



# Síndic de Greuges de Catalunya

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REPORT TO PARLIAMENT 2003

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The Síndic hands in the Report 2003 to the President of the Parliament.

## Presentation

The Síndic de Greuges, in accordance with what is laid down in the law that regulates it, presented on 5 March 2004 to the Parliament of Catalonia the Report corresponding to the actions of the year 2003, a report which is published fully in the *Butlletí Oficial del Parlament de Catalunya* – the newsletter of the proceedings of the Catalanian Parliament – corresponding to the 7th Mandate, number 34, of 19 March 2004, as well as on our web site [www.sindicgreugescat.org](http://www.sindicgreugescat.org).

This publication is a summary of what has been deemed to be the most significant parts of the report, while actually keeping its structure. Here you will find all the material areas into which we organise our activity. We single out in each of them specific actions, which either constitute the core of the complaints we receive from citizens, or make evident some situations we consider important, to which the right attention must be paid. Some of these we might consider new situations, the result of our changing society, and some others, sadly, happen time and again.

We are also including a summary of our Second Book, which this year is devoted to the electronic systems of video surveillance, and we close with a reference to our actions of institutional projection and to the statistical data about complaints dealt with: number, origin, subject matter, administration affected, stage of transaction and degree of efficacy.

The Síndic de Greuges de Catalunya is the commissioner of the Parliament of Catalonia for the defence of the fundamental rights and the public liberties of the citizens of Catalonia, and in this sense our Report responds to the duty to inform the Parliament of all our actions during the year. To the extent that the Parliament of Catalonia represents the citizens of Catalonia, and that the access to information is an effective guarantee for the defence of the rights of citizens, we also seek to reach them all in a more direct and simple way, and this edition, as in other measures of dissemination we carry out, has this objective in mind.

The efficacy of our democratic institutions does not lie, as could be thought, on the strength or the capacity to impose its decisions, but rather on the degree of conscience and participation of its citizens, who when they take conscience of their rights and duties, their defence and their fulfilment, they contribute to the improvement of society and of their administrations.

Anton Cañellas  
Síndic de Greuges de Catalunya

## Administrative procedure, civil service, participation in public affairs and electoral issues

<b>Actions</b>	Complaints	Ex Officio actions	
Administrative procedure	471	4	
Civil service	103	1	
Administrative contract	52		
Patrimonial responsibility	35		
Participation in public affairs	22		
Electoral issues	23	1	
<b>Total</b>	<b>706</b>	<b>6</b>	<b>712</b>

### Identification of offenders

The Law of Traffic lays down that the titular of the vehicle is under the obligation to identify the offender in those occasions in which the former is not driving. If the titular does not fulfil this obligation without a justified reason, or if, after having identified the offender, notice cannot be served by the titular's fault, the titular of the vehicle will be fined. Often, even if the titular of the vehicle may have acted with due diligence, the Administration has continued to process the action started without taking into account the identification of the presumed offender, something

which motivated the presentation of various complaints to the Síndic.

The Síndic understands that the obligation which the Law of Traffic lays down cannot impose on the titular of the vehicle a right of collaboration beyond what is reasonably required, and that this obligation should not replace the activity of the Administration in the sense of freeing it from continuing with the investigation proceedings aiming to establish the identity of those responsible of the offence committed. In this sense, the considerations formulated to and accepted by the Institut Municipal d'Hisenda de Barcelona have implied a change of criterion regarding the data that the titular of the vehicle should

include so that his or her duty of collaboration is deemed as having been discharged.

### The privatisation of the Laboratori General d'Assaigs i Investigacions

The workers' committee of the LGAI Technological Center, SA, the resulting company of the privatisation process of the Laboratori General d'Assaigs i Investigacions (LGAi), contacted the Síndic in order to manifest its concern about various aspects of this process.

The promoters expressed their concern about the continuity of 300 jobs, the maintenance of the social role of specific functions of this entity, and the preoccupation about the use that the society may make of the information technically sensitive which customers make available to the laboratory. Finally, they were of the opinion that the privatisation of the society had to be decided by the Parliament of Catalonia, as it had been created by law.

The Síndic focussed its recommendations on the guarantees given by the laboratory – the titularity of which would continue to be public through the LGAI itself – on behalf of the service users.

The Síndic wondered whether the mechanisms laid down by the whole regulatory framework of the operation, with a view to rendering the control and management functions attributed to the LGAI operative, may guarantee sufficiently the rights of users and of the independence and neutrality which must be preserved with respect to entities carrying out control tasks in the sphere of industrial quality and safety, and which, in addition, are of a public nature.

For this reason it suggested that the contract regulating the provision of services should expressly lay down the fact that the new company LGAI



## WE RECOMMENDED

- To the Town Council of Barcelona: to award street licences to painters and draughtspeople of the Rambla through an open tender, selecting applications according to various objective criteria, such as antiquity. We have further suggested to publish in an official newspaper a set of regulations and the call for bidders, and the possibility that municipal services may inspect the activity of painters. The Town Council accepted the suggestions that related to inspection tasks.

## WE SUGGESTED

- To the Town Council of Mollerussa: to refund the amounts paid for tickets to the national competition of paper dresses by a group of old-age pensioners, due to the fact that the competition was not held through bad weather. The Town Council accepted the suggestion made and ordered for the money to be refunded.

Technological Center, SA will only use the data of a personal nature in accordance with the instructions of the LGAI; that it will not apply or use them for a different purpose to that which is specified in the contract; and that it will not communicate them, not even for their preservation, to other people. The Síndic further suggested that the contract should also specify the safety measures that the new society is under the obligation to implement in order to make data protection effective. The LGAI, as titular of the services, must exercise its rate-fixing power beyond a non-discrimination forecast, and must publicise the rates fixed so that users may know them. The Síndic also suggested incorporating into the regulating contract the provisions relating to the procedure to be followed with the claims presented by users, and to make them public so that users may have knowledge of them. Most of these considerations were accepted by the Department of Industry.

### The bad condition of street pavements

The Síndic has pronounced himself on other occasions before now about the



systematic negative by the Administration to accept that there may have been an instance of patrimonial responsibility when a citizen asks for damages after injuries suffered by falling down on the street due to a deficient state of conservation of street pavements.

Administrations tend to consider that the existence of a causal link in the sense of a cause-effect relationship between the state of the pavement and the damages suffered has not been sufficiently proven. This assertion, however, lacks the necessary motivation.

In other cases, municipal Administrations deny the existence of patrimonial responsibility on the argument that deficiencies on the road surface or on the pavement fall within the sphere of what is acceptable, or that the person involved has failed to take sufficient care when adapting his or her action to the characteristics of the street.

The Síndic understands that each specific case must be studied individually in order to ascertain whether any responsibility must be really attributed to the Administration. What causes some concern, however, is that even after having elaborated a number of criteria to be taken into account in these cases which have been consolidated by a reiterated jurisprudence that arises from complaints brought by citizens who have not seen their claims satisfied, the Administration should persist in its position, as has been the case among various Town Councils.

### Objections to serving in a polling station

Whenever elections come round - and we have had two this year - we receive complaints from citizens who have found obstacles to exercising their right of vote, or who have objected or have had problems to serve at the polling station to which they were ascribed. A lady who had been appointed to be at one of the polling tables wrote to the Síndic on the grounds that she objected to the type of draw followed by Barcelona Town Council to choose the members who will serve at the electoral desks. She had already been condemned in 1996 for her objection to participate in an electoral table. From the documentary information and the comments made available to us by the Town Council, we ascertained that the draw had been carried out according to rules, and had been done at random.

Other issues raised in this sphere refer to the conflict occasioned to a couple with family obligations by the fact that both members were chosen to serve in electoral tables, or the financial prejudice to the owner of a newspaper kiosk who was also chosen for duty at an electoral table. Situations such as these are not contemplated in the Electoral Law. Specifically, as regards the latter case due to the fact that he was a self-employed.

# Housing and urban planning

Actions		
	Complaints	Ex Officio actions
Housing	114	
Urban planning	212	1
Total	326	1

## Shortage of protected housing, and difficulty of access to free market

To talk of shortage of protected housing to satisfy demand is tantamount to talking of the price of housing on the free market. These are two issues that are closely related. Leaving aside the polemic about a possible existence of a real-state bubble, the truth of the matter is that for many families purchasing a house implies a great financial effort and a disproportionate borrowing with respect to their financial capacity. The Administration has two ways today to redress the market dysfunctions. One of them is the policy of encouraging the public promotion of housing, whether renting or actually buying. The other way, which is perhaps the practice most often forsaken nowadays,

consists in using the city planning instruments contemplated by the law in order to impinge on the market and to have soil to build protected housing. We still think that there is a margin within the constitutional framework, in which the legislator can move in order to attain the objective of facilitating access to housing without impairing the stability of the economic system.

