational systems, such as, for example, the British, due to the peculiar method of calculating academic credits obtained in pre-university courses, or the Portuguese, in that pre-university courses there are objectively deemed to be less demanding, so the marks earned tend to be higher. In such ways, certain students gain an advantage over those coming from the Spanish educational system when applying for admission to the courses of study in greatest demand at Spanish universities.

With the aim that these cases be taken into consideration by the Ministry of Education and Science in adapting legislation through which the Government might establish basic regulations to allow universities to set application procedures for students who find themselves in the situation described in article 38.5 of Organic Law 2/2006, of 3 May, on Education, these complaints were referred to the relevant authorities.

As for the importance of establishing a fair and balanced order of priority in the selection processes for applicants to Spanish universities with limited space—where a mere fraction of a point can make the difference between admission or rejection—complaints con-

tinued to arise due to the use by Ministry of Education and Science of obsolete systems and unreliable methods for calculating academic credits obtained in pre-university courses pertaining to academic systems in other countries in contrast to those used for the Spanish academic system.

A similar situation has arisen due to the lack of specific criteria for establishing equivalency when evaluating academic achievements obtained for university studies conducted abroad and later transferred to Spain. This question, a repeated source of complaints in previous years, has again been taken up by the Ombudsman before the aforementioned Ministry.

As regards the nostrification of foreign university degrees, numerous complaints over the years have been calling for effective measures to end the perpetual noncompliance with official deadlines in the processing of applications for official certification of Spanish academic equivalency for academic degrees earned at universities abroad. However, in 2007, a significant decline has been seen in the number of complaints received with respect to delays in the processing of these applications, which appears to be the first fruit of corrective measures adopted earlier by relevant authorities, measures repeatedly called for by the Ombudsman.

Regarding other aspects in the processing of these applications, there was a noteworthy rise in the number of complaints questioning the formulae used by different universities to determine the examinations that degree-holders must take prior to being granted full nostrification for their degrees. Specifically, this involved the detection of educational gaps in the foreign courses of study that had to be made up at the Spanish university where the studies to be nostrified were offered. This led to numerous enquiries involving certain universities.

On the other hand, the resulting difficulties encountered by foreign degree-holders attempting to make up academic gaps in their courses of study to fulfil requirements before the mandatory two-year deadline were finally resolved by the entry into force of Royal Decree 1393/2007, 29 October, which establishes regulations governing official university curricula and modifies Royal Decree 285/2004, 20 February by widening the aforementioned period to four years.

Regarding the nostrification of foreign degrees in the Health Sciences, and in light of the need to guarantee adequate health care for the population, a prior and thorough analysis of the institutions involved in the training certified by the foreign degree is crucial, which further complicates attempts to meet processing deadlines in these cases. It is vital, therefore, that the relevant organizations consider data from the Directorate General of Universities, which shows that the steady stream in recent years of applications for nostrification of foreign medical and pharmaceutical specialist degrees and Spanish degree equivalency certification severely hampers attempts to meet application processing deadlines set forth in the Order of 14 October 1991.

Furthermore, one must not forget that what is contained in the aforementioned Order stems from a former social context that is quite different from the pres-

ent one, making it critical to draw up new legislation already referred to in Law 44/2003, of 21 November, on regulating healthcare services. Article 18 of said Law calls on the Government—as proposed by the Ministry of Health and Consumer Affairs—to regulate Spanish certification procedures for professional purposes of Specialist degrees earned in nations not belonging to the European Union. Moreover, the academic value of these foreign-earned degrees would be obtained through a nostrification procedure established by the Government by proposal of the Ministry of Education and Science, both of which remain pending.

Also showing a noteworthy lack of progress is the processing of nostrification applications for foreign-earned Specialist Nursing degrees—currently in a state of regulatory limbo pending the drawing up of new regulations that this Institution has repeatedly called for to govern the nostrification of such degrees.

This situation may be provisionally resolved by the entry into force of Royal Decree 183/2008, of 8 February, on how Health Science specialities are to be determined and classified and certain aspects of the specialized healthcare training program are developed, given that the Third Transitional Provision states that until the aforementioned regulations have been drawn up, the Order of 14 October 2001 shall remain applicable in requests for nostrification of foreign-earned degrees for non-EU specialists other than doctors or pharmacists.

Delays in the official application procedure for extraordinary certification of Specialist degrees in Health Sciences through legal transitional channels continued to be the source of numerous complaints in 2007. These transitional channels are provided for in regulations governing access to equivalent degrees so that corresponding certification may be granted to eligible professionals who meet certain training requirements. This issue has been in existence for years, affecting the processing of more than ten thousand applications sub-

mitted under the procedure governed by Royal Decree 2490/1998, of 20 November, on obtaining a specialist's degree in Psychology.

Throughout 2007 the Directorate General of Universities sent successive updates regarding progress made in their efforts to streamline this procedure. They also stated in their last report their intention to conclude this process as swiftly as possible in order prevent further detriment to concerned parties caused by these delays—but also without sacrificing the rigor needed in scrutinizing each case given the fact that the degrees sought are related to Mental Health.

As for student scholarships and financial aid, an increase in complaints was observed in 2007. These tended to question the formulae provided for in Ministry regulations in order to determine each applicant's income and financial status when applying for scholarships and financial aid offered by the Ministry for the general 2007-2008 academic programme. Likewise, there was also a rise in the number of complaints regarding the criteria, formulae and procedures used to revise, cancel and reimburse the amounts awarded to recipients in previous academic years.

Lastly, several actions have been carried out in response to new circumstances arising from what is contained in Organic Law 4/2007, of 12 April, on provisions already contained in Organic Law 6/2001, of 21 December, on Universities. This law is related to the obligation of universities to set up partial or full public academic tuition waivers for university students with some type of disability. The new text expressly provides for a full waiver of public tuition rates and fees for students with at least a 33% degree of disability that apply for a course of study leading to a university degree.

Follow ups on this mandate have led to the initiation of an investigation on universities that have not yet provided full tuition rates and fee waivers for these students when they matriculate a second time or more.

The Ombudsman initiates an enquiry with respect to persons afflicted by rare diseases

With respect to the Health Administration, one must remember that we are currently in a period of deep transformation with respect to demographic epidemiological patterns. Few sectors are as complex and dynamic and must manage such pressures as the health care system. In the Ombudsman's view, the causes for patient dissatisfaction are directly related to the following issues: the full effectiveness of the right to health care; the lack of information; inconsistencies among different regions and in the updating of common services provided by the National Health System; persistent delays in the delivery of health care; difficulties in access to clinics and health care centres, inadequacies in urgent care at hospitals; progressive scarcity of health care professionals in certain clinical areas; limitations in the treatment of rare diseases; lack of or insufficient care for mental health issues; and the still insufficient service provided in the area of patient safety.

Universalization of health care and the right to cost-exempt health service

Although care administered by the National Health System has been considered a universal right ever since the publication of General Public Health Law, the same cannot be said of full public financing and the total absence of cost to those benefiting from this care. In any case, this duality of "universality" and "exemption from cost" frames the position of the Ombudsman as regards the situation of citizens who lack the right to medical care and who are required to pay for any services they receive from the National Health System, or to establish coverage through a previously arranged, special agreement with the General Treasury of Social Security.

Indeed, this important issue has not yet been resolved and it led to a significant number of complaints during 2007, particularly involving those who have never worked and yet have access to sufficient financial resources, as well as pensioners returning to Spain after having participated in Social Security schemes in foreign countries. Such complaints highlight the contradiction that, even though health care is financed with taxes, certain citizens who lack the right to cost-exempt medical care are obliged to pay for it whenever they use the services and facilities of the National Health System.

Clinical Information and Documentation

In spite of a noticeable improvement in relevant regulations, complaints continued to be lodged with underlying themes involving patient freedoms and medical information and documentation issues. For this reason,

actions were undertaken before various health Administrations in order to facilitate access of concerned parties to the documentation requested.

Moreover enquiries were initiated regarding second medical opinions, which were solved favourably once this right had been established.

Regulation of medical services

The need to expand the strategy for regulation of medical care services also became noteworthy in 2007 through a significant number of complaints.

To begin with, mention should be made of the situation pointed out by representatives of associations of patients with degenerative diseases, emphasizing the need for recognition throughout the entire National Health System of the right to pre-implant genetic diagnoses. This issue was presented before the Ministry of Health so that the most opportune measures might be taken. In response, they stated that a proposal was being prepared involving sections of the general portfolio of services available, which may include the aforementioned item in order to avoid inequalities in access to treatments.

As for fibromyalgia (FM) and chronic fatigue syndrome (FC), the Ministry of Health reported on the completion of research projects throughout 2007. Within this framework two enquiries remain active: the first, presented before the Ministry of Labour and Social Affairs, deals with existing plans to create new review protocols to evaluate incapacities, and the other, presented before the health Administration, deals with the need to continue to make advances in the areas of re-

search, transference of knowledge, and empirical professional practice in order to address the important issues facing people with FM and FC.

On another subject, the serious situation of women afflicted with endometriosis in Spain should also be pointed out. The Ombudsman reminded the Ministry of Health that the Private Member Bill on endometriosis treatment urges the Government to conduct research projects and to set up a work group for the purpose of creating a direct action protocol to facilitate the early diagnosis and treatment of this disease and to promote the study of it in continuing education plans for health care professionals.

The need to define the precise techniques and procedures for diagnosis and medical and surgical treatment of certain diseases resulted in quite a few enquiries. The first, involving care for sufferers of Parkinson's Disease, led the Ombudsman to call for the creation of clinical guides or direct action protocols for professional care givers.

The second enquiry was related to an increase in the number of unweaned babies affected by plagiocephaly and other cranial deformities. The Ministry of Health announced the creation of a work group and added that a bill was being drawn up to establish the procedure to update orthoprotetic services.

The third enquiry was focused on the severe effects caused by Spina Bifida. On the subject, the Ministry of Health emphasized that it had pushed for the creation of a guide for the prevention of birth defects, which was prepared by a group of experts from several scientific organizations and associations for patients' with spina bifida. One of the chapters of this work deals with neural tube defects in Spain as well as the prevention of this disease.

Additionally, the Ombudsman has emphasized before different health administrations that donation of umbilical cord blood is seeing a significant rise in importance in recent years. This circumstance led the National Organization for Transplants to develop an Umbilical Cord Blood Donation Plan, presented and published in January 2007, to specify the regulations governing its acquisition, processing, storage, transport and usage.

Health maintenance and promotion

The traditional tendency to put excessive emphasis on curative treatment as opposed to palliative ones has heightened the Ombudsman's interest in preventive medicine and the promotion of sound health, underlining the lack of a legal framework that would allow for an adequate degree of control over the quality and effectiveness of activities and products used in so-called "alternative medicines".

Waiting lists

Delays in obtaining proper medical care continue to be one of the main causes for dissatisfaction with public health services among citizens. Nevertheless, one must take into account that the establishment of guaranteed waiting periods, which vary according to autonomous

community, for planned surgical interventions may have been the cause for a reduction in the number of complaints lodged with this Institution on the issue, although other health care delays, very long in some cases, continued to be an issue in 2007.

As for outpatient services and diagnostic tests and techniques, it is necessary to reiterate that in recent years health care organizations have created strategic plans emphasizing reduction in delays for surgery as well as better information systems, and lower costs for hospital procedures.

Finally, it should be pointed out that, for yet another year, no significant progress was made in the area of assisted human reproduction techniques. This led to numerous complaints on the subject throughout 2007 that described how huge waiting lists of several years at many health facilities made it difficult—or even impossible in more than just a few cases—to obtain a service provided for in existing legislation.

Medical transport

Within the framework of the traditional level of concern shown by the Ombudsman in the area of medical transport, particularly for emergency services, the insufficient number of ambulances and trained personnel needed to transfer patients in the Region of Murcia should be pointed out.

The Health Administration of said region indicated that agreements had been reached with various city halls to incorporate new ambulances; the medical transport fleet of the Management of 061 emergency services had been expanded, and a new contract on management of services was being drawn up for the purpose of distinguishing between urgent and non-urgent medical transport cases.

In an attempt to systematize the complaints about first aid services, it is worthwhile to remember that these basically deal with acknowledgement of the right to assistance, problems in gaining access to medical care facilities, insufficient professional staff, and, as a consequence, delays in the delivery of medical care and in the organization and supply of facilities and services.

As regards the latter problem involving insufficient professional medical staff, particularly specialists in family and community medicine and paediatrics, the health administrations state that this scarcity of specialists in the labour market makes it difficult to immediately fill unexpected temporary vacancies, for such reasons as temporary medical leave, and they have detailed various initiatives with the aim of improving access to doctors' offices.

Actions in the area of specialized care

Some of the aspects that characterize specialized care are as follows: highly trained professionals, high consumption of resources, persistence of complex, bureaucratic, circuitous caregiving, and the incorporation of new techniques and technologies. As a result of the aforementioned, the higher expectations and demands of citizens in this area lead to frequent complaints.

Because of its special significance, it is worthwhile to draw attention to the difficulties encountered in applying existing legislation on voluntary interruption of pregnancies at the facilities of the public health system. As such, only 3 percent of all such interventions occurring in Spain take place at hospitals belonging to the public health system. Considering both this as well as the need to adopt measures that would guarantee users the care in the community where they reside, this matter was referred to the Ministry of Health so that, within the framework of the Inter-territorial Council of the National Health System, a means to improve access to facilities and services of the National Health System might be determined for cases involving voluntary interruption of pregnancy, which is provided for by existing legislation. In their report, the aforementioned Ministry expressed its opposition to posing the accessibility of said medical service before said Council, arguing that the autonomous communities have authority in this matter.

Inadequacies in terms of the organization and layout of hospital urgent care units attending to the needs of the general population have also been the subject of more than just a few complaints.

Patient Safety

For yet another year, it should be pointed out that the secondary and undesired effects of health care are the cause of a great deal of morbidity and mortality in developed health systems and that an adequate management of safety and quality of care demands, among other factors, the development and maintenance of efficient procedures and study to deal with any adverse effects.

It is worthwhile to reiterate the need to actively and urgently promote a new culture with respect to safety and responsibility in the healthcare field. A culture of quality and risk prevention must be established to reduce the number of clinical incidents by studying their causes, and, in this way, clinical practice may constantly be improved.

Mental health

Special mention should be made in this section of the need to regulate the speciality of child and adolescent

psychiatry, a question which led the Ombudsman to address the Ministry of Health to declare, on one hand, that this issue had been the subject of many enquiries that thus far had not resulted in any legislation whatsoever, and, on the other hand, that the aforementioned speciality is recognized in practically all neighbouring countries. The Ministry replied that advances had been made in the process of setting up a new model of specialized health training and that three work groups had been formed to study the need to create new specializations in the health sciences.

Pharmaceutical services and control of medication

The organization of pharmaceutical services deserves significant institutional attention, particularly in three areas: distribution, financing, and control and supply of medication.

As for distribution, it is worthwhile to mention the sale of antidepressants and anxiolytic drugs via a website on the Internet, which is against the Law on guarantees and rational use of medications and healthcare products. In its report, the Ministry of Health stated that, as a result of the intervention by the Ombudsman Institution, the matter was referred to the Ministry of Industry and Trade in order that action be taken with respect to the aforementioned website.

With respect to financing for Attention Deficit and Hyperactivity Disorder (TDAH), improvement can be seen in affected children through use of two specific medicines. The enquiries ended once the Ministry of Health and Consumer Affairs reported the inclusion of said medication in the financing scheme of the National Health System.

Rare diseases

The proliferation of complaints referring to these types of diseases, which are turning up more and more often among the general population, led to the opening of various enquiries before the Ministry of Health and Consumer Affairs. Said Ministry responded that, in light of the magnitude of this issue, rare diseases merited high priority treatment in public health policy in Spain.

The problems involved in enforcement of the Law on Dependence: ex officio enquiry

Disabled persons make up the most widespread minority in the world. Spain is committed to implementing policies, legislation and administrative measures that safeguard their rights and prevent any kind of discrimination.

Minors

Spain continues to be the first country in the world, in relative terms, as regards the number of international adoptions carried out. In this context, Law 54/2007, December 28, on adoption, was passed.

Several citizens approached this Institution to express their concern over the temporary suspension of international adoption of minors from Nepal. The Ombudsman intervened before the Ministry of Foreign Affairs and the Ministry of Labour and Social Affairs on the matter.

In another area, numerous complaints have been lodged to express the disagreement of a mother, father, or both, with respect to the actions of the administration on taking custody of their minor children after having declared them abandoned. The actions of this Institution are frequently limited to confirming the following: that the required information has been made available to the concerned parties so that they may initiate legal proceedings against said intervention, or that the technical reports recommending the separation of the minor from the family unit have been included in the file.

As for the legal duty of public entities of protection to adopt whatever measures they deem to be the most appropriate for minors, enquiries were initiated before the Department of Families and Social Affairs of the Community of Madrid stemming from the complaint made by a citizen about alleged infringement of the basic rights of minors at the “Tetuán” Centre for the Psychosocial Development of Minors (CAPS). The specific items reported were as follows: irregular attendance at educational institutions, occasional medication without proper medical prescription or even the awareness of the minors involved, strict punishments of separation from the group in isolation rooms for periods of more than 24 hours, the lack of outdoor or sports-related activities for periods ranging from twenty-four hours to several weeks, and also serious deficiencies in the facilities and equipment at the centre.

In the course of the investigation, this Institution visited the centre, to inspect the installations and to inter-

view the management, staff, and several minors. After the visit, the Department of Families and Social Affairs, reported the rescission of the management contract with the adjudicating entity due to “complications in the project” and “need to refit the installations”, and, thus, the “Tetuán” Centre for the Psychosocial Development of Minors (CAPS) was closed down. The enquiries on this matter have not yet been brought to a close.

Additionally, the National Institute of Social Security pointed out the increases in benefit amounts periodically payable to families for each dependent of 18 years of age or younger in their care. This increase, which the Ombudsman had been calling for, became a reality with the new revision of Law 35/2007, November 15.

Disabled persons

According to data provided by the United Nations, approximately 10% of the world population, or 650 million people, suffer some type of disability. Population growth, medical advances, and the aging process have contributed to the current situation in which the disabled make up the most widespread minority in the world. A huge international milestone in the protection of rights for this group was reached by the passage by the United Nations of the International Accord on Rights for the Disabled. This is the first human rights treaty of the 21st century through which countries that have signed on agree to develop and put into practice policies, legislation, and administrative measures to ensure the rights recognized in the Accord, and to abolish any laws, regulations, customs, and practices that favour any type of discrimination whatsoever.

Last year’s report discussed complaints by citizens involving handicapped parking regulation documents in certain municipalities. The City Hall of Madrid granted various benefits to applicants but did not recognize those provided for in the European Recommendation, which resulted in a recommendation to the City Hall to revise the pertinent regulatory ordinances in this matter. This revision was carried out in full compliance with every aspect of the recommendation presented by this Institution.

Other situations of necessity

The large number of people who live in the street or under precarious conditions should cause us to reflect on the situation of vulnerability many people must put up with in our country, circumstances which are characterized by stigmatization and invisibility.

It is the duty of the Public Administration to attend to the homeless; but the solution is not limited exclusively to offering a place to sleep and certain basic services. More than that, it involves the promotion of complete social inclusion and personal autonomy. The services rendered toward social reintegration of users—such as legal assistance, occupational workshops and job placement—barely represent 25% of the services offered.

A citizen expressed his disagreement with the fact that certain Madrid soup kitchens were closed on holidays. In this respect, the Madrid City Hall indicated that it did not have decision-making capacity over the organization and operation of said centres, but that the municipal network offered services and attention throughout the entire year. That is to say, no reduction in the capacity to attend to the needs of the public existed, and such centres usually have agreements with other facilities whenever they must close their doors.

Social Security: Field of applicability, affiliation, activation and withdrawal

With respect to the possibility of calculating Social Security amounts and providing benefits for the period corresponding to the fulfilment of obligatory military service—an issue that the Ombudsman has raised with the Administration on many occasions in response to numerous requests received on the subject—it should be stated that article 3 of Law 40/2007 establishes that a maximum of one year of said military service or equivalent social service may be included to reach the 30-year minimum period of participation required to become eligible for early retirement at 61 years of age. Hence, a partial solution has been offered to concerned parties regarding the source of the complaints they had lodged.

As in previous years, a considerable number of complaints were lodged by concerned parties to express their disagreement with the active social security periods reflected in labour reports prepared by the General Treasury Department of Social Security. In cases involving errors or those for which some type of proof is provided to verify the claims presented, the corresponding complaints are admitted for processing by the aforementioned department of Social Security in order to take appropriate measures to rectify discrepancies.

Contribution and collection

Complaints continue to be lodged by concerned parties to express their disagreement with the actions taken by various provincial departments of the General Treasury regarding collection practices used to recover Social Se-

curity debts accrued, particularly in cases involving overdrafts in contributions to the Special Regime of Self-Employed Workers, considering the seizure of funds from bank accounts to be unacceptable. Other complaints describe the lack of notification of the seizure order, errors in the order itself, or failure to resolve appeals submitted against these orders. After review of the allegations submitted by concerned parties, any cases deemed to be reasonably well founded were admitted for processing and the prescriptive reports were requested.

Temporary disability

The practices of Mutual Insurance Firms for Work-related Accidents and Diseases are a source of numerous complaints regarding the medical attention given to workers who are temporarily incapacitated for work-related reasons, and, more specifically, who disagree with medical discharges, which, in some cases, have led the concerned party to approach the public health service to obtain a new medical work release for common illness. This means that, in handling claims made by concerned parties, it becomes necessary for the National Institute of Social Security to resolve the issue by determining both the cause as well as the entity responsible for paying for medical services rendered.

Permanent disability

Most of the complaints about permanent disability benefits lodged by concerned parties express disagreement with the following: the grade of incapacity assigned, the notion that pain suffered does not affect the grade of incapacity, resolutions rejecting applications for revision of grades of incapacity that had been initially accepted, or ex officio resolutions handed down by the entity in charge. Taking into account the fact that proposals made by incapacity assessment teams are based on medical criteria, they may not be subject to evaluation and pronouncement by this Institution due to the technical aspects involved.

As such, article 2.3 of Law 40/2007, on Social Security measures, in the new revision of article 139.4 of the General Law on Social Security, establishes a new formula to determine full disability grant amount, which is intended to compensate the caregiver of the disabled pensioner in question. This is more in line with the end it is expected to achieve as well as with what the Ombudsman had recommended to the Secretary General of Social Security previously.

Retirement benefits

A large number of complaints were lodged by concerned parties to report on the penalties affecting those who were forced to apply for early retirement pensions, with the consequent application of reduction coefficients in the calculation of said pensions for each year, or fraction thereof, needed to reach 65 years of age.

Law 40/2007, December 4, on Social Security measures, has introduced modifications by which applicable coefficients have been reduced. Moreover, in cases where the termination of employment is due to a labour force adjustment plan, this Law 40/2007, has ameliorated the situation, and, although the optimum solution called for by some of those affected was not approved, an improvement has been introduced that will alleviate the reductions applied to these pensions when they are disbursed.

Survivor benefits

The aforementioned Law 40/2007 contains various proposals related to the improvement of this pension, such as the following: the right to a survivor's pension in so-called "civil union" relationships; the assessment, in addition to number of years of cohabitation, of economic inequality that may exist in terms of recognition of the right to a survivor's pension in divorce cases; and the establishment of a temporary widow or widower's pension when the survivor is ineligible for a pension because it cannot be certified that the marriage or civil union with the deceased had lasted a year, or due to the lack of children in common.

Moreover, the Law reflects the repeated request by the Ombudsman to increase the amount for death grants.

Other actions of interest

The Sindic de Greuges of Catalonia sent to the Ombudsman an extraordinary Report on "social protection for self-employed workers". In it, and the chapter on conclusions, the possibility was mentioned that, on behalf of this Institution, recommendations intended to bring about certain regulatory modifications in the aforementioned special regime had been made, and that said recommendations might be taken into account in the drawing up of the Bill for the Statute on Self-Employment, currently under parliamentary scrutiny. This Institution responded to the Sindic de Greuges indicating that the proposed recommendations were of doubtless relevance for the improvement of this special regime, although, given their legislative complexity, each

one of them would have to be subject to careful study, particularly those that involved economic factors. Moreover, it was clear that, in any case, it would be necessary to consider whatever complaints might be posed with respect to each of the proposals, and perhaps as a result of the actions that might ensue on the matter, recommendations and suggestions could then be prepared were it deemed necessary to do so at that time.

Lastly, considering the fact that many of the proposed recommendations gathered in the aforementioned Report were subject to regulation in the Bill for the Statute on Self-Employment, it was considered advisable to wait for its final approval, without, thus, enabling this Institution to show any preference for certain legislative options that could only be dealt with in Parliament.

Employment of disabled persons

The disabled encounter more obstacles than the rest of the population in securing employment, due to a number of factors (economic, social, personal, etc).

In this sense, mention must be made of the ex officio enquiry initiated by the Ombudsman, which stemmed from various media reports on the absolute failure of both state-owned as well as private companies to meet the legally mandated two percent quota of job posts reserved for the disabled workers. Once appropriate actions were undertaken, the Directorate General on the Inspection of Employment and Social Security of the Ministry of Employment and Social Affairs reported to this Institution on the inspections and sanctions carried out in this regard. On the other hand, reference was made to the difficulty in making exhaustive studies on the matter, whenever, with respect to the calculation of the reserve quota, one must take into consideration all of the workers with a certified degree of incapacity over 33% because this factor does not appear in the data bases of either the Public Employment Services or the General Treasury of Social Security.

For this reason, the aforementioned Directorate General was asked to keep this Institution informed regarding the results of any further inspections carried out in this matter.

The Tax Department provides improved efficiency and higher quality of service to citizens

In 2007 taxpayers have lodged complaints requesting that the Tax Authorities provide better services to citizens who may have difficulty adapting to new technologies. The Ombudsman's recommendation has been accepted for Special Taxes. The administration has also made service centres available to taxpayers on an appointment basis to provide assistance to the public.

Internal Revenue: Special Taxes

Throughout 2007, The Ombudsman has received numerous complaints regarding the computerized system of payment for the Special Tax on certain modes of transport because the Tax Authorities did not offer alternatives to those who were unable to use this system without the assistance of specially trained professionals who charged fees. The Tax Administration considered the use of new technologies to be a viable alternative to traditional methods as this system greatly streamlined the entire process, resulting in a much more efficient tax collection service.

In this regard, the Ombudsman made a Recommendation based on the fact that although a large percentage of the taxpaying population lacked sufficient access to new technologies—personal computers or Internet—they were being required to pay tax through this

system. The Ombudsman reminded the Tax Administration that, in accordance with the General Taxation Law itself, the tax system must strive to be efficient and to limit indirect costs, and it must respect the rights and privileges of taxpayers. Moreover, in addition to regulations that are already quite complex for taxpayers, adding further technical barriers that may be unmanageable for certain people is inadvisable. The Tax Administration should make information available to citizens and assist them in preparing their tax declarations, which is why the Ombudsman recommended the adoption of adequate measures to ensure that all citizens could fulfil their obligations as taxpayers.

Finally, the Administration now offers alternatives to computerized taxpaying, as published in the Official State Bulletin last 26 December, through personalized service centres where taxpayers may submit self-payment form 576, by previous appointment.

Administrative supervision of financial services and products represents a constant cause for concern at the Ombudsman's Office

For many years, as stated in previous reports by the Ombudsman, there has been concern regarding the processing of complaints submitted with respect to banking practices, and also the lack of regulation in the financial services and products markets.

Bank of Spain

To this effect, it should be clarified that the actions of the Bank of Spain are legally subject to supervision by the Ombudsman, according to the Law regulating this Institution. This Law states that the Ombudsman shall have the authority to carry out any type of enquiry to shed light on actions by the Public Administration with respect to citizens, and the scope of such enquiries includes the activity of ministers, administrative authorities, civil servants, as well as those performing services on their behalf. Thus, the actions carried out by the Bank of Spain in the public area are subject to said supervision.

Among the functions assigned by Law to the Bank of Spain is that of the supervision of the activity and fulfilment of the specific regulations governing credit organizations. Nevertheless, it was stated verbally that the Bank of Spain has only the authority to oversee the solvency of the financial institutions, which does not fall into line with the contents of said regulations. Moreover, the powers attributed to the Bank of Spain in the area of disciplinary actions are also disregarded.

The complaints lodged focus on unfair commission charges, use and abuse of electronic payment methods, fulfilment of financial product contracts, account management and compliance with tax regulations. In general, abusive commissions in various operations and the managing of credit card balances and application of commissions make up the majority of these complaints. Nevertheless, the problems that were discovered to be substantially more important were those related to the management of statements and accounts and to integration with another set of tax regulations.

These situations and many others could be avoided through the appointment of a Commission for the defence of Financial Services, which, according to the Economic Regulations of 2002 [Reglamento de Ordenación Económica de 2002], would have a wide range of power to come to the defence of consumers. This Commis-

sion should have been established in 2004, but its creation has not been carried out and consumer complaints continue to be presented to the Complaints Department of the Bank of Spain, whose authority is more restricted than that of the Commission. The end result, according to the data gathered by the Ombudsman, is that the resolutions handed down by the aforementioned service do not usually address the root of the issue, which forces claimants to recur to the courts.

Debt Consolidation

In 2006, the Ombudsman initiated an ex officio enquiry before the Ministry of Economy and Finance as a result of the social concern surrounding the appearance of "debt consolidation" businesses. These businesses have been proliferating in recent months due to rising interest rates and the financial difficulties encountered by families in meeting their credit and loan obligations. Their main activity consists of consolidating each client's debts at other financial entities into a single loan. Although this business activity involves similar transactions to those offered by banks or savings and loan institutions, it lacks regulation and administrative supervision, which is becoming necessary in light of the significant number of citizens' mortgage loans involved.

This sector advertises a new service that can cause a certain amount of confusion for the average citizen. For this reason, the Ombudsman has repeatedly stated that specific regulation should be drawn up for certain complex products, services and sectors. Current legislation is inadequate for this dynamic market, whose activities are being conducted without proper supervision. Thus, a legal framework is necessary to regulate these businesses and the products they offer, including administrative controls, with the aim of offering better protection to consumers.

In reply to the Ombudsman's request for information, a report was sent to point out that a Bill was being

drawn up among the Ministries of Economy and Finance and of Health and Consumer Affairs, by virtue of which the intercession and acquisition of loans by non-financial entities would be regulated. Moreover, the Ministry of Economy had already notified the Ombudsman about the modification of the regulations governing personal loans: protection from deceptive advertising practices, transparency in fees, commissions, and prices, and regulation of pre-contractual business documents and information.

Upon assessment of this Bill, it may be concluded that there is evidence of a legal vacuum in this area, although full power for supervision is restricted to the consumer affairs authorities as opposed to monetary and financial authorities. In short, we may state that the thesis and criteria presented by the Ombudsman have been disregarded.

Other administrative procedures: the Cadastre

For some time the Real Estate Cadastre has been growing in importance due to the fact that the appraisals set by the Cadastre are used as the basis for real estate taxation. In other words, the Cadastre, originally intended mainly as a census registry, has become a basic instrument for taxation because property owners are required to register there, in many cases prior to submitting documentation to the Property Registry, and, as such, the administrative obligations of the Cadastre have increased.

The most common reasons why citizens have lodged complaints with the Ombudsman are the following: unjustified delays in the resolution of cases, appraisal periods or administrative inaction, discrepancies in the registers and discrepancies in new appraisals.

Property has been traditionally documented with a description in a public title deed before a notary, who certifies merely what has been expressed therein. The parameters of such descriptions were more or less in line with reality, although it is generally impossible to certify the true dimensions of the property in question in this way. Nevertheless, new techniques offer more precise descriptions and more accurate measurements of property, which in some cases leads to modifications in the Cadastre entries. This situation has resulted in a large number of complaints that have generated an overwhelming workload at the various Regional Cadastre Registries, resulting in long delays in responding to citizens. Such procedural delays can take, in certain cases, as long as five years, and they are the most serious in cases involving newly constructed residences or

those whose entry into the Property Registry remains pending due to the prerequisite of a cadastre reference number. Without this number, citizens cannot finalize mortgage transactions in the process of purchasing their home.

On the other hand, there are numerous complaints involving disagreement with new appraisals, which in most cases are considered to be excessive, making it impossible for concerned parties to sell their property at the price set by the Cadastre. This issue is most noticeable in coastal municipalities or in large cities where the greatest increases in appraisal values have taken place. Another specific problem arises when urban planning results in the re-zoning of lands, and there is a time lapse between the approval of said planning and the execution of the same. In such cases, the taxpayer receives an appraisal based on the estimated future urban value, meaning that he or she must pay tax based on the predicted value as opposed to the real value of the property.

Consumer Affairs

The number of complaints received by the Ombudsman on the subject of consumer rights grew by 62.6%, which in turn gave rise to the initiation of two ex officio enquiries, the first of which referred to the increase in car park fees, and the second, to electronic business transactions.

As for the first enquiry, the National Institute of Consumer Affairs stated that it lacked specific information on the real increase in fees charged in the car park sector, which led the Ombudsman to approach the Spanish Federation of Municipalities and Provinces to find out if said entity had been able to verify the fee increases reported by consumers. By the time this report was being drawn up, no response had yet been received by said Federation regarding the information requested.

The second enquiry contained reports on the potentially illegal practices employed by certain businesses—specifically on-line auction firms—in conducting electronic transactions.

The Ombudsman Institution—ever aware of the continual efforts made by the National Institute of Consumer Affairs to ensure security in electronic business transactions—should stress that it corresponds to the Administration to continue to work toward prevention of electronic transaction irregularities and to warn consumers about potential infringement of their rights in this area.

The protection of the natural environment and classified activities have been a major focal point of the Ombudsman's actions throughout 2007

In 2007 complaints have continued to be lodged on a regular basis due to problems related to the dissemination of information by the administrations, namely, the lack or unexplained withholding of it, the releasing of it after established deadlines, or the releasing of it to the Ombudsman instead of directly to the concerned party in an attempt to satisfy their duty to inform. It was necessary to remind them of their duty to expressly resolve all applications within the established periods, and that failure to provide information is levied, and that they fall outside the scope of their authority if they are not directly, clearly, and reasonably supported by article 13 of Law 27/2006. In accordance with the law and community jurisprudence, it is not valid to deny access to reports such as those prepared to request European financing for infrastructural projects, or those related to administrative hiring practices, those involving licensing for of construction projects, those containing technical and/or economic data, or those studying water consumption data for golf courses, by arguing that the contents do not constitute environmental data as set forth in Laws 38/1995 or 27/2006.