## Re-housing due to urban planning reasons

The reordering of a sector involves a strong investment, as the people affected by a city planning action who are under a compulsory purchase order will need to be re-housed. The problem was brought to us by families under expropriation who must assign their flat free of charges to the Administration only to find that the amount of the indemnity does not cover the mortgage capital pending to be paid for the said flat or house. We have always considered also that the owners and those affected by a compulsory purchase order, or an order to surrender property for public purposes, apart from the right to take part in

## WE SUGGESTED

- To the Patronat Municipal de l'Habitatge of the Barcelona Town Council: to review a number of claims, and to amend the possible error with the Directorate General of Architecture and Housing by which a number of PERI Diagonal-Poblenou claimants, who bought an officially-protected house under a special regulation, did not receive the aid which consisted in a non-recoverable donation of a 10% which applied to first residences. The Patronat de l'Habitatge has accepted our suggestion and has reviewed the claims so that those affected may collect the aid.
- To the Town Council of Sant Ramon (Segarra): to reply to all those who had presented allegations to the subsidiary norms of municipal planning, and that these should be added to the documentation of the urban regulation plan, a new planning instrument started by the Town Council.

the just distribution of financial burdens and benefits in the sector affected, should have the right to be re-housed at the time of the occupation in order not to impair the right to housing, as the norm currently lays down. The instruments of general planning must flee from strict zoning, and must strive for a more integrated city, and to avoid the creation of real urban ghettos. The distribution across the territory of land initially destined for equipments for religious worship according to rational criteria would also have an effect on the redistribution of the social groups, and would avoid space segregation. Moreover, an effort must be made to avoid homogeneous social concentrations using the instruments of intervention in the land market.

## Urban conservation entities

The urban conservation entities, named "jupes de conservació", are groups of people who come together to preserve works of urbanisation and maintain the allocations and facilities of public services until the time the Town Councils can include them into their budget. But there are urban conservation entities





which, apart from maintaining their services, undertake to create those that are missing, as in many instances the promoters of the urbanisation have not fulfilled their duties.

One of the problems which are often brought to us is the dissolution of the urban conservation entities when, due to problems of internal functioning, cease to operate with regard to the fulfilment of their aims. City councils must try to find a solution without deviating from the limitations of the law and respecting the statutes of the entities. Another frequent type of complaint is the access by the members of a conservation entity to the social accounts. According to the new regulations, the partial development of the City Planning Law lays down that the members of the committee have the right to obtain certified copies of the social books. This new regulation has resolved or has

helped to resolve the problems brought up with the urban conservation entities due to a lack of specific regulation.

### **The subsidiary execution**

Very often, the complaints reaching us from citizens regarding issues not only about housing, but also about urban planning problems, are motivated by the fact that some individuals do not fulfil the orders issued from the Town Councils. They are situations which seem to have no solution: the promoter of the complaint reports the issue to the Town Council, which inspects and certifies the facts reported, processes the claim and finally ordains the execution of some building work or the demolition of something that had been illegally built. If the person receiving the order does not voluntarily execute it, the torment starts for the person who reported the

issues originally, as the claim lingers for months in the municipal offices. Being aware of all this, here are a number of thoughts about the choice of the best road to a forceful execution:

The processing of the forceful execution through fines must be swift and agile. If the Administration does not execute the acts to collect the fines, the measure is obviously pointless. In the event that coercive fines have made no effect, the Administration should think of the possibility of subsidiarily executing its orders of building work demolition or execution as a more useful system to protect urban legality, seeing also that a failure to comply with a demolition order may result in the consolidation of other building work which is contrary to legislation, and failing to comply an order of execution of works contributes to the deterioration of buildings.

# Environment

Actions		
	Complaints	Ex officio actions
Environment	238	4

## The ecologically minimum acceptable volumes in the rivers of the inner basin of Catalonia

We have suggested to the Department of the Environment that, in the shortest possible time, the hydraulics authorities make manifest the real possibility of implementing the ecologically minimum acceptable volume of maintenance in the river basins of inner Catalonia.

If this has not yet been done, we should consider the juridical state and the state of real and effective use, at least as regards the licence of public hydraulic use. This may have a greater effect on the definition and implementation of the ecologically minimum accepted volumes, in the event that it may be possible to review the said licences or foresee their expiration or indemnity, so that they fall into line with the Hydrologic Plan for the inner basin.

An environmental group presented a

complaint to the Síndic asking the Administration to allocate an ecological volume to the course of the Gaià river. Various Catalanian, Spanish and European laws refer to an ecological volume for the rivers to make possible the continuity of life of the various biological communities, a sufficient quality of water and a respect for the landscape. The Síndic, therefore, thinks that to set the ecological volumes is a legal mandate since 1985, strengthened with the approval, in July of 2001, of the so-called Sector Plan of Maintenance Volumes of the Internal Basins of Catalonia. The truth is, however, that with specific rivers or river courses there is a tension –which is very difficult to overcome– between the gross hydric resources of a specific basin and the water needs to be provided. It could thus happen that in specific river courses it would not be possible to guarantee the ecological volumes without intervening over the concessionary rights granted, or situations of an impossibility to respect the volume, even in the absence of concessions. It will be necessary to reach conclusions and even possibly identify the zones in which it is materially impossible to set any volume or, alternatively, take the course of the indemnity of concessions,

or revising them or declaring the expiration of other water concessions in order to make the ecological volume possible. At the petition of the Síndic, the Department of the Environment and Housing replied to the effect that it shared the criteria of this Institution and that the Catalanian Water Agency is elaborating a proposal of priority actions involving inspection and control of some rivers, the Gaià river being among them.

## Open air activities

The spontaneous activities arising when a group of people with similar affinities and interests gets together in the open air to play musical instruments, or the activities programmed within the framework of festive celebrations, even with the right authorisation of the Town Council, are not always exempt from causing noise trouble.

Within this typology of complaints, one was brought this year about drums and other percussion instruments which can be heard coming from the Parc de la Ciutadella of Barcelona, and the disturbances resulting from the musical and ludic activities organised by the Town Council of La Roca de Vallès on the occasion of its local high festival.

As for the Parc de la Ciutadella, despite the intervention of the Town Council to try to stop the problem by means of an awareness-raising campaign and controls by the local police, the person who brought the complaint informed the Síndic that the disturbances continued. The Síndic contacted the Town Council again to remind it of the regulatory framework of the city, namely the local regulations about the use of the public roads and spaces. The regulation lays down that the citizens have the right to behave freely in the city public spaces, although the right is limited by the duty to respect other people, a motive by which it is not allowed to produce noise which may disturb the rest of neighbours.

We have learnt through the media that the Town Council has launched at the



The Gaià river bed

beginning of 2004 a new awareness-raising and control campaign involving the park, the results of which is a bit too early to measure.

Regarding the activities of the high festival at La Roca del Vallès, the Síndic made a recommendation to the Town Council to study the suitability of school yard as the venue to concentrate actions, and to value the possibility of finding alternative locations away from housing areas.

The Town Council replied that the organisation of cultural and festive activities which will be enjoyed by all the neighbours of the city during a specific number of days must prevail over the rest of neighbours, although they committed to limit the number of activities in the school yard during the festival.



## Legalisation and closure of rubbish tips

The use of some spots of land as uncontrolled, illegal rubbish tips, which are tolerated and maintained by the Town Councils, is still a problem here and there in Catalonia. This tolerance has repercussions in the environment, it affects landscape adversely, and can impinge on the rights of third parties who own the land confronting the tips and see it becoming spoilt due to incivic conducts which, nevertheless, arise from the tolerance practiced.

This year we have received various complaints by people affected by the lack of control of these tips, among others, of land located in the municipal term of Rodonyà and of Ametlla de Mar.

Concerning Rodonyà, the Síndic pointed out that, apart from the incivic conduct of the neighbours, the vigilance and the maintenance conditions of the tip were not perhaps the ideal ones. The Síndic also considered that the Town Council ought to take the necessary measures to legalise the rubbish tip, if it was not a legal one, and to provide for it the right technical conditions of functioning and for the control of the materials being dumped there, and avoid disturbances to third parties. One such third party was the promoter of the complaint, a lady who owned the contiguous plot of land, who addressed the Síndic because she considered that

the tip, from which the rubbish was only collected once a year, could affect the salubrity of her private home.

The Town Council of Rodonyà informed the Síndic that the launch of a regional mobile tip and the collaboration with the Regional Council of Alt Camp to obtain the right management and the legalisation of the dump would improve the situation denounced, but it did not reply to the considerations of the Síndic about the convenience of adopting measures to correct the adverse effects of the tip on the property of the claimant.

As for Ametlla de Mar, the Síndic reminded the Town Council of its duty to regenerate and clean the degraded areas, in this particular case a plot of private land which was being used as an extension of the municipal tip without the consent of the owner.

## The protection of forests from fire hazards

The lack of a right maintenance on land where vegetation grows unattended, and there is no conservation or care, can generate, given some circumstances, a dangerous situation involving possible forest fires.

Among complaints about similar problems, we might single out one brought by a neighbour of La Palma de Cervelló

who addressed the Síndic due to a lack of response from the Town Council about demands to correct a situation which could potentially generate a fire. The claimant exposed that her house stood in front of a forest or piece of land of private property in a very unkempt situation, and that neither the owner nor the Town Council took any measures to prevent possible forest fires there.

The steps taken by the Síndic with the Town Council managed to get the owner of the plot of land to make a partial clearing. Those steps were also useful as they revealed that the town did not have a plan of protection of forest fires, as the law lays down for those towns such as this which are in high-risk areas. For all these reasons, the Síndic asked the Town Council to take the necessary steps to have this plan as soon as possible.

The Síndic also addressed the Department of the Environment, because the regulations did not make it clear enough whose competence was it to elaborate this prevention plan, as it appeared to correspond to the Department to elaborate and approve it, whilst, according to the Directorate General of Prevention and Risks in the Natural Environment, the elaboration of the prevention plans corresponds to the municipalities.

# Taxation

## Actions

	Complaints
Taxation	196

## Tax management

Each year there are citizen complaints brought which consider that the Administration vulnerates their rights as tax payers in the whole tax managing process, which includes the following actions: liquidation, notification, collection and inspection.

As complaints in this section, we might single out the lack of co-ordination among the various areas of a single Administration, which provoked that executive proceedings be started and the goods of a particular citizen who had discharged his tax duties correctly be embargoed.

We also dealt with complaints that the Administration, even after having adopted a resolution favourable to the tax payer which implied a refund for undue payment, is very slow at the time of reimbursing the money.

We find hesitation or lack of foresight on the part of the administrations to acknowledge tax benefits to tax payers, and also that there are doubts about the moment in which these benefits are in force.

In other occasions, even if the law lays down that a specific exemption must be acknowledged, the Administration

does not consider it has been sufficiently argued and, if that hypothesis has not been incorporated into the tax regulations, does not agree to grant the benefit requested.

## Administration subsidies in payments through banker's order

A citizen from Barcelona raised a complaint with the Síndic expressing his disagreement with a subsidised payment system which the Town Council of Barcelona applies to the collection of real-state tax when payment is made through banker's order and in two instalments.

The claimant thought it discriminatory for the Administration to act in the way explained and not to act in the same way when the amount is paid fully in the tax office or in cash at a bank.

The Síndic, while understanding the arguments of the claimant, considers that we are not facing a true tax benefit, as it is not integrated within the structure of the tax obligation, but of a subsidy. The Town Council has the power to lay down norms for subsidies which may have the effect of a tax relief whenever the requirements laid down by the legal regulations are met. Once the complaint was received and presented, the new Law of reform of the law regulating local treasuries expressly contemplates this possibility, and it specifies that the bonus could reach up to 5 % of the amount on behalf of those citizens who

## WE RECOMMENDED

- To the Town Council of Reus: to suppress from the local tax regulations the sections referring to the tax for issuing administrative documents, like the forms to lodge complaints for habitability and the written complaints for motives that harm private interests of the person bringing the complaint directly and that don't refer to municipal public services. The Town Council of Reus has informed the Síndic that, in accordance with the Síndic's recommendation, the tax has been suppressed.

pay their taxes through banker's orders or carry out actions implying collaboration with the collection of revenue.

## Inheritance and donations tax

Various citizens have expressed their disagreement about the current regulation about the inheritance and donations tax, as they think that their financial capacity is not proportional to the expenses involved in the amount they have to pay for this tax.

The problem focuses on the co-existence of the inheritance and donations tax with the income tax, and the possible duplicities which may arise from having to pay both taxes.

The doctrine on taxation favours the thesis that income is the right and relevant index to measure the financial capacity of the person. A more advanced and just taxation system, therefore, must pay special attention to a personal income tax. Those favouring a gradual phasing out of the inheritance and donations tax argue that the revenue collected from this tribute are not very high.

The Síndic would only like to make known the opinion of those citizens who have addressed us asking us to request the authorities to pronounce themselves on this issue, and that this be made the object of a study which may leading to the adoption of norms that may derive from it.

We have known from the press that the Government has the intention to increase the minimum exempt of the tax, a measure that would imply that 80 % of tax payers may become exempt from paying.





## Consumer affairs

### Actions

	Complaints	Ex officio actions
Consumer affairs	577	4

### Debtors' registers

Various complaints involving a disagreement with the way the patrimonial and credit solvency registers, popularly known as debtors' registers, has led the Síndic to study current legislation on this issue.

The complaints referred to the difficulties involved in cancelling the data when they do not respond to a credit in force, with the prejudice that this occasions to the commercial or credit activity of those affected.

Even though the law lays down some mechanisms and some deadlines so that those interested may ask for their data on the files to be modified and for the possibility of addressing the State Agency for Data Protection in the event that the changes are not carried out, the Síndic considers that a great number of citizens ignore this possibility. The prejudices that the permanence of data on unpaid debts already cancelled may occasion would justify a special information effort which would have to correspond to the file managers as those responsible for the right treatment of the data.

A rigorous and easy-to-reach information would also allow, according to the Síndic, to avoid in this specific case the sense of unprotection and of the lack of mechanisms of reaction which, more and more often, citizens have in their relations, as consumers of goods and services, with various sectors of activity. The State Agency for Data Protection replied to the Síndic that establishing the obligation of information on the cancellation of data would be possible within the framework of the Law of data protection, but it would require a regulatory norm which would expressly

lay it down. It also informed that it works on the elaboration of a draft of this regulation of the law, to transfer it to the relevant Administration which has to approve it.

In front of this, the Síndic de Greuges addressed the Spanish Defender of the People to value the possibility of recommending to the Administration of the State to contemplate this obligation in the prescribed rolling-out of the law, approved in 1999, and it is still pending.

The Spanish Defender of the People informed that it shared the idea of the Síndic on this issue and, consequently, made the opportune recommendation to the Ministry of Justice.

### Extraordinary Report on the Public Service of Electric Supply

An extraordinary report was delivered to Parliament in January 2004 about *The Electric Supply Service. A Reflection on the Rights of Citizens*.

Out of all the issues – economic, technical, and environmental – that relate to electric energy, the report focuses on the safeguard of the rights of the electric supply user according to the current concept of public service.

The liberalisation of the provision of service should not imply a loss of guarantees for the consumer and user of these services. The Síndic thinks that the Administration and its regulatory and inspecting task regarding the services of general interest, like the provision of electricity, has the responsibility of protecting the consumer and user. For this reason, the report closes with a number of conclusions which give rise to a number of recommendations to the Government focussed to simplify and facilitate the complaints by users in aspects like billing, the reading of counters, damages caused by the supplying companies, discounts, and a special attention to the most vulnerable users given their financial or personal conditions.



(This report was presented to the Parliament on 24 February 2004. The full content is available from our website: [www.sindicgreugescat.org](http://www.sindicgreugescat.org), at the Reports/Extraordinary Reports section).

### Compulsory insurance for the motorbikes and mopeds

The high costs of compulsory insurance for motorbikes and mopeds, a cost proportionally higher than that for other vehicles, together with the difficulties of finding insurance companies ready to contract the insurance policy, occasion a great number of difficulties to the owners of these vehicles, and can imply, in practice, that those drivers circulate uninsured. The Síndic therefore launched an *ex officio* action on this issue, as it involves a risk not only for motorbike drivers, but also for the rest of citizens.

The Síndic asked the Department of Industry for information about the complaints received, and the Department of Economy and Finances to inform of the government actions on this issue within the framework of a resolution of Parliament of 6 February 2003, about compulsory insurance and other measures to contribute to a safer circulation for motorbikes and mopeds.

## Health and social services

### Actions

	Complaints	Ex officio actions
Health	183	5
Social services	142	3
Total	325	8

### Psychiatric hospitalisation and community care

Investment in new psychiatric care services and facilities, specially non-hospital community care, is still insufficient, a consequence of the historical association of mental health to charity, and to the fact of its being segregated from medicine. The creation of reference mental health centres for adults and children, the implementation of community rehabilitation centres, day hospitals, attended residences and flats, has been slow and with meagre allocations, if we take into account the current care demand.

This lack of resources comes as a contrast with the good functioning of hospital clinics and the good material and assistential conditions destined to acute and sub-acute patients in monographic hospitals. The attention of interned long-stay patients, however, shows infrastructure shortages.

The Síndic sought this year to verify the changes produced in psychiatric attention in monographic hospitals at Salt and Lleida, already visited in 1997, with the aim of evaluating the effectiveness of the integral health care of admitted patients. For this motive it has forwarded to the Department of Health and Social Security the analysis of the two visits carried out, pointing out the considerable progress made and the issues still pending.

### Health care of immigrants

One of the concerns of the Síndic has been the provision of health care to for-

eign immigrants in the Barcelona census, through the service of help to resident foreign immigrants. This attention has also involved an increase of the pressure on the teams of primary care of the basic health care areas in the various districts of Barcelona. To check whether the right measures had been adopted to meet the needs of citizens (national and foreign), specially regarding the equity and accessibility to the health care system, as well as other measures of reception and treatment of foreigners, like information and support, we conducted a number of enquiries at the Department of Health and Social Security.

From the reply of the Administration, it is clear that some measures, probably insufficient, have been taken in order to respond to the health care demand, and to contain the strong assistential pressure in some CAP. The creation of the Office of International Health Cooperation and Migrational Health has contributed with an instrument of integration and response to the health problems among the immigrant population.

The Síndic suggested to the Department of Health and Social Security to continue with the improvement of the health care conditions also increasing the continuing evaluations of the system, as well as the resources of the CAP with a greater affluence of immigrants for the benefit of all users.