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It should be pointed out that, as for the right to be informed as defined in Laws 38/1995 (repealed) and 27/2006 (in force), administrations frequently exclude technical, economic, or financial information, a practice that is legally unfounded and which makes for makes the arbitrary denial of information. In accordance with the law and community jurisprudence, the right of access to environmental information refers to any data or document that, pertaining to the interests of protection of the environment, may influence the final outcome of

a procedure or any decision that may have an impact on some aspect of the environment. Consequently, it is not valid to deny access to reports such as those prepared to request European financing for infrastructural projects, or those related to administrative hiring practices, those involving licensing for of construction projects, those containing technical and/or economic data, or those studying water consumption data for golf courses, by arguing that the contents do not constitute environmental data as set forth in Laws 38/1995 or 27/2006.

Evaluation of Environmental Impact

Actions taken in this area have been focused on two important areas: the separate and autonomous challenge of environmental impact assessments, and the omission of an environmental impact procedure and its consequences. As for the former, in our view, it was the administration that modified its position (Ministry of Public Works), supporting its arguments in reasons given in doctrinal documents and court findings. This indubitably shows a degree of progress that pleases the

Ombudsman, although one must not yet consider the issue settled.

The omission of an environmental impact procedure should be inexcusable as it is preventive in nature and its goal is to assess the potential impact of a project in the planning stages, not one involving works or installations that have already been undertaken. Environmental impact assessment (EIA) must not be carried out as an administrative procedure attached to a completed project or as an environmental impact permit granted after the fact. The EIA is more than merely a process of bureaucratic justification for decisions that have already been adopted. The objective is to genuinely mitigate—not merely officially—the environmental impact of a project, and even to weigh the possibility of denying authorization (“zero alternative”), which is difficult if not impossible if the project has already been carried out and the real situation has, in fact, already been altered. One must take into account that the restoration of nature is always expensive, complicated, and bureaucratically time-consuming. The consequences of omission of the EIA should be the voiding of the building permit, the obligation to restore damaged terrain, and the full blockage of the proposed project. Given that this is not the overriding jurisprudence, which considers the EIA excusable, the Ombudsman considers that the legislator should undertake to modify current legislation along these lines.

Protection of Nature Preserves

Nature Preserves designated as protected or those on the way to acquiring such status were the focus of the Ombudsman’s activity in this area throughout 2007. One noteworthy enquiry carried out since 2006 investigates delays in the approval of the Land Management Plan for Natural Resources (PORN) of the Guadarrama Mountains. It aims to determine if the delays are being exploited to revise development and urban planning policies in the Guadarrama mountain villages, which may be detrimental to the protection of the environment. The reports sent to date by the relevant authorities Councils of the Community of Madrid and the Council of Castilla y León have been both incomplete and confusing, so the investigation continues.

Another relevant investigation refers to the modification of the PORN of Fuentes Carrionas and Fuente Cobre-Montaña Palentina, which makes the ski resorts permissible despite the fact that up to that date they had been prohibited. The modification of the PORN, passed in March 2006 without any previous environmental impact study runs contrary to the laws in force at that time with respect to the protection of natural areas (Law 4/1989, on Conservation of Nature Preserves and Forest Fauna and Flora, Law 8/1991, on Nature Preserves of the Autonomous Community of Castilla y León and Law 4/2000, on the Declaration of the Natural Park) as well as Law 9/2006, on the strategic assessment of plans and programs. The Ombudsman determined that the arguments made by the Council of Castilla y León were unfounded and recommended that

the modification of the PORN be repealed. This was rejected, which shows, in our opinion that improvement of the local economy takes precedence over the conservation of the fauna and flora of the Natural Park as well as respect for regulations currently in force.

Air Pollution

Regarding pollution emission levels, if complaints in 2007 were indeed numerous, most of the enquiries carried out did not find any administrative irregularities since the relevant authorities are obliged to take action if—and only if—concentration thresholds established by regulations are exceeded during certain hours and, in the case of some pollutants, if this has occurred for a certain number of days in the year. Year after year, illegal emissions caused by specific industries have been detected in the course of several enquiries, and the corrective measures adopted as well as the suspension or termination of this practice have been verified.

Watersheds

Doubts persist regarding regulations governing ecological watershed areas. Legislation does not clearly determine if the granting of water rights for public consumption should always prevail over the protection of an ecological watershed area or if this should be the case only during periods of extreme drought. Evidence of this is that the Hydrographic Confederations resolve similar cases using contradictory criteria with respect to new concessions regarding exploitation of ecological watersheds. As a result, the Ombudsman reckons that the legislator should revise and clarify existing regulations in favor of the latter if their aim is indeed to ensure the viability of techniques meant to protect ecological watersheds.

With respect to dumping, in 2007 there were several cases involving companies that had not been properly regulated or effectively sanctioned by the administration for years for failure to comply with existing legislation. In these cases, the Ombudsman approaches the administrations regarding operating permits (to suspend business activity if dumping is unregulated), and reminds them of their authority in such matters (revoking of dumping permits, expiration of concessions, adoption of preventive measures, suspension of business activity in qualified cases of non-compliance). Nevertheless, neither the sanctions contained in the Watershed Law nor their enforcement by the Watershed Administration are harsh enough to be effective, especially when those who do not meet the requirements set forth in existing regulations are business firms that stand to profit from non-compliance.

The dumping of gray water directly into the Viejo Cauce [Old Riverbed] del Turia in Valencia during periods of rain should be mentioned. To address this issue the City Hall will install seven special tanks in strategic points along the general sewer network. The Ombudsman has enquired after the completion deadline and the true effectiveness of such works, as well as the reasons given by the City Hall of Valencia for discarding the pos-

sibility of establishing a periodic maintenance program for the Viejo Cauce [Old Riverbed] del Turia.

Waste

This section focuses on an investigation of the gypsum phosphate slag ponds in the outskirts of Huelva. Information provided by the Nuclear Safety Council (CSN) implies that all gypsum phosphate is currently transported from production plants to slag ponds via fresh water suspension pumping. The risk of contamination of the surrounding water supply is minimal. Moreover, the potential radiation risks to personnel and the general public are minimal considering the limits set by existing regulations, and they cannot be deemed a radiation hazard. However, problems have been detected with respect to the clean up of disused slag ponds, and for this reason an enquiry was initiated with the Council of Andalucía regarding the matter. Furthermore, the CSN indicated the existence of another inert waste and debris dumpsite where Acerinox ash with 137Cs was accidentally dumped. This area had been cleaned up by the Environmental Management Agency (EGMASA) and the Huelva City Hall, but certain problems persist, and they will require follow up to ensure that they are duly addressed and brought into full compliance with regulations during 2008.

Noise Pollution

We refer to three specific cases that highlight administrative breakdowns in cases that are difficult to resolve. The first case involves the local festivities fairgrounds in Las Rozas (Madrid), which demonstrates the lack of resolve by the local authority to act in accordance with higher standards. The second case refers to the unnecessary use of sophisticated sound measurement systems before adopting the first urgent preventive measures because the ways to resolve cases involving noise pollution—such as the preventive suspension of the noise-generating activity and the assessment of sanctions—do not require the obtaining of precise measurements. The third case involves the widespread cases of noise pollution involving mopeds and motorcycles operated without complying with existing environmental regulations. It is imperative to urge the relevant public authorities and administrations (City Halls, Industrial Organizations, etc.) to take measures to eliminate or reduce said noise pollution in order to guarantee the effective protection of public health. This is a real problem whose solution may be found in the effective functioning of vehicular inspections and in the enforcement of traffic regulations as well as basic city ordinances.

Airports, motorways and railways

As regards infrastructure, the variety of environmental issues is quite extensive. It ranges from the right to environmental information and impact assessment (all types, including noise and air pollution in general) to significant problems related to the administration and

management of resources, such as the not uncommon practice of releasing information to the public during vacation periods; we also point out the incorrect “substantive/environmental” distinction which is used by the administrations in order to shift their own responsibilities onto the shoulders of others.

As for airports, it is only possible to state that serious complaints about airport noise continue to be persistent. The Ombudsman cannot offer any additional updates on the information already provided in previous years regarding the inappropriate ways that environmental problems are conceived and managed by airport authorities (above all at Madrid-Barajas and at Barcelona-El Prat). Another serious case that deserves mention is one involving the Castellón airport, where public works had begun in spite of the fact that the project had not yet been approved by the Ministry of Public Works, Directorate-General for Civil Aviation.

Classified Activities

In this area, one with a surprising degree of activity, the Ombudsman tends to request that administrations adopt provisional measures prior to initiating any type of sanctioning procedure (total or partial suspension of business activity or of the project being executed, temporary closure of noisy or unhealthful places of business or facilities and shutting down of equipment or systems that represent a nuisance to neighbours). Such provisional measures should last until such time as the activity is granted authorization or the activity is carried out in such a way as to avoid further disturbances, with prior confirmation that the installations fulfill the specifications of the approved plan and any corrective measures imposed.

Our aim is to analyze problems that arose in 2007 and were treated with special care and diligence as they were both numerous and diverse. Firstly, a group of complaints was made by citizens who wished to express their concern about the relaxed attitude, detrimental to their interests, with which the Administration handles cases involving owners of noisy and bothersome activities. This is the case for businesses that operate without the appropriate permits and remain open for business for months or years in spite of repeated complaints by neighbours. In fact, in certain cases, the solution of the Administration is simply that the business owner submits a request for legalization. Thus, the Ombudsman would like to call attention to the fact that the sluggish pace of supervisory activities or in administrative procedures can become an enormous ordeal in the homes of the affected parties.

We would like to point out those cases in which an administrative body merely provides a report on the licenses granted years before to an establishment without taking the trouble to check if the current activity continues to meet the conditions set forth in the original authorization. In such cases it has been necessary to remind the administrations that licenses for classified activities are indefinite in nature and they remain enforceable during the entire time that the activity is permitted. This means that, particularly in light of com-

plaints by citizens, the Administration may and should confirm, at any time, that the activities being undertaken always meet the limits set forth in regulations meant to protect the rights of others.

Additional cases involve those for which the Administration claims that it does not have sufficient means to carry out adequate measurements or to confirm the existence of excessive noise levels. In such situations, it is advisable to refer to article 55 d) of Law 7/1985 Regulating Local Ordinances as well as to what is set forth in autonomy legislation, where the possibility of entering into agreements with other City Halls or with Provincial Councils is provided for.

Finally, we refer to cases of citizens who must put up with, year after year, noise generated by the town festival because they happen to live a few metres away from the venue or near a place of business rented by a social club organizing celebrations before, during, or after the festival. One of the main problems we find is the interpretation many administrations make of article 9.1 of Law 37/2003 on Noise Regulation. The Ombudsman has long recommended that the interests of all inhabitants should be reconciled—in consideration of everyone, and not only those who choose to celebrate festival days with uncivil behavior. In light of this, city and town halls are routinely asked to increase environmental watchfulness and organizational standards for these special events in order to guarantee order, safety and healthfulness during the period of festivities, and also to minimize the inconveniences caused to neighbours who cannot or do not wish to participate in said activities.

High-tension lines and mobile telephony

In the area of Electromagnetic Fields (CEM), mention should be made of the intervention of the Second Deputy in a summer course in El Escorial organized by the Complutense University of Madrid. It was necessary to point out the procedure for handling such complaints, which, although progressively fewer in number, remained relatively constant. Above all, we continue to refer to the latest research published by the Ministry of Health and Consumer Affairs (www.msc.es) on the subject of Electromagnetic Fields and their effect on health. We must not overlook the most blatant cases of aesthetic eyesores or the obvious lack of control, planning and even involvement in decisions governing the placement of installations. The Ombudsman reckons that, regardless of a lack of evidence indicating any health hazard, the placement or failure to remove such installations takes place with hardly any regard whatsoever for proper urban planning, not to mention very little respect toward the public perception of the potential risks involved. The Ombudsman takes this public perception into consideration regardless of whether or not it is substantiated. Certain risks and hazards have been irrefutably demonstrated: the installations are unpleasing to the eye, they are noisy, and they carry risks of fire or electrocution, among other nuisances and dangers. Thus it is not possible to limit oneself to electromagnetic fields when arguing that such installations are completely harmless because they most assuredly are not.

The Land and Urban Planning Law will govern urban and environmental issues for sustainable development

In 2007, Law 8/2007, May 28, on Land and Urban Planning came into force. Given skyrocketing housing costs as well as the public perception of extensive corruption in urban planning and the destruction of a large part of our coastline and natural areas, this law introduces important measures of control, particularly with respect to the environment.

As has been repeatedly pointed out in the last few years, the basic aims of the new law are the following: to guarantee land for subsidized housing, to make urban and land development sustainable, to promote efficiency in the real estate market and to fight speculation by increasing transparency and boosting citizen participation in the urban planning decision-making process. To achieve these aims, regulations establish for the first time the rights and obligations of all citizens—not only those of landowners—a truly fundamental civil statute governing land and urban and rural environments. In summary, housing and the attendant equipment and services should henceforth be treated as a right of citizens and guaranteed access to it should be considered a duty for the state authorities. We must allow time for the law to be fully implemented in order to make an assessment as to its impact on societal concerns in this matter.

As regards urban planning and following up on the issue already mentioned in the 2006 Report, one should insist on the need for sustainability to be viewed as a principle factor governing planning, and, thus, it should be incorporated into the initial planning stage. Planning carries with it an impact on nature that should be assessed and mitigated. This integration of sustainable development as a guiding principle in land policy represents one of the more noteworthy contributions of Law 8/2007, on Land and Urban Planning. Another stimulus in the effective integration of the environmental perspective in urban planning is the preventive control established in Order 2001/42 on what is known as strategic planning assessment. The objective is the assessment of planning instruments during their preparation and before their final approval, which should help prevent the completion of environmentally unsustainable projects. However, there was a notable increase in some autonomous communities in the number of urban projects seeking approval prior to the deadline in order to avoid the new requirement for strategic planning assessment. These reported practices represent attempts to avoid controls that might shed light on the unsustain-

ability or infeasibility of a project. Problems arise mainly as a result of the interpretation of what constitutes an “initial formal preparatory act”. As noted in 2006, the Ombudsman institution reckons that the progress of urban projects should be subject to environmental impact assessment prior to acceptance or approval. In the absence of this, the strategic environmental evaluation must take place before precisely strategic decisions are taken. For this reason it is important that a relevant environmental sustainability report should be provided among the project planning report documentation, and this should be both readily accessible to the public as well as easily understood, containing a non-technical summary.

The new Law 8/2007, on Land and Urban Planning also establishes that during the consultation phase on urban planning and development instruments, the “Water Authority Report on the existence of sufficient water resources to meet demand and on the protection of the public water domain” should be provided. Before Law 8/2007 entered into force, article 25.4 of the Watershed Law provided for the participation of the Water Authority in the processing of urban and land planning projects requiring the submission of a mandatory report on the availability of water. This report is required prior to the approval of urban planning projects. As noted in 2006, complaints are becoming more and more frequent regarding the approval of projects without the required certification of the existence of sufficient water resources to meet the new demand. In spite of the advances made in the cited article 25.4 in force, it is inconceivable how something so basic has taken so long to become a part of our positive rights. Moreover, in the opinion of the Ombudsman, this should have been done in a complete and definitive fashion, for example, establishing unequivocally the binding nature of the cited report and also establishing the procedural stage at which it becomes obligatory to provide it. In this way any and all doubt could have been eliminated regarding the possibility of acquiring approval for urban planning projects without guaran-

teed availability of water supply. Furthermore the common practice of City Halls and Town Councils of exploiting this legal gap in order to avoid making final approval for new urban planning projects contingent upon the obtaining of said report could also have been obviated.

Once again the extreme sluggishness characterizing urban planning management due to the complexity of administrative procedures involved must be emphasized. As has been pointed out in previous reports, traditional action methods present repeated problems that, as they become known, require formulas of systemization and simplification to avoid delays. What has been discussed in previous years regarding deficiencies observed in the application of historical urban planning execution should be confirmed, with special emphasis on the systems of compensation, the execution method most commonly used in the development of plans. The problem is that the original owners of land do not want to invest in their own property. Nor do they wish to assume the costs associated with the planned urban project, the equal distribution of benefits and burdens through re-zoning, and above all the execution of urban planning works. Instead, they prefer to wait to see if their lands will be reappraised in order to sell them to developers at a substantial profit. Once again we point out that the City Halls, in general, are not in favour of enforcing regional laws to guarantee the execution of planned urban development in cases of non-compliance with established planning timeframes. Most of the time the deadlines are widely ignored without any action being undertaken in the area of urban management. Nevertheless, the administration never manages to replace the compensation system with another, more effective one.