### The "conducts"

An anonymous report, which owing to its nature we were not able to accept, led the Síndic to undertake an *ex-officio* action about a payment of a monthly fee to National Health doctors by some neighbours to ensure that they would be attended by the those doctors outside visiting hours. According to information from the press, this historical practice known as conduct is still in force in tens of municipalities of the province of Lleida, despite contravening current legality.



The Síndic suggested to the Department of Health to take the relevant measures to correct, if that was the case, the action of the said doctors and to enquire about the possibility of more cases in the health region of Lleida. The Department informed that it had started informative proceedings to clear up the facts.

### Extraordinary Report on Care of Dependent Older People in Catalonia

The approach made to the problem of care of dependent older people has enabled the Síndic to value the functioning of the care system in our country, to analyse the main parameters on which to define a model of care, to reflect on the possibilities of improving the current care system, and to try to identify the rights, such as dignity, privacy, and the duties which would have to be acknowledged in this sphere. These valuations have evolved into a number of suggestions and proposals about aspects such as the possible model of care – which the Síndic considers should be of a universal type –, the prioritisation of preventive programmes aimed at a healthy ageing, and the creation of an agency-type body for the protection of the elderly and disabled aimed at watching over the respect for rights of the people legally disabled, apart from the setting up of ethical committees for residential care, and to promote the living will. Other proposals involve to promote measures geared to the conciliation of family and labour life, to improve the skills of caretakers, to adopt measures with a view to favour a positive image of ageing through awareness-raising campaigns at schools, or through the media, and elaborate a new social services law which will define the right to a list of benefits which may favour proximity services, so that people may continue to live at home or in their environment, if they so wish. The work was based on the complaints received in the Institution about various aspects of this problem, and also on the visits carried out to various care centres, such as residences and day centres,

and has relied on the collaboration of a group of experts who have contributed their knowledge about various aspects.

(This report was presented to Parliament on 19 March 2004. Full content available from our website: [www.sindicgreugescat.org](http://www.sindicgreugescat.org), in the Reports/Extraordinary Reports section).

### Residential attention to the mentally disabled

During the last years, also in 2003, we visited residential centres for the mentally disabled as a way to get to know at close quarters the reality of the services being provided to this collective. Within the current model of care, we have been able to ascertain that various types of user coincide in the same residence and, when it is not possible to organise differentiated living areas, life among residents becomes difficult, as indeed the possibility to provide each resident with the specific care he or she needs. We think that it would have to be possible to define differentiated profiles of users of residences deep mentally handicapped, to fix the assistential needs of each, and the ratios of personnel for each typology. The mentally handicapped who have a mental illness associated to it, and the mentally disabled as they become older, are two collectives for which, normally, residences do not have professional people specifically trained to attend to their specific needs, nor there are any external support teams. As for the elderly, they grow prematurely older and more rapidly, which may result, in a short time, in an insufficient ratio of personnel where initially it was sufficient. It is also necessary for the public system of social services to devote a greater number of efforts to promote the creation of more supported flats as the best solution for the people with a level of disability which allows them to live integrated into a community of neighbours with a punctual support only. As regards the collective of the mentally disabled with associated illnesses of conduct, they require a double budgetary effort to increase the ratio of direct care personnel in the centres and to



provide the residences with new room suited to this profile.

### Poverty

Despite the fact that the standard of living of part of the population has increased and that the provision of social services is higher than ever, poverty affecting specific people of all ages exists among us. Together with the traditional bags of poverty and marginalisation which still exist (ethnic minorities, de-structured families, elderly people living on their own, drug addicts), there have appeared new forms of impoverishment which affect another segment of people who before used to be integrated into the social fabric. The loss of jobs by people for whom it is very difficult to find one has thrown a number of families into situations of poverty and marginalisation. To this situation we may add the difficulties, specially in these last years, to obtain access to housing.

## Employment and pensions

### Actions

	Complaints	<i>Ex officio</i> actions
Employment	50	1
Pensions	114	
Total	164	1

### The difficulty of various collectives to find a job

Most complaints which have reached us from the sphere of labour have been brought by long-term unemployed who are older than 45 years of age. Despite the tax and administrative measures, together with those of a social nature, contemplated by the law which accom-

panies the 2004 Budget, new subsidies and bonuses to the social quotas have been contemplated, in order to incentivate the indefinite labour contract for a number of workers' collectives. Neither the favourable economic cycles nor the labour market have managed to solve this structural unemployment.

A very high rate of unemployment among those with disabilities is a reflection of an unacceptable exclusion of this collective, and once again, the Law of social integration of the handicapped is breached by the companies with more than fifty workers, and this collective is still stopped by important barriers to obtain access to employment.

The access of people with disabilities to public employment offers a desolate panorama and, despite legal require-

ments, the truth is the sad non-fulfilment of the law.

Further breaches of the law and delays in this respect should no longer be accepted, and measures to eradicate the rate of unemployment among the disabled, specially disabled women, should be promoted.

### Delay in payments to employment training centres

The complaints about employment training courses not always come from the unemployed, but also from collaborating entities of the Department of Employment, who have reported the difficulties to maintain all centres open and to be able to continue to work due to the delay in the payment of the courses, something which affected their management and the possibilities to monitor them.

One of these associations, a collaborating entity of the Department of Employment, Industry, Commerce and Tourism in actions aimed at insertion people with lowest income and within the experimental programme of employment inserters, among others, addressed the Síndic to complain about the delay in the payment of the courses, a fact which threatened the future of the association itself, as the debt was in excess of 180,000 Euros, apart from another larger amount related to the courses of the same year which had not been paid either.

The Síndic, after receiving a report on the state of payments to the association, suggested to the Department of Economy and Finances to speed up the transactions in order to make effective the payments already approved and to the Department of Employment to program payments for the remaining courses still pending.

### Minimal pensions

To guarantee the financial feasibility of citizens in their old age through the right pensions which are being periodically updated is a constitutional mandate.





Despite this revaluation to compensate the loss of purchasing power of the pensions, expectations among the citizens who are eligible for minimal pensions have not been fulfilled, such as the widow's pensions, incompatible with the SOVI pensions (compulsory insurance for the elderly and the disabled), something repeatedly denounced by the associations of the elderly.

This situation is graver in those autonomous communities in which the retail price index is above the average for the state.

Despite the fact that the revaluation foresees higher increases for specific pensions, specially the minimal ones for retirement, widowhood and those of the SOVI, to understand the scope of the problem one needs only to mention the meagre amounts fixed: 4,195 Euros per year for the SOVI pensions; 3,868 Euros per year for non-contributive social security pensions, and 5,765 Euros per year for those of widowhood. The amount of minimal pensions, therefore, are among the lowest in Europe, and the limit to perceive the complement for minimal has not been increased as it should have done either.

A study sent to the Spanish Ministry of Employment and Social Affairs and to the committee for the monitoring of the Pacto de Toledo agreement, elaborated from the complaints which the ombudsman from across the Spanish state have been receiving, suggests changes to improve the situation. Thus, it has been suggested so far, to modify the regulations of widow's pensions in order to strengthen the principles of solidarity and economic sufficiency. To obtain this, it would be necessary among other measures, to set a temporal amount for widowhood for those children under charge; the regulation of pensions for unmarried couples, the compatibility of old-age or disability pensions of the SOVI with other social security systems, and modify the amount for widowhood pensions for those under 60 years of age.

### **The special system for the self-employed**

The Síndic has always received many complaints regarding the special system of the self-employed, and we have always suggested a more homogeneous treatment in the benefits of the various

systems of the social security. There have been important improvements recently with the fact that self-employed workers can now improve voluntarily the covering action through the incorporation of the cover for industrial accidents and professional illnesses, provided they cover their temporal disability owing to common contingencies. The improvement of a 20 % increase in the total disability pension when the worker is 55 years of age and does not exercise any other activity has also been included, and the contributions of those who join this special system for the first time haven been temporally reduced.

The problem periodically made manifest by the complaints of people who had paid the fees to acquire the condition of mutualist affiliates five years before starting employment, and yet this condition was not considered valid towards retirement, has also been partially resolved. Despite the said improvements, with which many of our recommendations are accepted, we keep receiving complaints reporting the lack of retroactive efficacy of these benefits and services, and many workers come to us when they are unfairly excluded from them.

## Universities, linguistic normalisation and culture

### Actions

	Complaints
Universities	28
Linguistic normalisation	47
Culture	11
Total	86

### University fees

Most complaints received in the university section refer to costs for university education, whether it is through the denial of grants or through charges in second degrees, or because the Administration has not planned an exemption or help for any specific collective. At the latest meeting of university ombudsmen of Catalonia and the Balearic Islands, a meeting we had the privilege to attend, the need was suggested to review and update the system of grants for university students. A document agreed upon by all university ombudsmen of the Spanish state detects that most problems around the current system of grant allocation are the result of obsolete administrative dispositions which do not fully respond

to the current living conditions of students, among other reasons because the income scale to obtain grants are very low.

The síndics think that the deep social transformation, the generalised access to university training, the implementation of the open district, the constant changes of lifestyle among young people, call for a global re-thinking of the contents and criteria which rule the grants system, and it should be adapted to the new social reality.

### The logo of the Post Office

The decision taken by the Sociedad Estatal de Correos y Telégrafos, SA of using Spanish only for the design of the new logo and the lack of forms and other office material of Catalonia in Catalan provoked the complaint of a citizen.

Even though the law excludes the logos and the trademarks from translation, the Síndic understands that the use of a single language in the logo of a company which provides the universal post office service throughout a plurilingual state does not exactly contribute to the fact that part of those citizens, like the one which addressed the Institution, consider as their own the entity which manages the said service. The fact of using Spanish only in the logo shows no sensibility to the plurilingual reality of the State, and the Síndic reminded the President of the company that other states in our environment with similar linguistic situations, such as Switzerland, Belgium or Finland, use all the official languages. Again, the Royal Mail Post Office, in Great Britain, in its logo uses Welsh and Scottish Gaelic, two languages with a sensibly lower number of speakers when compared to Catalonia. As regards the lack of forms and information papers in Catalan, the Post Office expressed its will to make progress in making bilingual forms available to users for the various services it provides, as well as information

### WE REMINDED

- We reminded Renfe that the internal regulation of a company cannot contemplate as a fault any conducts that respond to the legitimate use of the linguistic rights recognised by the Constitution, nor can it apply sanctions for it. This was motivated by the sanction as a minor offence imposed by the company on a worker for using Catalan in a Station Log Book, in which all the circulation incidents of a station are recorded after they have occurred.

about current rates. It also expressed its commitment to attend on the customer care phone number, 902 197 197 anyone so willing in Catalan.

### The use of Catalan in the exercise of the notarial function

During 2003 the Síndic carried out a number of actions relating to the use of Catalan in the administration of justice and in the notarial function.

We must remark the complaints received about the delivery by a notary of some certified photocopies in Spanish or the writing of a constitution deed of a company in Spanish, thereby not respecting the linguistic rights of the executor.

In the cases above, referring to the action by a notary, the Síndic suggested to the Department of Culture to study the possibility of a joint initiative with the Association of Notaries of Catalonia with the aim of promoting and ensuring the knowledge, the use and the protection of the Catalan language with regard to the professional activity of this collective.

The Association of Notaries of Catalonia, for its part, explained to the Síndic the dilemma which notaries have to face when they have to discharge their functions with the greatest possible speed, or delay the said service when facing the doubt of which language will the executors request. Despite this, the Association communicated to the Síndic that it had admonished the notary involved about the need to find out the will of the executors regarding the language in which the documents must be written.



## Justice, prisons and citizens security

### Actions

	Complaints	Ex officio actions
Justice	397	
Penitentiary services	67	5
Citizens security	78	1
<b>Total</b>	<b>542</b>	<b>6</b>

### The Civil Registry in Barcelona and El Prat de Llobregat

The complaint by a woman who had asked the Civil Registry of El Prat de Llobregat four months back for a birth certificate of her son born in Barcelona, and it still had not reached her, led the Síndic to show some interest in the workings of both district courts.

The investigation of the case which had given rise to the complaint allowed the verification of various factors which had motivated the slow pace of the

Civil Registry of El Prat to facilitate the data requested.

As an issue of general concern, the procedural norms regulating the functioning of the registry offices and the issuing of certificates are very old and do not adapt to present-day reality.

But in addition, the office at El Prat had not been computerised yet and had endured successive absences from the auxiliary staff who manage these requests, and the vacancies were not always quickly covered. According to the titular judge, the person appointed often had neither the training nor the experience. One should add to these problems the fact that the birth certificate requested had to be issued by the Barcelona Civil Registry, and they issued this type of request very slowly, among other reasons because that office had not been computerised either.

In the face of this, the Síndic addressed the Department of Justice and the

Interior to inform about the possibility of adopting measures for the assignment of all the vacancies with celerity and employing adequately-trained staff. According to the information provided, the Síndic asked the Spanish Defender of the People to assess the opportunity of asking the Spanish Ministry of Justice to increase the number of staff, as well as for information as to what phase they were in within the process of computerising the office.

### The syringe exchange programme in penitentiary centres

On 6 February 2003 Parliament unanimously passed a motion asking the government for a progressive application of the syringe exchange programme in all the penitentiary centres of Catalonia. A pilot programme was launched at the penitentiary centre of Tarragona, which was very hard to develop due to the opposition from a part of the prison staff. After a visit to the penitentiary centre in June, the Síndic addressed the Department of Justice and the Interior remarking that he understood that the implementation of the programme had been negotiated with the trade unions until an agreement was reached, which substantially altered the content initially programmed, as it eliminated the previous intervention of the health staff and also of its monitoring. From the institutional point of view, the fact that the penitentiary policy promoted by Parliament is negotiated with trade union representatives poses certain difficulties. To determine whether the programme must have a health content or whether another system must be articulated would hardly seem a matter for trade union negotiation, as opposed to the setting of conditions in the sphere of salaries, time-tables, hygiene at work, and so on, which would.

The non-fulfilment by the staff of the centre of the agreement reached between the government and the trade





unions reintegrated the programme into the health care area. The Síndic considers that the pilot programme should be evaluated and, if the data obtained are confirmed, such as that there have been no new HIV cases in the prison, and no incident of importance deriving from the use of syringes, the programme would have to be implemented in the remaining penitentiary centres of Catalonia.

### **Mental health in the penitentiary sphere**

In previous reports we have pointed out that, despite the substantial improvements experimented in the sphere of health care in Catalonian prisons, the infirmaries at the penitentiary centres, even when they had the right separation between organic and psychiatric patients, did not have the capacity to provide specific assistance. To provide specific room in psychiatric centres for penitentiary inmates is not the solution either, as these patients tend to generate dysfunctions in the workings of the centres, as the people responsible for them pointed out.

For this motives, we celebrate the launch of the psychiatric hospital unit with 67 beds which was inaugurated in the month of september, as this shows an important improvement within the sphere of penitentiary mental health in Catalonia and because it takes up one of the recommendations we made to the Department of Health, and to the Department of Justice and the Interior. Guaranteeing the rehabilitating function and the function of social reinsertion of the mentally ill inmate, together with a good co-ordination with the rest of the assistential network, will crown an integral and personalised care to these patients.

### **The perception of decline in law and order**

One of the possible effects of the situations of marginalisation and poverty that persist in society is the generation of situations of lack of law and order. Police and penal action in these cases, though necessary, cannot be the only reply. The attention to these situations would probably imply a reduction in petty

crimes, whose base is, and not its justification, the lack of resources for survival. But the solution to the problems of lack of security demands an increase in the measures of prevention with more police on the streets, and to give and efficacious reply to crime, meaning not only the security forces at the time to fight crime, but also the jurisdictional organs to judge it.

For this to be so, there is a need to increase the personal and material means that the former and the latter have to avoid data such as the ones offered by some professionals of the legal world, who state that 40 % of the proceedings opened do not end in a quick judgement owing to the lack of the right allocation of personal and material means, and a not very well balanced application, as most proceedings take place in large cities.

As for the penal jurisdictional activity, we should also look at the necessary legislative reforms, so that the processing norm, despite keeping the necessary guarantees of the constitutional rights, should not become an obstacle to the agile and efficacious resolution of the process.



# Children

## Actions

	Complaints	<i>Ex officio</i> actions
Children	868*	15

\* 618 complaints of identical content correspond to the Compensatory Education Programme.

### The centres of juvenile justice

This year we have kept hearing some voices asking for the hardening of the norms regulating the penal responsibility of juveniles. The Síndic believes our norms are good, not only in Catalonia but also throughout the Spanish state, and that they adapt to the forecasts of the Convention on the Rights of the Child, and that what is needed is not hardening them, but rather explaining them and allocating the necessary resources so that they may be applied and avoid the risk of sliding towards a model which resembles more and more the adult penitentiary system.

During the visits we made this year to the centres, we observed an insufficient increase in the new space created, and that this increase has been made effective in already existing centres only. This option does not favour the attainment of the objectives of education and reinsertion typical of juvenile justice, the reason being that even if the ratio of educators is kept, the space of the centres affects the type of intervention in the sense that there is a weakening of the education-affection component which differentiates a juvenile centre from an adult penitentiary centre.

The massification of centres is another factor which distorts the functioning, affects the quality of the intervention with respect to the young boys and girls, and generates tensions among the educating staff.

Another aspect which would have to be improved is the attention to the growing number of adolescents with mental health problems in the centres, often associated to the consumption of toxic substances. In many cases they need a specific and per-

sonalised attention which cannot be made compatible with the ordinary educational activities of the centre.

### The repatriation of non-accompanied juvenile immigrants

The possible repatriation of non-accompanied juvenile maghrebi immigrants, an issue well known from media coverage, led the Síndic to carry out an *ex officio* action in order to get to know the conditions and circumstances in which it was going to be made.

Once the information requested from the Department of Welfare and the Family was received, our concern continued after seeing that the custody of these young people was not being accepted while the process of family re-grouping was underway. We were also concerned because it was not clear what the minimal requirements were to ask for the re-grouping, and what type of guarantee was being given so that the minor would not be left unprotected in his or her country of origin.

We are of the opinion, and our suggestion goes along this line, that an administrative and material protection of these non-accompanied juveniles is required from the very first moment, and that it is necessary to guarantee that they go back to an environment in which there is

no evidence of an inappropriate or non-existing exercise of the paternal authority on the part of their parents.