Another of the significant problems in this management model is that the closure instrument, the expropriation that affects proprietors who do not adhere to the system, is ineffective given that it supposes compensating the proprietor for the projected urban value of the property. On one hand, this may result in the non-incorporation of many proprietors and result in enormous delays in the system because of the ineffectiveness of the expropriation process. On the other hand, there are huge costs in terms of time and money involved in an expropriation procedure that, without a doubt, the Compensation Council would try to avoid. In order to address this issue, new regulations were provided in Law 8/2007, based on the real circumstances affecting land without taking into account future or estimated appraisal values derived from legal re-zoning for construction or other uses which have not been fully carried out. The Ombudsman trusts that the Law, which calls for prudent market values that are not speculative, shall guarantee proprietors adequate compensation when they are unable to participate in the urban management project.

This year it is necessary once again to emphasize the number of citizen complaints originating in the Community of Valencia. These complaints clearly indicate a rejection of urban planning execution techniques

as established by the Law of the Generalitat Valenciana 6/1994, on Urban Development, which is upheld in the new Law 16/2005, December 30, on urban planning. It has been seen, moreover, that more and more often the Valencia model is alleged to be unconstitutional because of the infringement of state authorities in the area of basic regulations governing administrative contracts (article 149.1.18th Constitution). The claimants question the appropriateness of the role of the urbanizing agent and his functioning within the regulation governing the hiring of state and community employees. In recent years judicial decisions have been handed down on this matter, among which those of the Superior Court of Justice of the Community of Valencia are most noteworthy because citizens (particularly associations, homeowners' associations, landlord organizations, etc.) frequently referred to them to argue that the legal nature of the relationship between the urbanizing agent and the Administration represents a public concession service contract—which is, thus, subject to applicable regulations. The aforementioned judicial body reached this conclusion after an analysis of state regulations on public and autonomous community contracts was made in light of the jurisprudence of the Court of Justice of the European Communities. Although it is too soon to make a general assessment of the efficacy of the new provisions in Law 16/2005, December 30, of the Generalitat, Urban Planning of Valencia as well as the impact that its entry into force has had, the Ombudsman trusts that the problems reported by citizens in their complaints will be duly addressed, taking into consideration that the very Law itself aims to achieve two main objectives: to reinforce the right to information of proprietors, and to offer improved transparency and competitiveness in the selection process for urbanizing agents.

Housing

The Ministry of Housing is preparing the disbursement of amounts that should be reimbursed to the Autonomous Communities and the Autonomous Cities of Ceuta and Melilla—in cases involving reclassification of subsidized housing by owner request—contingent upon the basis that said reclassification may indeed be granted by the relevant regional authorities without affecting the public interest. Specifically it is requiring that an individualized technical study on the adequate supply of subsidized housing in the municipality where the reclassification is being proposed be attached to the application, that said reclassification be deemed viable without affecting the public interest, and that proof of the inadmissibility of exercising rights of pre-emption and buy-out—which would be less costly for the Administration making the request than building new subsidized housing—be provided. Furthermore, it is warning that such applications may be returned without liquidation payments if these requirements are not met.

The responsibility for coordinating the housing sector in economic terms falls on the state, as does the establishment of a fiscal housing policy (with the excep-

tion of special territorial administrations where the responsibility falls on the county council). The state must also draft basic legislation governing building and construction, actions which are eligible for subsidies, oversight of financing methods, levels of protection or resource supply, and mortgage, registry and forced expropriation rights. These limits in authority cannot be overstepped, with reference to public interest in the adequate supply of subsidized housing to face the huge demand. As for the aforementioned voluntary reclassifications, in light of the exclusive authority of the Autonomous Cities of Ceuta and Melilla in the housing area, and considering the State's position as beneficiary of the amounts to be paid by the applicant for reclassification, it follows that the State should establish the safeguards that it deems necessary so that the amounts paid are correct and fair. The intervention of the Ombudsman has come about in response to complaints involving applications for voluntary reclassification that, in spite of favorable decisions by the Autonomous Communities with the authority to process and grant them, are suspended because of conditions imposed by the Ministry, which are impossible to fulfill and lack in any legal basis whatsoever. The matter is important because even though it is reasonable that voluntary reclassification of subsidized housing should be subject to controls, any restriction must come from autonomic legislation and from its enforcement by the Autonomous Communities.

A second matter concerns the Community of Madrid, where a solution became necessary in 2007 for a good number of citizens who learned that the favorable result in the subsidized housing lottery they had participated in had been revoked. This occurred because their applications (originally appearing on the Sole List of Applicants for Subsidized Rental Housing with Option to Purchase) had been included on the list of participants in the aforementioned contest even though none of them met the residency requirement in the municipality where the subsidized housing project had been planned (Móstoles). Those affected have been offered the possibility of becoming renters of alternate subsidized housing in the same municipality of Móstoles.

A third matter involves the City Hall of Museros, in Valencia, after it became clear that the period of residency required in one of its subsidized housing lotteries breached applicable Autonomic laws. They accepted the Ombudsman's recommendation to modify the requirement and allowed new applicants to participate in the aforementioned contest. The Ombudsman reminded the City Hall of Museros that municipalities lack legal authority to legislate in the area of subsidized housing; thus, in accordance with the Law on Basic Municipal Code, imposing a requirement that contradicts autonomic law represented an infringement of the principle of legality.

The fourth matter has to do with requirement obliging young people in our country who go abroad to attend courses at universities belonging to the European Higher Education Area, to sign onto a special residency register for Spanish residents abroad at the Span-

ish Consulate in their place of study (Royal Decree 1690/1986, July 11). This prevents them from participating in selection contests for subsidized housing in their places of permanent residence because they cannot meet the municipal residency requirement under these special circumstances. If one takes into account the well-known difficulties involved in gaining access to suitable housing—particularly with respect to young people, on whose behalf numerous measures have been adopted to promote their emancipation (among which is Royal Decree 1474/2007, November 2)—the authorities must strive to find a solution. Otherwise, some of those young people might choose to give up the opportunity to study at a foreign university so as not to sacrifice eligibility to apply for subsidized housing in their municipality.

The fifth point refers to various regulatory aspects contained in the Law on Building Ordinances. This law states that insurance must be underwritten to guarantee the repair of certain defects in construction, but currently the only mandatory insurance requirement to date is meant to protect the consumer in case of defects involving only the foundation, supports, beams, the forged reinforcements, load-bearing walls or other structural elements which might compromise durability. The other two types of insurance under consideration (damage that affects finishing or the final stages of the works, and also construction features that do not comply with minimum standards required for inhabitability—such as those related to hygiene, health and environmental protection, noise prevention, energy efficiency and insulation) cannot be demanded of the housing construction company because the State has not made this obligatory despite the fact that, as per the Law on Building Ordinances, this should have been done within two years of its promulgation.

On the other hand, even though the Law on Building Ordinances seems to come to the defense of consumer rights (article 20) in stating that title deeds for new works or buildings shall not be authorized or listed in the corresponding property registry without certification and proof of guarantees (the aforementioned insurance), the reality is that it is not uncommon for this obligation to be evaded and the purchasers of this type of housing often find that said insurance has not been underwritten. The reason for this is that the Law on Building Ordinances does not clearly state if the obligation set forth in article 20 refers to the granting of title deeds for new work under construction or for already completed ones. For this reason a note had been sent out in May 2000 from the Association of Registrars—as a result of meetings with representatives of the Construction and Development Association of Spain, insurers and the Spanish Division of AIDA—to establish the omission of the requirement to provide proof of insurance when a new work in construction is logged in the property registry, even though the request for issuance of the title deed must clearly state the obligation to declare the completion of the work in the register, at which moment proof of insurance must also be ascertained.

Important legislation passed, such as the Basic Statute of Public Employment, incorporating recommendations by the Ombudsman

The Ombudsman has continued to take action with respect to issues such as harassment in the workplace; assault on medical professionals; access to educational institutions and to the professional armed forces; publication of civil service examinations and required qualifications; balancing of work and family life; conflict of interest; medical leave; elimination of differences in pricing of medication for state pensioners and pensioners under the General Social Security Regulations, and rules governing semi-retirement, among others.

General Regulations for Civil Service

In 2007 the Basic Statute of Public Employment was approved, representing a significant piece of legislation with the following objectives: to harmonize and structure civil service personnel in line with the extensive changes resulting from Spain's integration into the European Union, to organize the jurisdictions of regional entities on which the state is based, and to guarantee the same basic regulations as regards working and professional conditions for the more than two and a half million civil servants and workers making up the public sector, promoting its modernization in order that duties may be performed in a satisfactory manner.

The Basic Statute has incorporated recommendations offered by the Ombudsman to the Administration, such as one suggesting that the general regulations applicable to career civil servants be applicable to temporary civil servants as well, insofar as their condition permits. Moreover, the general requirement to reside in the same municipality where work duties are performed has been eliminated, except for exceptional cases where the nature of the service provided requires this.

Of particular note in the new Statute is the concern of the legislator that all of the distinct administrations strictly comply with the constitutional principles of equality, merit and capacity as regards access to civil service—which the Ombudsman has consistently insisted upon—and that the selection processes be conducted with publicity, transparency, impartiality, and professionalism.

A recommendation was presented to the Ministry of Public Administrations suggesting that, among the

rules that govern the selection processes to gain access to the different organizations and levels, that pregnancy due dates of applicants be expressly included as a circumstance of *force majeure* when an examination date coincides with it, allowing for an alternate examination date. Action has also been taken with respect to complaints by citizens of Jewish or Muslim faith due to the scheduling of examinations on Saturdays, Fridays, or on dates coinciding with certain holidays, and also with respect to the high fees established by some city halls to candidates in the selection processes, which denies the financial disadvantaged from equal opportunity to join the civil service.

A recommendation was made to the Ministry of Labour and Social Affairs that they carry out an analogous interpretation of article 44 of the General Regulations Governing Access to Civil Service of the General State Administration, so that, in addition to treating the spouse's previous post as a factor of merit, the non-marital partner's be considered as well. Another alternative would be to proceed with the revision of the legislation to include an expression such as "the other partner in a non-marital civil servant couple" in the text in order to end the discrimination that has been taking place.

It should be pointed out that Law 37/2006, has provided a solution to the problem facing many municipal councillors and mayors who made up the city halls elected in 1979, allowing them to calculate the time period in which they performed their representative duties, without being able to make contributions, so that they may either be granted retirement benefits or have them increased accordingly.

Action has continued to be taken as regards the prevention and control of harassment in the workplace, and the scope of an ongoing investigation has been widened to include all of the autonomous communities.

Statutory Health Services Personnel

An ex officio investigation continues to monitor the effective mobility of statutory personnel, and actions have been conducted in the area of professional career development. Progress has been achieved with respect to the implementation of a personnel registry and a study regarding the needs of specialists, applicable to nursing professionals.

Efforts continue to be made with Ministry of Health and Consumer Affairs and with all of the autonomous communities regarding violence inflicted on health care professionals as well as measures of prevention and assistance currently in force or planned for future implementation.

An investigation is under way regarding the possibility of making partial retirement effective as projected in article 26.4 of Law 55/2003, of the Framework Statute, pending development.

An analysis has been carried out regarding the situation of so-called supplementary staff in the Autonomous Community of Castilla and Leon, and an enquiry has been reopened with respect to the granting of leaves of absence for childcare purposes and the attendant impact on the balance of work and family life for workers of the Madrid Government.

Public Service in Education

Non-university teaching

Numerous complaints have been received regarding the rules governing systems of access once new Regulations came into force for hiring, access and establishment of new teaching specializations among educational faculties.

The core of the problem affects the contents of the examination phase described in the cited Regulations, because, in light of the temporary situation regulated by the Organic Law of Education, an exceptional situation has been created for active temporary teachers, who may substitute one of the examination exercises with a report in which their knowledge of the didactic material is evaluated.

The Ombudsman considers that such plans, which allow for discretionary power in the various autonomous communities, should be avoided because they may or may not be applied in different regions, and this would lead to situations that are incompatible with the "required standardization" of the system of candidacy for teaching positions, as stated in the Organic Law of Education.

University Professorship

Tenured university professors have expressed their disagreement with Organic Law 4/2007, which provides for their incorporation into tenured faculty if they hold

a PhD and have passed accreditation, when in the past said requirements were not demanded of candidates seeking to join tenured faculty. The Ombudsman does not reckon that the cited measure infringes upon the rights of this group, given that the Law provides that those who are denied access to university tenure shall remain in their current post, retaining their teaching, and, as the case may be, research capabilities. Moreover, as long as tenured or entitled university faculty exists, universities shall be able to hold selection processes to find candidates for these posts.

As regards the system of national entitlement for university professors, it was observed that the Royal Decree 774/2002, which regulates access, did not set a deadline for the corresponding entitlement tests, once the Evaluation Panel had been formed. The Royal Decree 1312/2007, which establishes national accreditation for access to tenured faculty posts, has resolved this issue by establishing, as per the Ombudsman's recommendation, the corresponding deadlines for presentation of the documentation, for claims, for rectification of errors, and for the passing of resolutions.

With respect to deficiencies observed in the evaluation system conducted by the National Evaluation Commission of Research Activity (CNEAI), a recommendation had been made by the Ombudsman, and duly accepted, to improve the level of transparency in the resolutions passed. Nevertheless, complaints have continued to be submitted, which questioned the objectivity of the criteria applied for the recognition of six-year periods, considering that these were too general and failed to clarify how to quantitatively evaluate certain merits, with scores granted, allegedly, in terms of the journal or publication in which papers had been published. For this reason, it was concluded that the instructions of the Secretary of State of Universities, in accordance with the aforementioned recommendation, had not been fulfilled so as to include a detailed explanation for the denial of six-year periods in some cases. Consequently, new actions have been undertaken to learn the reasons why the Evaluation Commission has not complied with these instructions.

Justice Administration Staff

The Secretary of State for Justice has rejected a recommendation made by the Ombudsman urging them to make payment of the specific amounts owed to certain substitute judges and magistrates who had performed services in the Basque Country and in Extremadura.

Regarding conflicts of interest, an application by a temporary civil servant assigned to the Melilla Courthouse requesting termination from her post and placement on the employment agency list in the same position she had previously occupied, until she could be named for a new job post, was denied, because her husband had gained access to a vacant position in the same courthouse where she performed duties. The Ombudsman stated that, notwithstanding the conflict of interest involving the spouse, the situation should have been regarded in light of the detriment caused to the claimant—

because the fact that the concurrent circumstances in this case had not been exhaustively considered should not, in the interest of fairness and analogy, hinder the full application of the Order of 12 July 2005, on selection, candidacy, and naming of temporary civil servants. It was also stated that the aforementioned situation implied that Melilla, Ceuta, and the islands should have greater numbers of professional court clerks so as to allow them to exercise their right to family propinquity.

Penal Institution staff

By virtue of Organic Law 3/2007, on effective equality between women and men, which modified Law 36/1977, regulating the Special Prison Guard Corps and the Creation of the Penal Institution Corps of Deputies, the separate categories for men and women have been expunged, effectively integrating all of these civil servants into one corps, just as the Ombudsman had been calling for.

As for financial benefits in social action planning, one noteworthy problem involved a contract employee assigned to a penal institution whose foster daughter had been denied aid because she had not been registered in the Family Record Book even though a document from the relevant Regional Ministry of Castilla-La Mancha certifying her legal status had been presented. The Ombudsman deemed that failure to appear in the Family Record Book did not warrant the denial of aid if alternate certification had been submitted. The Administration has accepted this criterion and shall incorporate it in future legislative terms in cases involving both international adoptions as well as temporary foster care lasting no less than one year.

Armed Forces Administration Staff

The detriment caused to certain applicants, seeking to take part in a selection process for professional army and navy positions in 2006 in the capacity of voluntary reservists, was investigated. Although the deadline for participation in said selection process was 15 December 2006, the resolutions for admittance of the aforementioned voluntary reservist status had not been published in the Official Gazette of the Defence Ministry by that date—as required by law. The Defence Ministry stated that, even though at first the applications had not been accepted at certain offices (Cantabria, Ceuta, Cordoba, Granada, Madrid, Malaga, Melilla, Salamanca, Seville, Toledo and Valladolid), each of the concerned parties was finally given the opportunity to participate under conditions of equality with the rest of the applicants.

Answering concerns by the military regarding the balance of work and family life, significant changes were effected in the Armed Forces in 2007 when two new pieces of legislation came into force: 1) the aforementioned Organic Law 3/2007, on effective equality between women and men, which sets new rules on leaves of absence for maternity, adoption or foster care, or paternity, and 2) the Basic Statute of Public Employment, which includes new regulations on leaves of absence for private matters and reduction of work timeta-

bles for cases involving premature births or postpartum hospitalization.

State Security Forces and Corps Staff

Civil Guard

One of the main concerns for Civil Guard officers and their families has been the modification of disciplinary regulations, and, thus, ex officio enquiries have been carried out since 2002 regarding the revision of Organic Law 11/ 1991, on Civil Guard disciplinary regulations, which have concluded with the passing of Organic Law 12/2007. This legislation introduces significant changes. One of the most relevant is the omission of arrest from the chart of disciplinary actions, in line with the argument maintained by the Ombudsman from the outset of said actions.

Another new item with significant impact, called for continually by members of the Civil Guard while its development remained pending, was the approval of Organic Law 11/2007, on the rights and duties of members of the Civil Guard, granting them the rights to assembly and demonstration, among others.

The Ombudsman has continued to investigate cases involving medical leave for psychological reasons as well as suicides among staff of the Armed Forces Institute.

As regards productivity bonuses, it has been proposed that leaves of absence due to performance of work duties should be distinguished from those arising from other circumstances, as it is unfair that agents on work-related leave should be denied this bonus.