On this issue, we have sent to the Spanish Defender of the People –and we have also informed the Prosecutor’s Office of the Catalanian High Court– the complaint of an NGO which thought that the directive issuing from the Spanish General Prosecutor about the return of the underage who illegally enter the Spanish territory were a breach of the national and international norms about the protection of minors.

### The Compensatory Education Programme

The revision made by the Department of Education of the Compensatory Education Programme (henceforward, PEC) provoked a wave of complaints (618) from educational professionals, staff from educational centres, and some Town Councils. The promoters of the complaints consider that the PEC is the right programme to fight social exclusion in the field of teaching and they consider that this revision introduced a substantial modification of the PEC as the Plan of Action for Foreign Pupils (henceforward, PAANE) was beginning to be applied.

According to those involved, there had been a change in the design of the functions of the PEC professionals when they



abandoned the planning and contribution of proposals and criteria of actions to end up carrying out only the support to the teaching task of the staff. This change had implied, among other things, a reduction of the teaching staff appointed for this programme.

The Department of Education replied, among other things, that the PEC had been ascribed to the new PAANE and that this had involved only a redistribution of the personnel to look after the needs of each zone better, but that the aims and the objectives of the programme kept in force.

After having heard both parties, the Síndic suggested to the Department of Education to promote, recover and revitalise the initial idea of the PEC, so that this programme may have a higher relevance and may include the other compensatory programmes, and to restore PAANE inside PEC. The Síndic believes that this process would have to be pursued with the participation of the various professional teams of the educational system. Already in 2004, the Department replied to the Síndic that it shares our concerns, that it intends to promote the PEC, and to turn it into a service of interculturality and social cohesion.

## New forms of family

The evolution of our society in the field of new family realities implies that some possibilities are not formally contemplated and some collectives feel discriminated upon.

A gays and lesbians association brought a complaint to the Síndic as they saw

discrimination towards the children from lesbian or gay families, when compared to children from heterosexual families.

The lack of legal recognition of their family reality implies that currently only one of the parental figures may be legally recognised, while, in fact, the child receives double affection. Identification through the use of the surname of both mothers or both fathers is not allowed either, and we could not ignore the problems which may arise in the case of death of the mother or the father. These discriminations could be solved, or at any rate reduced, according to those affected, if the figure of the joint adoption by mothers or fathers could be accepted.

At the request of the Síndic, the Department of Justice and the Interior replied that joint adoptions by members of a homosexual couple had been excluded on the grounds that adoption is not a necessary consequence of the right of living together, and that the admission of this possibility in Europe to date had been very timid and, as regards the Spanish state, only two autonomous communities had passed laws in this respect.

## Extraordinary Report on the Residential Centres of Educational Action

The study seeks to find out how this residential care, a alternative resource to the family, works and how it is lived by more than one thousand boys and girls who live in these centres.

The report is the result of the visit made to fifteen centres, of a survey made in all the centres –78% of those consulted replied–, and of the complaints received directly about these centres.

The residential care is in our country today the main resource when a child or an adolescent can no longer live at home, and, in some specific cases, like adolescents or a large number of brothers, the only resource available.

Despite being a good resource, it weighs too much among the alternative resources, in the sense that other resources are scarce. It is often the only feasible resource, but it could easily not be suitable for a specific adolescent or child.

This lack of suitability often implies a disproportionate effort by the educational and managing teams, and an upheaval for the rest of boys and girls in the centre. Fostering is the option preferred by the UN Convention on the Rights of the Child, ahead of any other alternative resource to the family and is advised as a complement to the education of children in parents with difficulties, but also to protect them. Both resources, residential care and fostering, are valid if applied within a *continuum* of prevention, separation, and returning home, and if they are integrated into a coordinated network, and they share the main objectives of the intervention.

All the data and the information received conclude in this report in a number of suggestions and recommendations, like planning the residential care resource so that it may offer the right place to each child and adolescent who may need it.

There was also a recommendation to build new centres, specially for adolescents, to avoid the waiting lists and the implementation of a quality evaluation system of the residential care which may lay special emphasis on the educational attention apart from regulating the specific norms from inspection applicable to residential centres of educational action, which may start in the more favourable conditions so that the every day life of the children and adolescents in the centres may resemble as closely as possible the life of children who live with their family.

(The report was presented to Parliament on 20 February 04. The full text is available from our website: [www.sindicgreugescat.org](http://www.sindicgreugescat.org), in the Reports/Extraordinary Reports section.)



# Immigration

Actions	Ex officio	
	Complaints	actions
Immigration	147	1

## The visa to stay

The visa to stay of a foreign can be obtained if a number of requirements can be proven, such as proving in a documentary way the object of the trip, having sufficient financial means, the disposition to stay in the Spanish territory, and the guarantees of returning to the country of origin. In addition, when presenting the application for the visa, the candidate must present a letter of invitation from a Spanish citizen (endorsed by a notary) who will have to guarantee the fulfilment of the requirements.

This year we have received, among others, complaints from someone who had the visa denied, from some grandparents who wanted to know their granddaughter, or from a man whose fiancé was not allowed to enter the country. Among other considerations, the Síndic believes that when having to prove one's financial means it should be taken into account the provision contained in a ministerial order which lays down that it is sufficient with having previously paid for the accommodation in public establishments or similar.

We have also shown our concern about the fact that the notarial commitments of invitation now have to be communicated to the Spanish security forces by means of a new data bank named Vigia created by the General Council of Notaries.

From the complaints received, we have observed, in addition, that the showing of the notarial deed of invitation does not eliminate the misgivings by consulates to issue this visa. Perhaps for this reason it might be good to assess whether within the context of the new immigration law it is worthwhile asking for this document and, if it is maintained, to make clear whether it is a simple complement to reinforce the requirements asked for or, on the con-



trary, it is sufficient in itself for obtaining the document.

## Data in the municipal census

A modification of the law empowers generically the Spanish Police to obtain access to the data on foreigners from the municipal censuses, with the aim of exercising the faculties laid down by the Law of Immigration about the control and stay of foreigners in Spain.

We think that the legislation only allows consultations in specific cases, for instance the steps for one or various expulsion proceedings. We therefore consider that it would not be legitimate to "comb" the database.

Even though the law lays down some security mechanisms, other fundamental rights linked to the inscription on the census might be affected, like the right to teaching and to health care if immigrants decide not to inscribe themselves on the census to avoid these controls.

In addition, this administrative register which lists all the neighbours of the municipality, i.e., the census, could lose its meaning from the moment in which some specific inhabitants dare not appear inscribed on it or that those inscribing do so providing false addresses, to make localisation difficult.

## The Sant Andreu barracks

The situation in the abandoned barracks in Barcelona's Sant Andreu district showed important shortages in the effective materialisation of the provisions which have made possible the launch of the basic shelter and integral attention network for immigrants in vulnerable situation, something which had already happened with the occupation of the Plaça de Catalunya in the summers of 2000 and 2001, and with the sit-in of immigrants in various churches of the city in January 2001.

Apart from the insufficiency of the social services system to look after the needs of the most deprived, be they national or foreign, the situation at the barracks shows the inadequacy of the current juridical framework on immigration, to respond to collectives of immigrants in an illegal situation.

We think we must insist on an efficacious co-ordination in the design and the launch of a system of permanent attention, which goes beyond a punctual contention, and in which social entities involved in the management of this problem, apart from participating in the design of this system, may rely on the necessary financial allocation to carry out the task being asked of them.

# Women

Actions	
	Complaints
Women	6

In some collectives women often find themselves amid particularly difficult circumstances which can lead to situations of vulnerability. For this reason, we consider it a positive agreement by the Government of the Generalitat the creation of a guarantee fund for the payment of divorce pensions, a recommendation which the Síndic already included in the Report for the year 1995. It is a very important help for some women who, in most cases, constitute – together with their children – a single-parent family, with a particular



fragility regarding the level of income. These last years administrations have rolled out more means to fight against battering and have done it more efficaciously. Simultaneously, social rejection of battering conducts has grown a lot, a fact which has encouraged many women to rebel against a situation which they had long suffered. In isolated cases, this rebellion leads to an even more violent reaction on the part of the attacker, but it contributes to consolidate in our society a way of understanding relationships between men and women which is more respectful of the rights.

The memorandum which the World Organization against Torture presented to the UN Committee against Torture in 2002 remarked that the slowness of the legal processes in Spain dissuades many victims from taking these issues to court, even though important progress has been made in this sphere over these last years.

A positive step was the approval of the Law on specific measures in matters of domestic violence. This law classes as crimes those conducts which, in the domestic sphere, were formerly classed as simple injury offences.

A lot of work is still to be done. The number of women who died as a result of gender violence in the Spanish state increased by 47%, going from 44 in 2002, to 65 in 2003, of which 14 died in Catalonia. According to the Spanish Observatory of Domestic Violence – dependent on the General Council of the Judiciary –, Catalonia was the community which received most demands for protection.

## Monitoring of the Report 2001's Second Book on Domestic Violence

The Departments of the Generalitat answered us regarding the problems of domestic violence that we had arisen them when monitoring the Second Book of the Report 2001.

We reminded the Department of Welfare and the Family, among other problems, the excessive waiting time for admission to centres due to a lack of agility in processing the appeals. The Department informed that since the end of 2002 a specialised urgent care service is available, which complements the service offered by the houses for battered women.