An ex officio investigation is also being carried out regarding the delays caused in the processing of cases involving failure to meet minimum psychophysical conditions.

Finally, Law 46/2007, on regulating Civil Guard Corps Personnel, is noteworthy as regards the balance of work and family life, and protection provided in cases of gender-based violence, because it extends the application of measures contained in said Law—on the effective equality of women and men and those in the Basic Statute of Public Employment—to include Civil Guard personnel.

National Police Corps and Municipal Police

National Police Corps agents have expressed their disagreement with the exercising, in certain cases, of disciplinary authority, as well as with the sanctions imposed.

The claimants have been informed that, during the processing of disciplinary cases, the Ombudsman has the power to confirm that all legal deadlines and formal requirements for due process are met and that the resolutions handed down are sufficiently reasoned with the express mention of the right to appeal. Furthermore, the Ombudsman has the authority to ensure that no situations arise, under any circumstances, in which tension or disagreement between bosses and subordinates leads to disciplinary action.

It has been discovered that the municipal police of the City Hall of Lerma are expected to leave a note, in case

the recipient of a notification cannot be located, with their personal data (name and surnames), so that the concerned party may pick it up at the municipal offices. The Ombudsman reckons that it should suffice to leave the officer's assigned badge number, which would be in compliance with the Law on Protection of Personal Data.

Public Administration and Agency Personnel

The intervention of the Ombudsman with respect to access to these positions is focussed on aspects concerning the public announcements of contests, an essential factor in guaranteeing fulfilment of the constitutional principle of equality. Moreover, the need for a previously established set of qualifications has been emphasized in order that applicants may be evaluated according to parameters of which they have prior knowledge.

Action has also been taken in the area of the General Collective Bargaining Agreement for personnel of the General State Administration, regarding problems related to the following: novation of work contracts once permanent incapacity is declared, recognition of previous services performed, and balancing of work and family life.

State Pensioners

Through an ex officio investigation, effort is being made to eliminate the differences between state pensioners

who must pay 30% of the cost of the medication they need, and the pensioners under General Social Security Regulations who receive medication free of charge. The Prime Minister's Office has requested that the affected departments and mutual benefit societies continue the studies and work they had already undertaken in this regard, and we are currently awaiting notification of the results obtained along with the proposed modifications in percentages related to pharmaceutical co-payments. We trust that by the end of this process it will be possible to eliminate or at least reduce these differences.

Complaints continue to be lodged by civil servants of various public administrations to express their disagreement with the rules governing their statutory regulations which prevent them from applying for semi-retirement as provided by labour legislation. Even though the new Basic Statute of Public Employment permits civil servants to opt for this type of retirement as long as they meet the requirements and conditions established in the Social Security Regulations pertaining to them, the corresponding applications are not being resolved favourably.

Regarding National Health System personnel, it has been learned that the Ministry of Public Administrations, in an effort to develop rules governing semi-retirement, has initiated an ex officio enquiry for the purpose of determining the current drafting and approval status of the aforementioned regulations.

Protection of adolescents and small children regarding broadcast and print media

For over a decade the Ombudsman Institution has been conveying to Parliament its concern over the effectiveness of protective measures for adolescents and small children—and, more broadly, for all users and consumers—against content and messages directed toward them via media programming and advertising.

Regarding print media, such as general interest daily newspapers and magazines, mention was made in the previous report of the problem arising from the practice of publishing texts and images with graphic sexual content in classified advertising sections where they are easily accessible to adolescents and small children. The legislation referred to in the aforementioned report did not offer a solution that would safeguard this segment of the population. Nor was self-regulation in the media an option due to the general assumption in this sector that such advertising did not represent a breach of the Advertising Code of Conduct because it did not specifically target minors, and also due to the consideration that Spanish legislation lacked any specific regulations governing the advertising of prostitution.

The previous annual report contained a recommendation calling for the drafting of specific regulations to govern this type of advertising, and also suggesting that the rules for self-regulation approved by the sector should include appropriate restrictions meant to safeguard adolescents and small children. A year later, the situation remains practically unchanged and no progress has been made in either the legislative or the self-regulatory areas. For this reason, the Ombudsman must call attention to this issue once again.

As for audiovisual communications media, and particularly television, advances achieved in the last decade include the following: creation of Audiovisual Media

Councils in various Autonomous Communities, establishment of the Council for State-Owned Media Reform and its Report and Recommendations, approval of Law 17/2006 on state-owned radio and television, adherence of the main national and regional television stations to the Code of Television Self-Regulation and Childhood, among others. Nevertheless, these measures have been insufficient and ineffective, and new regulations and instruments are needed in the media and advertising sectors to protect the rights of users, consumers, adolescents, and small children.

Throughout 2007, the Ombudsman Institution kept a careful watch on activity pertaining to the eventual drawing up and approval of the preliminary draft bill for the General Audiovisual Media Law, which should have included, among other provisions, the regulation of the independent Authority whose creation has been called for by the Ombudsman for a long time. Regrettably, after the end of the year, the Ombudsman received word of the decision to halt further development of the draft in progress in order to submit it for review and to incorporate several provisions from EU regulations in its text. A year and a half after the approval of the aforementioned Law 17/2006 our legal system still lacks the legislation needed to ensure an effective and complete legal framework to protect the rights of users, consumers, adolescents, and small children against programming and advertising practices in the media.

The Ombudsman trusts that, among their first duties since the general election, the Government and Congress shall undertake the drafting, discussion, and approval of a draft bill that regulates the aforementioned independent Authority and accords it the powers it needs to fulfil its objectives.

Implementation of measures to improve hearing-impaired access to audiovisual communications and special reference to subtitling of programs

Those with varying degrees of hearing impairment represent a large, heterogeneous group of individuals whose possibilities for communication are different from the norm and require special attention.

The audiovisual sector is undergoing a period of renewal to incorporate new technologies. This process is taking place in a legal framework where the principles of standardization, universal access and design for all in Law 51/2003 serve as guidelines for reforms geared toward assisting the disabled. Thus, it was deemed appropriate to initiate an *ex officio* enquiry in accordance with what is contained in article 9.1 of Organic Law 3/1981, on the Ombudsman, to study the current situation and future plans toward fulfilment of the aforementioned principles and other mandates offering protection and assistance to the hearing impaired.

For this purpose, among other actions, reports were requested from the entities and organizations in charge of the main, audiovisual media owned by the state or the autonomous communities. The aim was to ascertain the degree to which technological or other measures intended to improve access for the hearing impaired had been implemented in the media—with special emphasis on the subtitling of programs—and to gather any additional data that might provide a better understanding of the current situation.

Moreover, the aforementioned Law 51/2003 calls on the Government to regulate certain basic conditions of access and non-discrimination that guarantee equal opportunity to all citizens with disabilities (article 10.1) within a specific timeframe set forth in the seventh final provision, regarding access to technology, products, and services in the information society and social communications media. Considering this, reports were requested from the Offices of the First Vice President of the Government and the Prime Minister regarding the actions already undertaken as well as those

that are expected to be carried out in the near future in this matter.

Provided in the summary section of the 2007 annual report are further details regarding data supplied to the Ombudsman, the initiatives currently under way, and the degree to which technological or other measures intended to improve access for the hearing impaired have been implemented in the media.

The body of information received reveals that, although the level of awareness is acceptable with respect to the need for technological and other measures to break down barriers that hinder access of the hearing impaired to audiovisual media, it is also generally recognized that the degree of implementation is, at best, irregular, and in practically all cases the ideal goal of full access to all content and programs is far from being achieved. Budgetary considerations, technical issues and other factors have a decisive impact on this matter, which deserves high-priority treatment because it affects a very large group of citizens whose rights to be informed, to be entertained, and to be actively involved in political and social life must be guaranteed.

All of the efforts and initiatives that have been undertaken both in terms of legislation as well as supervision must be acknowledged. Nevertheless, it must also be emphasized that, despite these efforts, there is still a long road ahead toward providing full hearing-impaired access to the media. The use of subtitling, sign language, and audio description are effective tools for this purpose, and technological advances and the economic development of modern society not only allow, but demand the effective and full removal of barriers affecting a considerable number of hearing-impaired citizens. The Ombudsman Institution strongly encourages the public authorities and the heads of entities and organizations in charge of the media to make every effort necessary to achieve this goal.

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Education

Complaints received in 2007 regarding educational administration follow the same tendency of previous years: a large proportion of complaints have to do with potential breakdowns in early childhood education, and particularly with the insufficient space at existing day care and pre-school centres (children from 0-3 years old). Some of the most frequent sources of complaint are as follows; scarcity of day care centres, precarious conditions found at some existing facilities, lack of sufficient qualified staff, and difficult access due to inadequate space. In this regard, the Ombudsman has addressed the relevant educational authorities in the different autonomous communities in order to gather data on the health and therapeutic capacities of educational centres to attend to the needs of children. The Institution received reports offering a variety of solutions that are gradually being implemented in the autonomous communities.

For several years, admission of new students to University has been the subject of considerable controversy, and for the 2008-2009 academic year, this must conform to the new system contained in the revision of Organic Law on Universities, approved in 2007, which provides for a gradual adaptation toward the characteristics of the European Area of Higher Education. In 2007, fewer complaints were received referring to breakdowns in university admission procedures, quite probably due to the demographic decline in the number of young people and to an increase in the number of spaces available at universities. Although demand is down, the number of applications for Health Science majors is noteworthy.

Nostrification of degrees for studies conducted abroad is also subject to frequent enquiries by the Ombudsman, although lately there has been a substantial rise in the variety of these types of complaints. Thus, the number of complaints related to processing delays in nostrification cases has declined, whereas the number of those having to do with other aspects of nostrification procedures such as the academic prerequisites required by the various universities before equivalency certification may be granted for foreign degrees. Here again, the number of applications for nostrification of Health Science related degrees should be pointed out.

The activity carried out for over ten years regarding social communications media and, particularly, methods to protect youths and small children continued in 2007. One significant enquiry related to the control of advertisements with sexual content in printed media, and a recommendation was made calling for the drawing up of specific legislation to govern this



View of the Ombudsman headquarters at Eduardo Dato, 31 (Madrid).

type of advertising. At the same time, it was suggested that this matter be addressed in the rules for self-regulation as well.

Public health and social affairs

In the area of public health, complaints by citizens continue to report deficiencies in treatment due to a variety of reasons: delays in the public healthcare assistance or quality of care given. This indicates both increasing demand by citizens on one hand, and an inadequate adaptation of public resources to meet this new demand.

During 2007, investigations carried out in the healthcare area were focused on the need to do the following: to standardize the portfolio of services offered throughout the State, to increase the resources allocated to treatment of rare diseases or mental health of children and adults, to work toward full achievement of universality and cost free benefits in the health sector, or to improve the control, distribution, and financing of pharmaceutical benefits.

Among all of the ex officio investigations conducted, one deserving special mention was opened last year with the health authorities to learn about the measures that might be adopted to guarantee access to public health centres throughout national territory in cases involving voluntary termination of pregnancies. The Institution attempted to convey the importance that the Interregional Council of the National Health System should fully comprehend this matter, although for the moment it seems that the issue is not due to be debated in that forum according to reports by the Ministry of Health and Consumer Affairs.

As for care provided to minor-age inpatients at centres for psychosocial adaptation, one noteworthy investigation involved complaints reporting deficiencies in

quality of installations and functioning at some of these facilities. In another area, it is important to continue to underscore the need for improving social care services for homeless persons, who live under circumstances characterized by stigmatization and invisibility.

On the subject of Social Security, the approval of the legal revision incorporated into Law 40/2007, of 4 December, will lead to significant changes, some of which have been urged for years by the Ombudsman because they were frequently called for in complaints and requests submitted by citizens. Some such examples include the calculation of the benefit period corresponding to the now defunct military service in figures used to determine retirement benefits, or the augmentation of such pensions by decreasing the reducing coefficients in cases of early retirement.

2007 was also the year Spain signed the United Nations Convention on the Rights of Disabled Persons. Great challenges face every Administration in providing the attention due to these individuals who, if all degrees of disability are taken into consideration, make up a very large segment of the population. The capacities for innovation and management of all of the public authorities are being put to the test in the attempt to meet the needs and expectations of this group in society.

Internal revenue and general economic activity

Regarding internal revenue services, the Ombudsman keeps a close watch on the process of implementing new technologies in the tax Administration to allow for faster and more efficient handling of taxation matters. Moreover, the need that this process be carried out in tandem with the technological familiarity of citizens is an important point for consideration. In 2007, regarding the handling of one tax in particular, the special tax on certain means of transport, it was necessary to recommend to the tax authorities that they should take into account the limitations and difficulties many people have in using telematic services to pay taxes, and, thus, the Administration needs to offer all taxpayers equal opportunities for the fulfilment of their tax obligations. It would certainly be unreasonable that the obvious achievements made toward the modernization of the tax management system should become an obstacle to those who lack the possibility of using the most advanced technology.

Mentioned in this year's report are several investigations conducted in response to complaints submitted as a result of certain actions by credit and loan entities. The Bank of Spain is the main regulatory authority governing the actions of these entities, whose role in society nowadays is significant. For many years the Ombudsman has been insisting on the need to improve the administrative control procedures available to the Bank of Spain, not only as regards the solvency and financial regulation of credit and loan entities, but also the legality and regulation of conditions applied in contracts with private parties, especially involving the charge of inappropriate commissions, the means of using electronic payment methods, account management, and other re-

lated affairs. The development of a clear and effective system to defend the rights of users of bank and credit and loan entities remains pending despite existing legislation currently in force.

Another item requiring special attention by the Ombudsman Institution during 2007 was the problem of delays in the processing of cases by the Regional Cadastre Registries. Innovations introduced in recent years that have led to the modernization and updating of entries in cadastral registries have also caused an increase in the number of complaints made by private parties and a resulting backlog and increased caseload for these administrative offices. The problem of sluggishness in processing these complaints was worse in certain coastal populations and in the large capital cities.

Transport and communications

In recent years, there has been an increasing number of complaints and reports by citizens regarding problems with public transport and, particularly, with telecommunications.

Technological advances in telecommunications are becoming more and more affordable to all citizens in Spain thanks to the economic growth and social development achieved in the last few decades. This has allowed us to assimilate each of the new cutting edge discoveries and innovations practically at the same rate as in more developed countries. So a growing number of citizens use the new technologies in their daily lives and, hence, also in their dealings with the State and Public Administrations. On the other hand, those Administrations, although not in a uniform way as this Institution has observed, are also incorporating the new technologies into their work methods and the processing of administrative procedures.

With this in mind, it is very important to remember that this steady process toward modernization faces several hindrances due to the so-called "technology gap" that is still quite prevalent in our country in different ways. Be it for reasons of economic efficiency, differences in level of education, or mere geographical considerations, what is certain is that there are still many obstacles that must be overcome by a significant portion of the population in order to gain access to new technology or to be able to use it adequately.

On the subject of complaints investigated in 2007 regarding fixed telephony, serious delays continue to affect the installation of telephone lines or their transfer even though applications fully comply with regulations in force. As for public payphones, their installation and maintenance must fulfil legal requirements that, occasionally, are disregarded by the company in charge of this universal service, which has even led in some cases to the dismantling of the telephone boxes in question.

Furthermore, the spread of mobile telephony throughout virtually the entire population has raised increasing concern in two areas referred to frequently in complaints: 1) the establishment and charging of fees by

telecommunications companies, and 2) deficiencies in mobile phone coverage in different areas. On this last subject, a follow up enquiry is currently in progress to study plans promoted by the Administration to spread adequate coverage to municipalities of between 50 and 1,000 inhabitants.

As for the responsiveness of the Administration regarding problems between consumers and electronic service providers, in 2007 the Ombudsman kept a careful watch on the functioning of the Telecommunications Consumer Service Centre. The Ombudsman also closely observed the implementation of the plan to spread Internet broadband to rural areas, which is a frequent subject of complaint. The incorporation of broadband technology at educational centres is of special importance, and in this regard significant differences between the various autonomous communities were noticed due to the fact that not all of the Administrations had signed agreements with the central Administration.

Regarding transport, in 2007 an investigation continued that had begun at the end of the previous year to address complaints by many citizens about deficient commuter train service, particularly in the Autonomous Community of Catalonia. This investigation finally concluded once all of the reports requested by relevant authorities had been received, stating that some of the issues of concern had been resolved. However, the Institution shall continue to oversee developments toward improving railway infrastructures, particularly in that community.

Another noteworthy group of complaints refers to services provided by the State Postal and Telegraph Office. In 2007, a substantial modification of the postal Regulation was introduced which provides for the use of multiple-residence mailboxes for postal deliveries to sprawling urbanizations in light of the generalized tendency toward dispersion of population centres.

Environment, urban planning, and housing

A great deal of the complaints received in 2007 in this area refer to deficiencies in the availability of environmental information and to the lack of consideration accorded to environmental impact assessments related to infrastructure projects. The Ombudsman had been stressing the latter point in reports in previous years, and the final conclusion is that new legislation is needed to ensure strict compliance with the requirement for environmental impact assessments so as to avoid administrative behaviour that runs contrary to the principle of environmental protection.