To the Department of the Presidency we made a number of recommendations regarding the protocol of action, which was not quite working owing to co-ordination problems. The Department informed that it had bettered the protocol with an agreement between the Catalanian Women's Institute and the Catalanian Association of Psychologists so that the latter may provide professionals to look after women who request it, and seeks to centralise all protection orders through the Service of Attention to the Victim and the Catalanian Police (Mossos d'Esquadra).

We enquired the Department of Territorial Policy and Public Works about the shortage of low-cost flats for rent, with specific facilities for the victims of gender violence. The reply remarked that in the allocation of official protection housing there is the possibility of adding a number of additional criteria to favour specific collectives, such as the victims of gender violence. In addition, as a result of the collaboration agreement between the Catalanian Women's Institute and the Red Cross of Catalonia, this institution may subsidise a part of the household items and up to two months' rent. In addition, all the women, when leaving the centre for battered women, can stay at a temporary flat for between six months and a year.

At its turn, the Department of Health informed that it had promoted training programmes aimed at health professionals and that the improvement and the way to deal with the situations of battering was one of the objectives of the Catalanian Health Plan 2002-2003.

## Second Book: some considerations about video surveillance electronic systems

The growing use of video surveillance electronic systems implies that the possible installation of these devices – pursuing various ends and seeing the advantages and disadvantages it involves – is the object of debate among the opinion forums.

Already in 1996, the Síndic recommended Town Councils to suspend the street surveillance systems through video cameras for as long as there were no sufficient legal grounds to enable installation. According to the Síndic, this regulation should determine the means to control the balance between, on the one hand, their real and authorised use, and on the other, the storage, conservation, treatment and destruction of recordings. In addition, it considered that the fix installation of video cameras could not be indefinite, so that their continuity must be the object of periodical revisions.

Most of the reflections made by the Síndic were taken into consideration with the approval of a law which regulates the use of video cameras by the law-enforcement authorities in public spaces (Organic Law 4/1997, of 4th August).

But the extended use of these devices is, currently, an evident reality. Over the monitoring of some issues, we have had the opportunity to study the said law and the development norms, and we considered it opportune to undertake and *ex officio* action to analyse it under three aspects.

### The use of video cameras for traffic control

The use of these devices to survey and control traffic is a tool which the administrations use more and more all the time, both in city streets and in highways and motorways.

This Institution has always been in favour of adopting measures to reduce traffic accidents, with its sequel of deaths, injuries, financial costs and pain, but all these measures must be

subjected to the regulations set by the legal system. After studying the legislation in force on this issue (Decree 134/1999, of 18th May) the Síndic recommends, among other things, that in those roads where video cameras are installed drivers should be informed of the fact – though not of the specific kilometre at which they are installed –, as the Síndic believes that the aim of the cameras should go beyond that of spotting offences and be used as deterrents from dangerous conducts with the aim of promoting prevention.

Those affected can hardly exercise their right of access and cancellation of the recordings unless they are informed of the existence of a device which can record the images it takes of their vehicle.

We also think that the rules of conservation and custody of any recordings made ought to be developed, mentioning clearly the deadlines for their destruction, and also the legal procedure to exercise the right to have access to them and to cancel them.

We also request the modification of the norm in two further aspects, which are: the express mention of the criteria that justify the installation, and the clarification of the need for an express authori-

sation to install cameras for traffic control purposes in vehicles.

### The renewal of authorisations to install fixed recording devices

The installation of fixed devices and their use by Catalanian Police (Mossos d'Esquadra) and by local police for citizen security reasons requires the previous administrative authorisation by the Director General of Citizen Security. These authorisations are given for a period of one year. Renewals can be requested when the motives that advised their installation persist.

According to information provided by the Department of Justice and the Interior, out of the 19 renewal requests presented, 11 were given the approval to renew. After an analysis of the information compiled in the yearly reports of the Catalanian Video Surveillance Devices Control Committee, it is clear that the number of devices installed by Town Councils is higher than that of renewal applications presented.

For this reason we think that the Directorate General of Citizen Security, in as far as the competent organ to



grant authorisations and decide on their renewal, must fix the complementary mechanisms to those already rolled out to inspect those devices which, having been authorised more than a year ago, have not been the object of the renewal application and have not been deactivated or disassembled. In all, we consider that the fulfilment of the corresponding regulations is the duty of those who install these devices and request an authorisation. For this reason we have also sent this study to the Federation of Catalan Municipalities and to the Association of Municipalities and Regions, while asking them to remind their associated Town Councils of the fulfilment of this legal duty. If, however, we analyse the consequences resulting from the non-fulfilment of the legal duty to renew the

authorisation, we discover that the tools provided by the sanctioning rules are indeed not very specific and of a doubtful efficacy. The normative framework does not enable expressly the authorising entity to adopt coercitive or sanctioning measures in the face of non-fulfilments, and it does not lay down sanctioning rules, and it refers you to the regulating norms and the disciplinary sphere applicable to the State's law enforcement authorities.

### **The use of video surveillance cameras by private security companies**

The number of video cameras used in private surveillance is much higher than those installed by the law enforcement authorities.

To the extent that we are facing a conduct which could impinge on fundamental rights, the public or private nature of the people responsible of the recordings is not relevant, and we consider that the legal system applicable to public video surveillance should also be invoked when there is a private use of video cameras with surveillance ends. The Organic Law 4/1997, of 4th August, which regulates the use which the law enforcement authorities can make, lays down that within one year the Government will elaborate the corresponding norms to adapt the principles that inspired the text to the sphere of private security. This disposition has not yet been carried out. And the developed regulations of this law approved in 1999 do not make any mention of the private use of video surveillance systems either.

The only reference to private video cameras is the use which the police can make of them. There is indeed an express reference to the private use of video cameras in an article of the regulations for private security, which regulates their use in banks and saving banks.

To date, the limits of the installation and private use of video surveillance were defined by the jurisprudential doctrine issuing from those cases in which there may have been a vulneration of specific fundamental rights, basically the right to one's honourability, to one's personal and family privacy, and to one's own image, through the application of the principle of proportionality, or in relation to the admission of some video-graphic evidence during a trial.

As long as the additional regulation of the organic law which regulates video surveillance by the law enforcement authorities, consisting in the approval of the regulation of the use of video surveillance by private security, is not fulfilled, two different juridical regulations co-exist about conducts which are materially identical.

As this initiative must be adopted by the Administration of the State, we have sent to the Spanish Defender of the People all these considerations so that he may deliberate on the opportuneness of reminding the Administration of the State this unfulfilled mandate.



# Institutional projection

## The Citizen Information Service (SIC)

The Citizen Information Service (SIC) undertook 3,241 actions, a figure which represents a reduction of 2.96 %, as it involves 99 actions less than in 2002. Since 1997, when the threshold of 3,000 actions was crossed, each year brings little significant variations and we always record similar numbers.

An upward trend has been observed in these last years in the increase of actions over telephone consultations, to the detriment of personal visits to our institution. In 2003, the increase compared with last year was a 4.16 %. These data are more relevant when analysed against the global figure for these last years. If telephone consultations in 1998 represented 62 % and personal visits, 38 %, in 2003 percentages have become: 74 % over the telephone and 26 % personal visits.

The better quality of the human as opposed to the telephonic contact is made evident from the fact that, since 1999, between 67 % and 72 % of the people who visited us and were encouraged to bring a complaint ended up doing so, while the telephonic percentages varies from 21 % to 29 %.

As regards the characteristics of SIC users, men represent the highest number of visits (58%) for another year running, and women (57%) prefer to use the telephone.

## Visits outside the Office

The Síndic continued to visit the towns and cities of Catalonia to attend citizen consultations and complaints face to face. These visits are intended not only for the residents of the municipality being visited, but for the whole region and area of influence.

We have made sure that no trip from the Síndic's office coincided with electoral periods so as to preserve the neutrality and independence of the institution, and to avoid possible partidist uses of the visits. This implied that the number of visits compared to previous years



was sensibly lower, as in 2003 there were two election calls. So we did four journeys. In El Vendrell (23 January 03) we attended 11 visits. In Cervera (20 February 03) we received 15 visits. In Valls (3 December 03), 13 visits. And in Mollerussa (17 December 03), 6 visits.

## New Official Web Site of the Síndic de Greuges

The web page [www.sindicgreugescat.org](http://www.sindicgreugescat.org) has experimented, again, an increase of use as a means of institutional dissemination. In 2003 58 news were inserted. For this motive, and coinciding with the 20th anniversary of the approval by the Parliament of Catalonia of the law of the Síndic de Greuges, we launched our redesigned and modernised web site on 20 March 2004 last. The process will continue over the following months. The objective of this new site is to offer the citizen a better service and information. The change has been brought about by the spectacular growth of visits which the web site has had over the last years. Thus, the number of visits for 2001 was 5,258; in 2002 there were 21,098 visits; and in 2003 we reached the 41,199 visits. As for the downloading of files, 2.181 files were downloaded in 2001;

16,887 in 2002; and last year, a total of 28,487 files were downloaded.

Internet also consolidated itself as an efficient means of contact with the citizen regarding complaints. Thus, in 2003 we received 328 complaints by e-mail, a 12.02 % of the total. We asked for the ratification of all these complaints, except in one case which already included its electronic signature.