In another area, the inadequate protection of nature preserves in several cases is closely associated with the efficacy or the very approval and implementation of urban natural resource plans. Specifically, the most noteworthy enquiries in the 2007 report in this area are the following: the approval of the Sierra de Guadarrama Plan (Madrid), and also the modification—currently being challenged in the courts and the relevant European agencies—of the Fuentes Carrionas y Fuente Cobre-Montaña Palentina Plan (Castilla y León).

Noise pollution continues to be the subject of a great deal of complaints. Sluggish response by Administrations in dealing with reports of excessive noise is due to the failure to enforce precautionary or provisional measures needed when the facts reported by concerned parties are widely known and easily confirmed by police officers. The Administration, especially local entities, can vastly improve their capacity to swiftly intervene in activities causing noise pollution in order to safeguard the rights of citizens, who often feel helpless with respect to the serious deterioration of living conditions in their homes. Likewise, the slow administrative response to complaints submitted for other types of nuisances and hazardous or unhealthful activities was also the frequent focus of complaints.

The execution of urban planning, as pointed out in previous years, involves serious problems related to the complexity of administrative management, especially in appeals to the compensation scheme. Furthermore, as in the case involving the Autonomous Community of Valencia, the legal framework of each region may incorporate new elements that diffuse the assumption of responsibility that is incumbent on the public authorities in ensuring proper land management. As for the entry into force of the new Law on State Land Management, this report highlights the requirement introduced in the planning phase stipulating that the relevant watershed authority must effectively report on availability of water for the land slated for development. The lack of sufficient water in particular was a subject of complaint in 2007 regarding certain urban planning projects that did not guarantee adequate water supply.

Public administration personnel

The approval of the Basic Statutes of Public Employment was the most noteworthy milestone in 2007 regarding the situation of public administration personnel. This legislation attempts to consolidate and strengthen regulations governing civil service and to guarantee standardized labour and professional conditions for this group of over two and a half million civil servants and staff in the administrative sector. Some of the Ombudsman's recommendations that had been incorporated into the text of this legislation are: improvements in the rights of temporary staff through greater parity with career professionals, and the removal of the residency requirement in the municipality where the civil servant performs duties.

As every year, the Ombudsman also took an active interest in breakdowns or persistent gaps in selection processes. Regarding this particular point, recommendations were made to consider exceptional circumstances for applicants seeking civil service employment. These include need to consider as *force majeure* the coincidence of the birth of a child with the date of a civil service examination, or the same consideration regarding scoring of the post held by the non-marital partner as would be received for the post of a spouse.

This report gives an account of each main block of activity in the public sector in the section on complaints

handled and recommendations made. In non-university education the Institution showed concern in 2007 due to the varying treatment of non-tenured professors in the selection processes of different autonomous regions. As in other areas, the Ombudsman recommends minimizing the possibility that such unequal treatment might continue in the future, which could encroach upon the principles of equal opportunity in access to civil service jobs. Follow up enquiries were also conducted regarding the situation of temporary staff of the Justice Administration.

The objective to promote reconciliation of labour and family life was addressed in a great deal of enquiries carried out last year. The beneficial effects of the Law on

Equality between men and women reach every sector of administrative activity and have led to the modification of certain legal frameworks or at least the revision of certain procedures. Such is the case with respect to staff performing services at penal institutions and for the Armed Forces, as well as members of the State Security Forces and Corps, National Police, and Civil Guard.

Another ex officio enquiry was initiated to analyze Government regulations intended to promote telecommuting in civil service. The implementation of this system of service performance will indubitably represent a movement toward better reconciliation of labour and family life as well as in the modernization of work methods in the public Administration.

Institutional Relations

This section contains a list of the main activities of institutional representation that took place in 2007. Such acts of representation and presence in society play a significant role in the functions of this Institution. Without exception, this Institution always attempts to ensure that its participation and dialogue with all social and institutional players help to reinforce the basic principles of the democratic process. This spirit of democratic dissemination is always at the heart of all public appearances by the Ombudsman as well as all meetings and institutional trips that are conducted, both within and beyond our borders.

The noteworthy events and meetings in this section are of a varied nature, and, thus, often defy classification. What follows is an account of the main activities of institutional representation, ranging from formal appearances before the Legislative chambers, meetings with citizens' groups, participation in events and meetings in cooperation with other institutions of both national and international scope, as well as initiatives related to the academic world.

Parliamentary Activities

The annual Report for 2006 was presented to the Presidents of Congress and of the Senate on 29 May 2007. The appearance before the Mixed Senate-Congress Committee on Relations with the Ombudsman took place the 13 of June and the presentation before plenary sessions of Congress and of the Senate took place on 20 June and 12 September, respectively.

Moreover, in 2007 the Ombudsman made two institutional appearances, as detailed below:



Appearance of the Ombudsman before the Mixed Senate-Congress Committee on Relations with the Ombudsman, with respect to the Report on school bullying.



The Ombudsman of Spain, at the inauguration of the Andalusian Ombudsman, José Chamizo de la Rubia, after his re-election.

- Appearance of the Ombudsman before the Mixed Senate-Congress Committee on Relations with the Ombudsman, with respect to the Report on "School Violence: Bullying Among Peers in Obligatory Secondary Education 1999-2006", held in the Congress of Deputies on 27 March.
- Appearance of the First Deputy before the Sub-commission on Immigration Policy, under the Commission of Labour and Social Affairs of the Congress of Deputies, to report on the "Framework of authority and coordination among the various public Administrations: Definition and coordination of the powers of the State, the autonomous communities and the local corporations", held in the Congressional Palace on 6 November.

Relations with commissioners of the autonomous communities

The most important seminars and meetings with the commissioners of the autonomic Parliaments in 2007 are detailed here, omitting, thus, specific meetings that take place with the aim of maintaining good collaborative relations between this Institution and its counterparts in the autonomous communities.

- Visit with the Navarrese Ombudsman, Maria Jesus Aranda Lasheras to exchange information (Ombudsman headquarters, 16 of January).
- Visit to the Ombudsman of La Rioja for the signing of an Agreement (Logroño, 23 February).
- Visit to the Attorney General's Office of the Principality of Asturias for the signing of an Agreement (Oviedo, 28 February).
- Attendance by the First Deputy at the tribute commemorating the former Sindic de Greuges, Antón Cañellas, and at the round table called "Europe, Spain and



Inauguration of the XXII Seminar on Ombudsmen Coordination, held in Barcelona. From left to right: Enrique Múgica, Ombudsman for Spain, Higinio Clotas, Vice-president of the Cataluá Parliament and Rafael Ribó, Síndic de Greuges.



The Ombudsman meets the National Commission of the Association for the Rationalisation of Working Hours in Spain, at the Ombudsman headquarters.

Catalonia in the political career of Antón Cañellas (1923-2006)” (Madrid, Cultural Center Blanquerna, 28 February).

- Attendance by the Ombudsman at the inauguration of the Andalusian Ombudsman, Jose Chamizo de la Rubia, after his re-election (Parliament of Andalusia, Seville, 2 March).
- Attendance by the First Deputy at the inauguration of the Ombudsman of Navarre, Francisco Javier Enériz Olachea (Pamplona, 22 March).
- Preparatory Meeting of the XXII Ombudsmen’s Coordination Seminar (Pamplona, Navarre, 7 May).
- Farewell meeting for the Ombudsman of Navarre, Maria Jesus Aranda Lasheras (Pamplona, Navarre, 7 May).
- Attendance by the Ombudsman at the inauguration of the Valedor do Pobo (Ombudsman of Galicia), Benign Lopez González (Parliament of Galicia, Santiago de Compostela, Corunna, 27 July).
- Meeting with the General Procurer of Asturias, Maria Antonia Fernandez Felgueroso, and the Deputy to the Síndica de Greuges (e.f.) of the Valencian Community, Carlos Morenilla, to work on the planned National Procedure for the Prevention of Torture, within the framework of the Optional Protocol of the Anti-torture Convention (Ombudsman headquarters, 30 October).
- Attendance by the Ombudsman and his Second Deputy at the inauguration of the Ombudsman of Castilla-La Mancha, Jose Manuel Martinez Cenzano (Cortes of Castilla-La Mancha, Toledo, 21 December).

XXII Ombudsmen’s Coordination Seminar

Held from 22nd to the 24th of October at the Hotel NH Calderón in Barcelona, organized by the Síndic de Greuges of Catalonia, with the main theme “the Ombudsman Institution and its usefulness”.

The Seminar was inaugurated by the First Vice-president of the Parliament of Catalonia, the Ombudsman of Spain, and the Síndic de Greuges of Catalonia. Serving as the main thread was a model work entitled, “*Project on the comparisons of Ombudsman-Institutions in Europe: special reference to Access, Power and Efficiency*”. During

the seminar a round table was held on schoolyard bullying, and three more round tables dealt with the following issues: a) The relationship of the Ombudsman with the social fabric. The Ombudsman as a facilitator of participation; b) Effectiveness and efficiency of the institution of the Ombudsman. Relationship with the Administration and with Parliament, and c) the oversight of public policies by the Ombudsman.

Coinciding with this Seminar, the sixth edition of the Citizens’ Forum took place, which on this occasion was focused on two main themes: “Social Organizations and Ombudsmen” and “Public Opinion, Rights and Ombudsmen”.

Meetings related to complaints filed

This section lists some of the meetings held with authorities, citizens and social organizations regarding complaints of special relevance due to their social impact or to their influence on the interests of a large sector of the population. Naturally, not all of the numerous meetings held throughout the year regarding complaints are listed, only most noteworthy ones.

- Meeting with the Ombudsman of the Delegation of Malaga, Francisco Gutiérrez Rodriguez, to make contact and to demonstrate willingness for collaboration (Ombudsman headquarters, 8 January).
- Meeting with members of the AVE follow up commission for Tomelloso (Ciudad Real), accompanied by the Mayor of Tomelloso and the Lieutenant Mayor of Argamasilla de Alba, regarding the planning and construction of railway stations along the Madrid-Jaen AVE railway line (Ombudsman headquarters, 17 January).
- Meeting with members of the Coordinator for the Prevention of Torture, Pillar Sanchez, Amalia Alejandre and Jorge del Cura (Ombudsman headquarters, 23 January).
- Meeting of the National Commission of the Association for the Rational Planning of the Spanish Work Timetables (Ombudsman headquarters, 25 January).
- Visit with the professors Rafael Lasaga and Javier Tajadura of the University of the Basque Country, for the release of several works, including a book on social

rights titled “The Governing Principles of Social and Economic Policy” (Ombudsman headquarters, 25 of January).

- Meeting with representatives of the Falcon-Fields Law Firm, Lidia Falcon and Olga Campos, regarding the enforcement of Statutory Law 1/2004, 28 December, on comprehensive measures for protection from gender-based violence (Ombudsman headquarters, 30 January).
- Interview with SOS Racism representatives, Javier Perez and Diego Lorente (Ombudsman headquarters, 15 February).
- Interview with representatives of the Children’s Rights Department of *Human Rights Watch*, Rocio Aznar and Simone Troller (Ombudsman headquarters, 21 February).
- Meeting with a delegation of the Council on Culture, Education and Sport of the Community of Valencia, headed by Member, Alexander Font de Mora Turón, to gather information and present the Plan for the prevention of violence and the promotion of peaceful coexistence in the cultural installations of the Community of Valencia (Ombudsman headquarters, 5 March).
- Visit with the spokesperson of the General Council of Judicial Authority, Faustino Gutiérrez-Alviz, for Relations with the Ombudsman (Ombudsman headquarters, 17 of April).
- Meeting with Executive President of *Credit Services*, Jose Rodriguez Cuenca (Ombudsman headquarters, 17 April).
- Meeting with the directors of ANDEMA (National Association for the Defense of Brands), Jose Luis Bonet, Salvador Orlando and Soledad Rodriguez (Ombudsman headquarters, 4 May).
- Visit with the Councilwoman of the City Hall of Velilla del Río Carrión (Palencia) and spokesperson for the political group CIVES, regarding an appeal of unconstitutionality against Law 14/2006, 4 December, which modifies Law 10/1998, 5 December, on land management in the Community of Castilla y León (Ombudsman headquarters, 23 May).
- Visit with members of *Ciudadanos-Partido de la Ciudadanía*, regarding an appeal of unconstitutionality against Statutory law 2/2007, 19 March, revision of the Statute of Autonomy for Andalusia (Ombudsman headquarters, 24 May).
- Visit with members of the Spanish Federation on Rare Diseases, to enquire about the actions of the Administration regarding the ex officio complaint opened by this Institution (Ombudsman headquarters, 30 May).
- Meetings held with the President and the Director of the Department of Roadway Safety of the Motorcycle Riders’ Association, Juan Manuel Reyes Martinez and Juan Carlos Toribio Ramos, to develop strategic plans for the improved positioning of guard railings and motorist safety systems (Ombudsman headquarters, 7 June and 30 September).
- Meeting with researchers of the International Secretariat of *Amnesty International*, Rachel Taylor, John Dal-



Visit of members of the Spanish Advertisers Association, headed by its Vice-president. They were received by Enrique Múgica Herzog, and his First Deputy M^a Luisa Cava de Llano.

huisen and Virginia Alvarez Salinas (Ombudsman headquarters, 20 June).

- Visit with representatives of the Young Farmers Agrarian Association, headed by its President, Pedro Barato Triguero, regarding the appeal of unconstitutionality regarding the new Law on Land Management (Ombudsman headquarters, 12 July).
- Visit with the Citizens’ Ombudsman of Granada, Melchor Saiz-Pardo Rubio (Ombudsman headquarters, 25 July).
- Meeting with members of the Association *Human Rights Watch*, to present the Report about “Unwelcome” Responsibilities, regarding unaccompanied foreign minors (Ombudsman headquarters, 25 July).
- Meeting with members of the Spanish Advertisers Association, headed by its Vice-president, Rafael García Gutiérrez, to exchange points of view on the current and future circumstances involved in the transposition of the European Directive on TV without borders (Ombudsman headquarters, 4 of September).
- Meeting with the Mayor of Vera, Felix Mariano Lopez, on disagreements between the Environmental Department of the Council of Andalusia and the City Hall of Vera stemming from the opposition of the latter to the construction of a large water treatment plant there (Ombudsman headquarters, 10 of September).
- Visit with representatives of the USO, *Alternativa Sindical* and CGT unions, of RTVE, regarding a complaint lodged about television programming content in the one-hour time difference between the Canary Islands and the Peninsula (Ombudsman headquarters, 10 September).
- Visit with the Advisor on Presidency, Justice and Equality of the Principality of Asturias and with the Director of the Women’s Institute of Asturias to present the report requested regarding the investigation carried out on the Centre for Comprehensive Care for Female Victims of the Gender-based Violence, also known as “Malva House”, of Gijón (Ombudsman headquarters, 9 of October).

- Meeting with the researcher of ACCEM, Konstantia Nikopoulou, regarding the study on “Exploitative trafficking of workers in Spain”, a project financed by the Ministry of Labour and Social Affairs (Ombudsman headquarters, 17 of October).
- Visit with the Director of Public Relations of the Rabbinical Centre of Europe, Mendel Samama (Ombudsman headquarters, 25 of October).
- Visit with members of the *Bihotz Bici-Corazon Vivo* Association to submit a written complaint to the Ombudsman (Ombudsman headquarters, 13 November).

International activity

This section contains an account of the activities of international scope that were performed by the Ombudsman in 2007. Most of this activity, as one would expect, stems from the communicative ties maintained by the Institution with other *Ombudsman* or other Defenders of the People. During 2007, the Ombudsman continued to act as President of the Latin American Federation of Ombudsman (FIO), which he left in the month of November at the close of a two year mandate and subsequent to the election of a new Executive Council of the Federation in the Assembly held in Lima (Peru). Furthermore, collaboration with the European Network of Ombudsmen is strong, and commencement of preparations to establish a forum for cooperation among institutions of the Mediterranean region should be highlighted.

Participation in international events

- Nineteenth period of Sessions of the Annual Meeting of the International Committee on Coordination of the National Institutions for the promotion and protection of the Human Rights (CIC) and parallel meetings, organized by the High Commissioner of the United Nations (Palace of the Nations, Geneva, Switzerland, 21-23 March).
- Symposium on freedoms of assembly, expression and association. Attendance of the First Deputy as a designated expert before the Ministry of Foreign Affairs and Cooperation to coordinate the activities related to the Spanish presidency of the OSCE in 2007 (Hofburg, Vienna, 29-30 March).
- X Round Table of European Ombudsmen and the Council of Europe Commissioner for Human Rights, and 10th Anniversary of the Ombudsman’s Office of Greece with special participation by National Human Rights Institutions. Theme: *Implementing human rights and the rule of law in Europe: The Cooperation between Ombudsmen, National Human Rights Institutions and the Council of Europe Commissioner for Human Rights* (Athens, Greece, 12-13 April).
- International Seminar “The implementation by Ombudsmen of recommendations from international Human Rights organizations”, organized by the Center of Cooperation Initiatives for Development of the University of Alcalá (Cartagena de Indias, Colombia, 16-19 April).



From left to right: Nikiforos Diamandourus, European Ombudsman, Jean Paul Delevoye, the Médiateur for France, Enrique Múgica, Ombudsman for Spain; Manuel García Viso, Cabinet Chief of the Spanish Ombudsman; and Justice Eliana Nocolau, Cypriot Ombudsman, in the Sixth Seminar of National Ombudsmen of EU Member States, held in Strasbourg.



The Moroccan Prime Minister, Abbas El Fassi, and behind, the Ombudsmen for Spain, France and Morocco, in the First International Meeting of Mediterranean Ombudsmen, held in Rabat, Morocco.

Photo: Luis de Vega

- Meeting of the Steering Committee and the Governing Council of the FIO, in preparation for the XII Congress and General Assembly of the Federation. (Madrid, 21 June).
- Participation in the Round Table “The current question of adapting national legislation to conform with the Law on the Ombudsman of the Republic of Uzbekistán”, organized by the Ombudsman and the Ministry of Justice of that Republic and the Organization for Security and Cooperation in Europe, with the conference “Legal status of the Ombudsman: the experience of the Spanish Ombudsman” (Tashkent, Uzbekistán, 11-14 July).
- Seminar on “Aspects for the judicial authority’s contribution toward strengthening the rule of law: modernization, empowerment, access and legal safeguards”, within the framework of the Second Round of Workshops of the Latin American Judicial Summit Meeting. Training Centre for Spanish Aid Workers (Cartagena de Indias, Colombia, 23-27 July).

- Participation in the Networking Session of EUROsociAL-Justicia, meant to offer better access to justice to the most vulnerable people, contributing to reduce inequalities and to improve social cohesion (Cartagena de Indias, Colombia, 23-27 July).
- International Seminar, *Ombudsman's intervention: Between the principles of legality and good administration*, organized by the Ombudsman of the Republic of Bulgaria, with sponsorship by the Eunomia Project (Sofia, Bulgaria, 17-18 September).
- Conference on "Economic Migration in the European Union, Problems and Challenges" (Warsaw, Poland, 24 of September).
- Conference on the role of the Constitutional Court and the Ombudsman in the protection of Human Rights, organized by the Human Rights Ombudsman of Armenia, with participation by the First Deputy on "Experience of Spain in ensuring and protecting human rights in the realm of cooperation among organizations with constitutional authority (TC) and the Human Rights Ombudsmen" (Yerevan, Armenia, 5 to 7 of October).
- Sixth Seminar of National Ombudsmen of member states and candidate countries of the European Union: "Pondering the good administration of the European Union", organized by the European Ombudsman and the *Médiateur* of the French Republic. The Ombudsman presided over the table of Session 4 "Free movement of people: problems and how they are handled by the Ombudsmen". The Declaration on the European Network of Ombudsmen was approved by consensus. Due to its significance, it is transcribed below (European Parliament, Strasbourg, 14-16 October).
- Within the framework of the EUROsociAL-Justicia project, trip to Costa Rica and Nicaragua to hold preparatory meetings to study the needs of Central American Ombudsmen so as to proceed with the exchange of experiences (5-12 November).
- 4th International Conference/Seminar on "Social Exclusion and Human Rights", organized by the Ombudsman of Santa Fe (Rosary, Argentina, 15-16 November).
- First International Meeting of Mediterranean Ombudsmen. By invitation of the *Diwan Al Madhalim* (Ombudsman of the Kingdom of Morocco), of the *Médiateur* of the French Republic and the Ombudsman of the Kingdom of Spain, the Ombudsmen of Mediterranean countries met in seminars to evaluate their tasks and to exchange perspectives on their experiences. The speeches and round tables of this First Meeting dealt with topics such as promoting democratic culture, monitoring and modernizing civil service and implementing measures needed to guarantee respect and protection of citizen rights. All participants put forth the "Declaration of Rabat", with a solemn commitment by each of the Ombudsmen to demonstrate their willingness toward dialogue and collaboration with the rest (Ministry of Foreign Affairs and Cooperation, Rabat, Morocco, 8-10 November).
- XII Congress of the Latin American Federation of Ombudsman and General Assembly, organized by the

Ombudsman of Peru, on the main theme of "Equality and nondiscrimination: the role of Ombudsmen in Latin America". The Ombudsman of Spain gave the inaugural conference. In the Assembly the Human Rights Ombudsman of Nicaragua, Omar Cabezas Lacayo was elected to a two year term as President of the FIO. Additionally, The Federation's Human Rights report, "Analysis of the Penitentiary System", was presented (Swissotel Hotel, Lima, Peru, 20 to 23 November). As a result of the debates held during the Congress and the Assembly, the participants decided to approve and to disseminate the so-called "Declaration of Lima".

- Meeting of the Board of Directors of the Special for Fund Ombudsmen and National Institutions of Human Rights in Latin America and the Caribbean (Swissotel Hotel, Lima, Peru, 20 November).
- International Conference on "Democracy and Human Rights in Africa: the role of Human Rights institutions", organized by the Egyptian National Council on Human rights, in cooperation with UNESCO and the *International Centre for Human Sciences in Byblos*. Speech by the Ombudsman entitled "Democracy and Human rights in Africa" (Cairo, Egypt, 3-4 December).

Visits and Official Events

- Visits with the Ombudsman of Cordova (Argentina), Jessica Valentini, in order to exchange opinions and experiences regarding the activities of the FIO (Ombudsman headquarters, 17 January and 14 February).
- Farewell visit with the Ambassador of Mexico, Gabriel Jiménez Remus (Ombudsman headquarters, 7 February).
- Attendance at meetings to designate the Ombudsman of the Dominican Republic (Santo Domingo, 18 of February).
- Presentation of the Official Order of Wissam Al-Alaoui Award to the Ombudsman by the Embassy of the Kingdom of Morocco in Spain, awarded by His Majesty, King Mohammed VI, on the occasion of the seventh anniversary of the Celebration of the Throne (Madrid, 15 of February).



XII Congress of the Latin American Federation of Ombudsman, held in Peru, Enrique Múgica Herzog during the inauguration, alongside Beatriz Merino, Ombudsman of Perú.

Photo: FIO.



Presentation of the Official Order of Wissam Al-Alaoui Award to the Ombudsman by the Embassy of the Kingdom of Morocco in Spain, awarded by His Majesty, King Mohammed VI. The awardees pose alongside the Moroccan ambassador, Omar Azziman.

- Meeting with the Ambassador of Sweden in Spain, Anders Rönquist, and other diplomatic representatives of Finland, Denmark and Norway (Swedish Embassy Residence in Madrid, 14 March).
- Meetings with the Ombudsman of the Republic of Slovenia, Zdenka Cebasek-Travnik. The second meeting was also attended by the Ambassador of the Republic of Slovenia in Spain (Ombudsman headquarters, 20 and 23 March).
- Meeting with representatives of the Center for Human Rights, Miguel Agustín Pro Juárez of Mexico, Luis Arturo Macías and Luis Arriaga Valenzuela, finalist candidacy for the II King of Spain Prize for Human Rights. Presentation of an Official Diploma in acknowledgment of their merits and their firm commitment to defend and promote Human Rights (Ombudsman headquarters, 12 April).
- Interview with the Vice-president of the Government of Guatemala, Eduardo Stein and with the Ambassador of Guatemala in Spain, Roberto Gereda (Ombudsman headquarters, 25 April).
- Visit with a Delegation of the State Postal and Telecommunications Bureau of the People's Republic of China, headed by its Vice-president, Xin Yibo, interested in learning more about the Ombudsman's work and in exchanging opinions and experiences on the subject (Ombudsman headquarters, 3 May).
- Visit with an official Delegation from Turkey consisting of representatives and members of the national Presidency and the regional Committees on Human Rights, headed by Ebubekir Eroglu and Hali Kocaoglu to familiarize themselves with the institution and its work methods regarding the promotion and protection of Human Rights (Ombudsman headquarters, 8-9 May).
- Visit with a Brazilian delegation headed by the *Procurador-Geral de Justiça*, of the *Ministerio Público do Estado de Bahia*, Livaldo Realche Raimundo Britto, within the framework of the project "Training and Education in Human Rights for justice and security professionals and university professors of the State of Bahia". (Ombudsman headquarters, 10 May).

- Meeting with Agni de Castro and Pablo Zapata of the United Nations High Commissioner Office for Refugees (Ombudsman headquarters, 10 May).
- By invitation of the State Comptroller and Ombudsman of Israel, Micha Lindenstrauss, the Ombudsman and his Cabinet Chief conducted a visit to Israel made up of various interventions, seminars, and interviews with different personalities (Jerusalem, Israel, 3-8 June).
- Visit with a group of Iraqi magistrates attending a Human Rights course organized by the Centre for Legal Studies and the Ministry of Justice (Ombudsman headquarters, 14 June).
- Visit with the Attorney General of Ecuador, Javier Garraicoa Ortiz (Ombudsman headquarters, 4 July).
- Meeting with UNICEF representatives and a delegation from Mauritania on childhood, in order to learn about Spanish institutions as part of their project to reform the Mauritanian National Council on Childhood (Ombudsman headquarters, 4 September).
- Visit with members of parliament and high-level civil servants of Parliaments of countries making up the Economic Community of West African States, among the activities of the Seminar called "Parliament and Rule of Law", organized by the Congress of Deputies in collaboration with the Africa House Association (Ombudsman headquarters, 21 September).
- Informative meeting with the Egyptian Ambassador, Yasser Morad Osman Hossny (Ombudsman headquarters, 5 October).



Enrique Múgica visited Israel at the invitation of the Israeli Ombudsman. From left to right: Manuel García Viso, Cabinet Chief to the Ombudsman, Enrique Múgica, Ombudsman of Spain, Micha Lindenstrauss, Ombudsman and State Comptroller of Israel, Shololo Gur, General Director and, Yehoshua Roth, International Relations Advisor.

- Courtesy Visit with the French Ambassador to Spain, Bruno Delaye, accompanied by the Second Counselor of the Embassy, Matthieu Peyraud (Ombudsman headquarters, 9 October).

Cooperation

- Interview by the First Deputy with the General Director of the Association for Crime Prevention in Guatemala, Emilio Goubaud (Ombudsman headquarters, 19 February).

- Meeting of the Second Deputy with the General Director of the Special Fund for Ombudsmen and National Human Rights Organizations in Latin America and the Caribbean, Alejandro Carrillo (Ombudsman headquarters, 12 March).
- Meeting of the First Deputy with Kantuta Vallenias, representative of the Ombudsman of Peru (Ombudsman headquarters, 19 April).
- Visit by the Ombudsman to France to exchange experiences and improve relations, by invitation of the *Médiateur* of the Republic (Paris, France, 24-27 April).
- Visit by the Ombudsman to Morocco by invitation of the Head of the *Diwan al Madhalim* institution, to promote industrial exchange relations. General collaboration and cooperation agreement with Morocco, with interviews with some of the high authorities of the State. Agreement signing ceremony (Casablanca and Rabat, Morocco, 1-5 May).
- Attendance by the General Secretary at the meeting organized by the European Human Rights Group of Ireland called “*Meeting of communications staff of national human rights institutions*” (Belfast, Ireland, 2-4 October).
- Meeting of the Ombudsman with the Executive Secretary of the Mexican National Commission on Human Rights, Javier Moctezuma Barragán, on the situation of the Special Aid Fund for the Ombudsmen of the People of Latin America (Ombudsman headquarters, 5 October).
- Participation in the meeting organized by the European Human Rights Commissioner of the Council of Europe (Strasbourg, France, 6 and 7 November).
- Visit with the *Médiateur* of the Republic of Benín, Albert Tevoedjre, accompanied by a high official of the Government of Benin and one of his advisers, to exchange experiences and methodologies with respect to work methods at both Institutions. This visit falls within the framework of the International Cooperation project of the Foreign Affairs and Cooperation Ministries of Spain (Ombudsman headquarters, 12 November).
- Meeting of the Second Deputy with representatives of the Venezuelan Observatory on School Violence (Ombudsman headquarters, 28 November).
- Various bilateral and joint meetings throughout the year with representatives from organizing countries (Spain, France, Morocco) in preparation for the I International Meeting of Mediterranean Ombudsmen.

Technical cooperation, disclosure and dissemination

This section contains the activities carried out by the Ombudsman whose aims range from cooperation with public entities, national and foreign powers, and civil organizations, to acts of disclosure and academic collaboration. The Ombudsman grants special importance to the work of promoting and disseminating values related to basic rights and civil liberties.

Aid related activities

- Press conference presentation with UNICEF of the monographic study entitled “School Violence: Bullying



Visit to the Ombudswoman of the Republic of Slovenia (centre) accompanied by the Slovenian Ambassador in Spain. Received by Enrique Múgica, the Ombudsman; M^a Luisa Cava de Llano, First Deputy; and Mar España, General Secretary.



The Ombudsman of Spain travelled to Paris to meet with the *Médiateur* of France.

Among Peers in Obligatory Secondary Education “(Ombudsman headquarters, 5 February).

- Attendance by the Second Deputy to a meeting with the heads of FIIAPP to present the Eurosocio aid project in Spain (Gijón, Asturias, 17 April).
- Visit with the Governing Council of Illustrious Bar Association of Cordoba to formally invite the Ombudsman to give the inaugural lecture of the academic year at the School of Law and Legal Practice (Ombudsman headquarters, 31 May).
- Presentation of FIO website, run by those in charge of the Center to Promote Cooperation toward Developing the University of Alcalá, within the framework of the Regional Aid Program for Ombudsman Institutions in Latin America (Ombudsman headquarters, 21 June).
- Meeting of the Second Deputy with the Support Group for Human Rights and Political Representation and Participation, in the Spanish Agency for International Aid with the aim of preparing the Latin American



Joint presentation with UNICEF of the Monographic Report on School Bullying.

Program of Specialized Technical Training (Madrid, 14 October).

- Participation in the discussion organized by the Association of Attorneys, Barristers and Magistrates (ATRIA) to exchange experiences from the perspective of the Ombudsman with representatives of different fields of Law (Madrid, 6 November).
- Meeting of the Panel of Judges to select primary and secondary school student award winners from participants in the Ombudsman's 2007 Human Rights drawing contest (Ombudsman headquarters, 15 November).
- Attendance by the Second Deputy at the presenting of the Report called "Sustainability in Spain 2007", presided over by the Environment Minister as well as the President of the University of Alcalá (Madrid, 3 December).

Disclosure and dissemination

- Closure of the I International Congress on Youth Violence: individual and social responsibility, organized by the Community of Madrid Agency for the Reform and Reintegration of Juvenile Offenders and the Madrid Institute of Public Administration (Congress of Deputies, Madrid, 19 January).
- Conference on Immigrant Rights and Money Transfers, organized by the University of the Balearic Islands, Department of Public Rights. Participation of the First Deputy in the session on "the Ombudsman and Immigration" (Palma de Mallorca, 24 January).
- Visit with the *Caminos del Arte* Cultural Association, in Getafe (Ombudsman headquarters, 25 January).
- Visit with civil servants participating in the V Training Course for Parliamentary Legal Advisors (Ombudsman headquarters, 8 February).
- Presentation by the Second Deputy of the report on "School Violence: Bullying Among Peers in Obligatory Secondary Education", at the State Council on Education (Madrid, 13 February).

- Series of Conferences known as "Sensitive Social Groups", directed by Professor Francisco Sanabria Martín, PhD. The First Deputy gave the conference called "Fringe Populations" (Madrid, 20 February).
- Participation by the Ombudsman in the conference called "The Ombudsman and the Transition to Democracy", organized by the "History of the Transition" Chair at the European University of Madrid (Villaviciosa de Odón, 21 February).
- Visit to the "Ciudad Pegaso" Day Care Centre of Madrid (Ombudsman headquarters, 23 February).
- II Trans-Pyrenees Seminar on Interior Borders organized by the Catalan Consell de l'Advocacia. Conference given by the First Deputy on "Efforts by the Ombudsman to safeguard the basic rights of foreigners. Analysis of the concepts of public order and domestic security in the reduction of basic rights" (Lleida, 23 February).
- Inaugural Lecture for the 2007 Academic Year at the School of Public Administration of Castilla y León given by the Ombudsman: "The Ombudsman and Basic Rights" (University of León, 28 February).
- VIII Seminar on International Protection of Human Rights, 2007, organized by the Rey Juan Carlos University. Conference given by the First Deputy called "The Ombudsman and Immigration" (Madrid, 6 March).
- Conference given by the Second Deputy at the Association of the Press on the Ombudsman's Report, "School Violence: Bullying among Peers in Obligatory Secondary Education" (Madrid, 6 March).
- Visit to the Cibeles Cultural Association (Ombudsman headquarters, 8 March).
- Conference on "The Spanish State, religious freedom and civic and ethical principles", organized by the University College of Segovia. Participation of the Ombudsman in the conference called "the Spanish Constitution and religious freedom" (Segovia, 22 March).
- Visit with students of the Fortuny Institute at the Ombudsman's Office to inform them about the basic concepts of the Spanish Constitution and about the Ombudsman institution itself (26 March).
- Forum on "Assisted Human Reproduction", organized by the European Institute of Health and Social Welfare. Speech by the Ombudsman at the inauguration ceremony (Madrid, 28 March).
- Organized by the Council on Education of the Community of Extremadura, Conference by the Second Deputy on school violence (Fregenal de la Sierra, Badajoz, 12 April).
- International Ombudsmen's Seminar, organized by the Patients' Ombudsman of the Community of Madrid. Participation by the Secretary General with the conference "the functioning of the health administration from the Ombudsman's perspective" (Madrid, 18 April).
- VI Regional Congress on Quality in Healthcare, organized by the University of Murcia. Conference given by the Second Deputy on "quality of health services and the Ombudsman's experience" (Murcia, 26 April).



Enrique Múgica at the beginning of the academic year of the Public Administration School of Castilla y León.

- Seminar on “Defending and Promoting Citizens’ Rights in the Public Administrations”, organized by the Xunta de Galicia. Closing conference by the First Deputy (Santiago de Compostela, Corunna, 27 April).
- Series of conferences entitled “Conversations with Aquinas” organized by the Santo Tomás de Aquino Student Residence. Conference with the Ombudsman on “Human rights and social progress” (Ciudad Universitaria, Madrid, 9 May).
- IV Seminar on the Search for Solutions to the Problem of Traffic Accidents, organized by the Motorway Safety and Traffic Accidents Group of the Engineering Research Institute of Aragón at the University of Saragossa. Participation by the First Deputy in the colloquy “Institutions before the traffic accidents” (Saragossa, 16 May).
- Conference held by the Second Deputy at the Center for Professors in Albacete in the course entitled “Positive Cohabitation” (21 May).
- Conference by the Secretary General in the Main Headquarters of the Police and Civil Guard and the on police activities evaluated by the Ombudsman (Madrid, 23 May).
- Visit with North American students studying in a Master’s program at the Antonio de Nebrija University (Ombudsman headquarters, 24 May).
- Conference held by the First Deputy during the institutional ceremony held on the occasion of the 2007 school celebration of the Balearic Islands Bar Association (Palma de Mallorca, 1 June).
- Course on parliamentary control of healthcare activities, organized by the Health Department of the Council of Castilla y León. Conference on the Ombudsman given by the Second Deputy (Valladolid, 7 June).
- Conference of Peaceful School Coexistence and Conflict Prevention, organized by the Department of Education of the Council of Castilla y León. Inaugural conference given by the Ombudsman: “School Violence in Spain” (Cultural Center Miguel Delibes, Valladolid, 12 June).
- Meeting with a Delegation of the Committee on Petitions of the German Bundestag, to exchange impressions on questions related to the work of the Ombudsman and the Committee on Petitions (Ombudsman headquarters, 27 June).
- VIII Master’s Program on Private Rights, by the Bar Association of Madrid. The conference given by the Ombudsman was called “Individual freedoms and collective security” (Madrid, 29 June).
- Conference by the Second Deputy held at the Swedish Embassy in Spain on discrimination based on sexual orientation (Madrid, 29 June).
- VIII Series of Summer Courses at the Rey Juan Carlos University. Participation of the Ombudsman during the course “The Refounding of Spain (1975-1978)”, with the conference “the legislative process toward consolidation of democracy” (Barracks of Pavia, Aranjuez, Madrid, 11 July).
- Seminar on “the local political involvement of foreigners”, organized by the Institute for Civil Rights and the Carles Pi i Sunyer Foundation. Intervention by the First Deputy (Barcelona, 19-20 July).
- 2007 Summer Program of the University of Malaga “Ombudsmen and rights of citizens. A legal and social perspective”, organized by the General Foundation of the University of Malaga. Intervention by the First Deputy in the conference entitled “Present and Future of the Ombudsman” (Velez-Malaga, 23 July).
- Seminar on electromagnetic fields organized by the Ministry of Industry, Tourism and Commerce, as part of the Summer Course Offerings of the Complutense University of Madrid. The Second Deputy gave a conference entitled “the opinion of the Ombudsman” (San Lorenzo del Escorial, 25 July).
- Conference on “the Ombudsman” given by the First Deputy at the Es Mercadal City Hall, on Menorca Island (7 August).
- Masterclass by the Ombudsman in the Solemn Inaugural Ceremony of the XI National Congress of Psychiatry: “Contemporary social violence in Spain” (Palacio de Fonseca, Santiago de Compostela, 25 September).



Enrique Múgica at the inauguration of the Monument to the Victims of the Holocaust.

Photo: City Hall of Madrid

- IX Congress on the Spanish Legal Profession. Participation by the First Deputy in the website “the minor: rights and responsibilities” (Saragossa, 27 September).
- Business Forum of the City of Valencia. Conference by the Ombudsman: “Some considerations on the effects of immigration in Spain” (Hotel Meliá, Valencia, 1 October).
- Inaugural Conference by the Ombudsman for the IV Master’s Program on Protection of Human Rights, entitled “national institutions for the protection of human rights: The Ombudsman” (University of Alcalá, Alcalá de Henares, 10 October).
- VII Symposium of the Association of Speech Therapists of Spain and I Congress of the Professional School of Speech Therapy of Castilla-La Mancha. Attendance by the Second Deputy to the closing ceremony (Toledo, 14 October).
- Confederal Seminar “Equal employment opportunity”, organized by the Confederal Executive Commission of the UGT. Participation by the First Deputy with the conference “Work discrimination from the perspective of the Ombudsman” (Santander, 16 October).
- Participation by the Ombudsman in the presentation of the collective book “Spaniards before the Registry”, published by the School of Mercantile and Property Registrars of Spain (Assembly hall of the Property Registry, Madrid, 17 October).
- Seminar on adoption, legal protection and highest priority consideration for minors, organized by the Congress of Deputies and the Aequitas Foundation. Intervention by the First Assistant: “Protection of minors and international adoption” (Congress of Deputies, 22 October).
- Celebration of the “Tribute to teaching” organized by Independent Union ANPE. Masterclass given by the Ombudsman: “The Right to Education in Spain” (Cultural Centre of the Council of Ourense, 27 October).
- Course entitled “Spain: From the Transition to the Consolidation of Democracy (1975-2000)”, organized by the Universidad Autónoma of Madrid, Largo Caba-

llero Foundation and Julian Besteiro School. Participation by the Ombudsman in the Round Table “Politics and Political Parties” (Faculty of Philosophy and Letters of the UAM, Cantoblanco, 30 November).

- III Course on Development and Structures for Deputy Tax Inspectors, organized by the National Institute of Public Administration. Conference given by the Second Deputy on the theme “Internal and External Control of the Public Administration” (Madrid, 10 December).
- Meeting entitled “the Ombudsmen of the People: Realities and Challenges”, organized by the Síndica de Greuges (e.f.) of the Community of Valencia and the University of Alicante. Participation by the First Deputy with the Conference “Human Rights and Penitentiary Institutions” (Alicante, 11 December).
- XVII Course on Promotion to Commissioner. Conference by the Secretary General “police activity evaluated by the Ombudsman” (Carabanchel, Madrid, 11 December).
- IX Edition of the Master’s Program on Political Action on the theme “Judicial Authority”, organized by the Bar Association of Madrid (Madrid, 12 December).

Visits, tributes, and official acts

- Attendance by the Ombudsman, the First Deputy and the Ombudsman Cabinet Chief to the inauguration of the Government Delegate of the *Generalitat* of Catalonia, Raimón Martínez Friar (Cultural Centre Blanquerna, Madrid, 10 January).
- Attendance by the Ombudsman at various events organized on the occasion of the Official Day for the Remembrance of the Holocaust and the Prevention of Crimes against Humanity. Organized by the Ministers of Foreign Affairs and Cooperation, Justice, and Education and Science (Complutense University of Madrid, 25 January), Congress of Deputies (26 January) and Jewish Organizations of Madrid (5 February).



The Ombudsman receives the First Prize called "Gumersindo de Azcárate of the Registrars of the Community of Madrid". Photographed alongside Esperanza Aguirre in the Casino of Madrid.

Photo: College of Registrars of Madrid.

- Attendance by the First Deputy at the inauguration of the Hospital of Formentera (Illes Balears, 12 February).
- Attendance by the Ombudsman at the inauguration of the Minister of Justice, Mariano Fernandez Bermejo (Palace of Parcent, Madrid, 13 February).
- Closure by the Ombudsman of the Award Ceremony for the X Prize of University Legal Studies, organized by the *Profesor Manuel Broseta* Foundation (Bar Association of Valencia, 2 March).
- Attendance by the Ombudsman at the inaugural ceremony for the monument to commemorate victims of the terrorist attack on 11 March 2004 (Atocha Railway Station, Madrid, 11 March).
- Meeting of the First Deputy with Leopoldo Torres, Member of the International Subcommittee for the Prevention of Torture, regarding the Optional Protocol of the United Nations Convention against Torture (Ombudsman headquarters, 6 March).
- Meeting of the First Deputy with Pedro Antonio Rivers, Cabinet Member of the Minister of the Interior, on the Optional Protocol of the Convention against Torture (Ombudsman headquarters, 7 March).
- Attendance by the Ombudsman at the panel of judges meeting for the ABC University Prize III Award Ceremony, ABC Solidarity 2007, held by the ABC newspaper, in collaboration with Telefónica and the Santander Group (Madrid, 21 March).
- Attendance by the Ombudsman as a member of the panel of judges at the award ceremony for the IV Solidarity Prize of Telemadrid, granted to the Franciscan Brother of the White Cross, Isidoro Macías Martín, known as "*Padre Patera*" (San Francisco de Asís Family House, Madrid, 23 March).
- Award Ceremony, presided over by Their Majesties the King and Queen of Spain, for the II King of Spain Prize for Human rights, granted to the Foundation Myrna Mack, of Guatemala. Helen Mack, President of the Foundation, received the prize in recognition of their fight for the defense of Human Rights and their arduous work to shed light on the extrajudicial execution of sister Myrna Mack. The candidacy finalists were the League of Refugee Women of Cartagena de Indias, Colombia, and the Miguel Agustín Pro Juárez Centre for Human Rights of Mexico (Auditorium of the Old College of San Ildefonso of the University of Alcalá, Alcalá de Henares, Madrid, 11 April).
- Attendance by the Ombudsman at the inauguration of the Monument to the Victims of the Holocaust, organized by the City Hall of Madrid and the Jewish Community of Madrid (Juan Carlos I Park, Madrid, 15 April).
- Presentation of the First Prize called "Gumersindo de Azcárate of the Registrars of the Community of Madrid" to Enrique Múgica Herzog, Ombudsman, in recognition of his political career in the area of Law (Casino of Madrid, 16 April).
- Attendance by the Ombudsman at the award ceremony of the "New Economy 2007 Forum" Prize for Social Cohesion and Economic Development, granted to the European Commission, represented by its President, Jose Manuel Durao Barroso (Zarzuela Theater, Madrid, 19 April).
- Inauguration by the Ombudsman of the People of the new council building (Field of Criptana, 21 April).
- Attendance by the Second Deputy at the award ceremonies for the CERMI and Obra Social Caja Madrid prizes (Casa Encendida, Madrid, 9 May).
- Attendance by the First Deputy at the inauguration of the new headquarters of the Latin American General Secretariat. (Madrid, 23 May).
- Meeting of the First Deputy with the Supreme Court Magistrate, Chief of Civilian Courtroom One, Jaime Maldonado (Ombudsman headquarters, 11 June).
- Award Ceremony of the fourth Linea Directa Journalism Prize for Traffic Safety. The Ombudsman presented the Prize for the television category (Palace of the Dukes of Pastrana, Madrid, 12 June).
- Celebration, of the XXV anniversary of the Ombudsman Institution, the International Seminar "the role of the Ombudsman Institution as guarantor of Human Rights and citizens' freedoms in the consolidation of a democratic system". Inaugurated by the President of the Senate. Solemn session presided over by His Royal Highness, the Prince of Asturias (Palace of the Senate, 22 June).
- Attendance by the Ombudsman at the award ceremony for the XX Juan Lladó Prize, organized by the Jose Ortega y Gasset Foundation and the Institute of Commerce (Madrid, 9 July).
- Presentation by the Ombudsman of the Medal of the Brotherhood of Retirees of Commerce, Economy and Property, in commemoration of its XXV Anniversary (Ombudsman headquarters, 12 July).
- Visit with the directors of the Adams Training Centre, to present the Ombudsman with a commemorative plaque on the 50th Anniversary of its Foundation (Ombudsman headquarters, 17 July).
- Attendance by the Ombudsman at the solemn inauguration of the Judicial Year (Supreme Court, Madrid, 17 September).

- Attendance by the Ombudsman at the Solemn Act of Tribute to the National Flag and to the Military parade on the National Holiday of Spain (Plaza de Colon, Madrid, 12 October).
- Attendance at the 75th Anniversary Celebration of the Illustrious Bar Association of Melilla. Presentation of the Bar Association's Gold Medal to Enrique Múgica Herzog, Ombudsman (Hospital del Rey, Melilla, 19 October).
- Presentation of the "Human Behaviour" Prize to the Ombudsman by the Spanish Association of Refined Words and Good Customs. Held in the Palace Hotel of Madrid on 20 October, the award ceremony was also attended by the Secretary General. Subsequently, the Prize was given by the Association to the Ombudsman in the Ombudsman headquarters on 25 October.
- VII Session of the Autumn Meeting and IV award ceremony for the "Leaves of Autumn" prizes. Award created by the Council of Castilla-La Mancha, the Delegation and City Hall of Guadalajara and the University of Alcalá. The Ombudsman presented the "Leaf of Autumn" to the Ombudsman of Argentina, Eduardo René Mondino (Buero Vallejo Theater de Guadalajara, 6 November).
- Presentation of the XIII Pelayo Award "for Prestigious Attorneys", organized by Pelayo Mutual Insurance (Casino of Madrid, 15 November).
- Attendance by the Second Deputy at the awarding of the University of Alcalá medal to the President of the Republic of the Philippines (Alcalá de Henares, Madrid, 4 December).
- Attendance by the Ombudsman at the reception offered by the Congress of Deputies on the Constitution Day (Palace of the Congress of Deputies, 6 December).
- VI Reading of the Human Rights Declaration and award ceremony of the Ombudsman's 2007 Prizes. Organized by the NGO "Globalization of Human Rights". Prizes awarded to winning students and organizations by the First Vice-President of the Congress of Deputies, by the Ombudsman, and by the President of the Human Rights Foundation (Congress of Deputies, 10 December).
- Presentation of the book commemorating the XXV Anniversary of the Ombudsman Institution (Ombudsman headquarters, 12 December).
- Public and solemn oath taking ceremony for new lawyers and presentation of diplomas by the Bar Association of Lucena. The Ombudsman served as Patron of Honour. He led the conference "On Justice as a basic value". (Plenary Sessions Room of the City Hall of Lucena, Cordova, 15 December).

Internal Courses

- Summer Courses at Complutense University of Madrid. The Ombudsman directed, organized and sponsored the course "On Violence in Schools". Consisting of four round tables and eight lectures, it was inaugurated by the Ombudsman and the Undersecretary the Ministry of Education and Science, with parti-



Enrique Múgica with Ararteko Íñigo Lamarca, at the Complutense University of Madrid Summer Courses in El Escorial. The Ombudsman organized the course "On Violence in Schools".

cipation by Ombudsman staff, experts in education and childhood affairs, spokespersons of parliamentary groups, juvenile court judges, and parents' associations (Edificio Infantes, El Escorial, 25-29 June).

Accords and Agreements

- Collaboration agreement between the Complutense University of Madrid and the Ombudsman of Spain to create a publication on the Ombudsman's first 25 years of activity. Signed at the Ombudsman headquarters on 18 January.
- Cooperation agreement between the Ombudsman and the Sociological Research center.
- Agreement between the Ombudsman of Spain and Foundation ESADE for the development of an Educational Cooperation Program. Signed in Madrid on 12 February.
- Cooperation and collaboration agreement between the Ombudsman of Spain and the Ombudsman of La Rioja. Signed in the Parliament of La Rioja on 23 February.
- Cooperation and coordination agreement between the Ombudsman of Spain and the General Procurer of Asturias. Signed at the headquarters of the General Council of the Principality of Asturias on 27 February.
- Interlibrary cooperation agreement between the Ombudsman of Spain and the Lord Chancellor of Aragón. Signed at the Ombudsman headquarters on 2 March.
- Cooperation and coordination agreement between the Ombudsman of Spain and the Complutense Institute of International Studies of the Complutense University of Madrid. Signed in Madrid on 20 March.
- Cooperation and collaboration agreement between the Ombudsman of Spain and the *Diwan Al Madhalim* Institution of Morocco. Signed in Rabat on 2 May.
- Framework collaboration agreement between the Ministry of Public Administrations and the Ombudsman of Spain. Signed in Madrid on 6 June.



Signing of the Cooperation and Coordination agreement between the Ombudsman of Spain and the General Procurer of Asturias. Accompanied by the President of the Council of the Principality.



Signing of the Collaboration agreement between the Ombudsman of Spain and the Complutense University of Madrid to create a publication on the Ombudsman's first 25 years of activity.

- Collaboration agreement between the Ombudsman of Spain and the General Foundation of the Complutense University of Madrid for the preparation of the course entitled "On School Violence". Signed in Madrid on 7 June.
- Cooperation and coordination agreement between the University of Alcalá and the Ombudsman of Spain for the training of professionals in the area of information stands. Signed in Madrid, 30 June.
- Collaboration agreement between the Ombudsman of Spain and the History Channel to create an audio-visual documentary on the Institution to commemorate its twenty-fifth anniversary. Signed in Madrid on 30 July.
- Cooperation agreement between the official representative of Oly Majlis (Ombudsman) of the Republic of Uzbekistán and the Ombudsman of Spain, signed in the Palace of the Senate, on 11 October 2007.