In this first phase of the web site improvement, we would like to single out the possibility of accessing *Drets Ciutadans*, our bimonthly newsletter, a press compilation, a direct link to the Chair of Immigration which is jointly promoted by the Síndic, the University and the Bishopric of Girona, as well as the improvement and update of all current contents.

## Chair of Immigration

The Chair of Immigration, Rights and Citizenship, created under the auspices of the University and the Bishopric of Girona, and the Síndic de Greuges, organised a symposium about "The Phenomenon of Migration: New Answers to New Realities" in March. It was inaugurated and closed by the Síndic de Greuges. The Deputy Síndic took part in the paper "Immigration and Citizenship" together with the Defender of the People



of Andalusia, the Diputado del Común of the Canary Islands, and the Spanish Deputy Defender of the People. In December there was a one-day conference about "The New Immigration Legal Framework in Spain", together with a work session of the Chair's Scientific Council, with Professor Antonio Izquierdo Escribano, of the University of A Coruña, a specialist in the study of the phenomenon of migration.

### A University Course about the Síndic de Greuges of Catalonia

Within the issues relative to the agreement subscribed with the Autonomous University of Barcelona (UAB) on 30 May 2003 there is the holding of a university course which deals specifically on Catalonia's Síndic de Greuges. The course is framed within the objective of disseminating the knowledge and the task carried out by our institution so that citizens may get to know of their existence and of the possibilities of intervening in a matter of human rights and public liberties. The course also responded to the interest of the Síndic to strengthen links with society and, in this specific case, with the professional and educational spheres. In this first edition, the course could be used as a free-choice credit for the syllabus of the Degree in Law at the UAB, and was divided into 16 sessions of one-and-a-half hour each, incorporating a theoretical aspect of the institution into a more practical one with a

visit to office of the Síndic in Barcelona. The lecturers were members of the Síndic de Greuges team, lecturers from the university itself, and other jurists. In the face of the positive valuation by the students who took part in it, a second edition of this monographic course is being prepared. This second edition will be open to the participation of students from most degrees taught at the Autonomous University, and not just Law.

### Relations with Other Ombudsmen

- **Of the Catalanian level**
  - The annual meeting of the Local Síndics and Defenders of Catalonia was held in Santa Coloma de Gramenet on 27 March 2003, with the presence of various members of the Síndic team.
  - In addition, this year there has been another meeting of the local síndics with the Síndic de Greuges of Catalonia, at the one-day exchange conference between the Catalanian local síndics and Italian *difensori civici* of the Lombardy region, which took place in Badalona organised by the Defender of the Citizenship of Badalona. The Síndic participated in the opening and closing sessions of the conference.
  - An advisor representing the Síndic attended the annual general meeting of síndics de greuges of the public universities of Catalonia and the Balearic Islands, organised by the síndic of the University of the Balearic Islands, in Palma, Majorca. The topics dealt with were, among others, the intellectual

## THEY VISITED US

- Within the framework of the strengthening of institutional relations the following called in for a visit: the Defender of the People of Colombia; the Defender of the People of Austria; the Deputy Defender of the People of the city of Buenos Aires; the European Defender of the People; the Defender of the People of Ecuador; and a delegation from Bulgaria headed by the Minister of Justice, who visited our institution to find out how already-consolidated Ombudsman institutions work within the process to implement the figure of the defender in Bulgaria.

## THEY CAME

- To get to know our institution and visit our offices. 9 groups of primary, secondary, and university educational centres, and of cultural entities, some 250 persons in all. During the visit, the Síndic and his advisors explain the sense and the function of the institution and get them to see in which way it can be useful to them.

## WE HAVE PRESENTED

- Three extraordinary reports to Parliament at the beginning of 2004, although they had been largely elaborated during most of 2003. The themes in these reports are the residential centres of educational action; electric supply; and attention to dependent elderly people.

## WE HAVE PUBLISHED

- Issues 3 to 7 of our bimonthly newsletter *Drets Ciutadans* (Citizens' Rights).

property and the conflicts arising from this issue among lecturers, and between lecturers and students, the grant allocation system.

### - In the State's level

- The 18th edition of the Co-ordinating Conference of Defenders of the People in the Spanish state was organised by the Defender of the People of Castilla-La Mancha, and was held in Toledo and Albacete from 19th to 22nd of October. A previous, preparatory meeting was held at the office of the Defender of the People of Andalusia, in Seville, in the month of June.



The programme included a base paper with the title "Attention to Mental Health" and it was developed into nine papers and three workshops. The most specific papers referred to "care services and resources in mental health care", "the mentally ill as a subject of rights", and "the supports of mental health: families and associations, and the integration of people with mental illnesses" which was developed, among others, by the Síndic de Greuges de Catalunya.

- During the conference the conclusions were also presented of the three workshops which had been elaborated in various previous work meetings in which advisors of the Síndic had participated. The themes of the workshops were "access to housing", "physical or psychic disability", and "domestic violence".

Within these conference, the defenders from the autonomous communities signed a collaboration agreement. The aim of this agreement is to create a space for co-operation and exchange of experiences and information in order to improve the levels of efficacy of the functions carried out by each one of the institutions.

- On 15th and 16th of September we held an exchange conference between the Síndic de Greuges de Catalunya and the Síndic de Greuges of the Valencian Community. They took place

in the office of the Síndic de Greuges de Catalunya in Barcelona. Advisors and staff from both institutions debated on various monographic issues linked to their respective responsibilities, while at the same time the síndics analysed aspects related to the objectives and the functioning of the institutions they represented.

**- In the International level**

- On the 9th and 11th of April there took place in Valencia, Spain, the 4th Meeting of Regional Ombudsmen of the European Union, which was attended by the Síndic de Greuges together with members of his team. Within the framework of this meeting, the Síndic gave a conference under the title "The Future of Europe", and he also acted as moderator at the round-table which took place afterwards.

The round-tables reviewed a number of current issues, such as "immigration and asylum. The role of the EU", and the "protection of the environment in the EU, and the role of the regional defenders".

- The Síndic de Greuges, together with the Council of Europe, is getting ready for July of 2004 the First Round Table of the Regional Ombudsmen of Europe, to be held in Barcelona on the occasion of the Forum of Cultures Barcelona 2004.

- From the 15th to the 17th of October there took place in Stockholm the annual general meeting of the European Network of Ombudsmen for Children (ENOC) with the presence of a representative from the Síndic de Greuges. The themes dealt with were juvenile justice, the promotion of the figure of the ombudsman for children, not only in Europe, but also across the world. This issue had already been dealt with at the European Forum for Children and Families which was held in Strasbourg on 25th and 26th of March, which was also attended by a representative of the Síndic de Greuges.

- The Deputy Síndic de Greuges attended the annual general meeting of the European Region of the International Ombudsman Institute (IOI) which was held in Nicosia (Cyprus) in the month of October. In November, also representing the Síndic, gave a lecture on the functions and competences of the regional ombudsman within the framework of the Regional Conference of South East European Ombudsmen, which was held in Sofia (Bulgaria).

**The Iberoamerican Federation of Ombudsmen (FIO)**

The Iberoamerican Federation of the Ombudsman (FIO) groups all the defenders of the people from the whole Latin



Síndics and Defenders from the Spanish State met in Toledo at the XVIII Co-ordinating Conference



American region. The Síndic de Greuges is a member of its constitution, and was its Vice President and a member of its Steering Committee.

The members of the FIO took part in the acts for the celebration of the 25th anniversary of the Spanish Constitution in Madrid, within the framework of the Conference for Defenders of the People and Constitutional Rights, organised by the Spanish Defender of the People.

Later, in the month of November, the Síndic took part in the 8th Congress and Annual Assembly of the FIO which took place in Panama City. The Congress was organised under the following title: "Democracy and Human Rights". The Síndic de Greuges took part as a speaker in the round-table "Experiences of the interventions of the ombudsman for the strengthening of transparency and democracy".

### Co-operation Programme with the Balkans

Thanks to the funding mostly from the Spanish Agency for International Cooperation (AECI), we have developed co-operation activities in the region of

the Balkans. Together with the Spanish Defender of the People and the Illustrious Bar Association of Madrid, we launched a pilot project of free legal aid in the Serbian city of Nis.

Apart from the AECI-funded project, we have given support to the institutions of regional Ombudsmen of Bosnia-Herzegovina, and we have cooperated with the Autonomous Region of Vojvodina.

#### - Free legal assistance in Serbia: the experience of a pilot project

The aim of the pilot project was to get the results of this experience to contribute a model to be taken into consideration in the future design of the free legal aid service in Serbia, seeing as the current elaboration process of the new Constitution and of the various laws relating to advocacy.

The pilot project lays down a pioneering model of free legal aid in Serbia, managed by the Bar Association of Nis. The lawyers of Nis devoted to the project are 76, and throughout the year some 1,500 citizens have used this service.

We have provided technical support to the institutions of Nis during their study visits to our country and the various working sessions in Serbia.

The valuing of the pilot project by the Serbian institutions has been excellent. In addition to the commitment of the institutions of Nis, we must point out the good response that the project has had in Belgrade, where the Board of the Bar Association approved the creation of the Management Committee of the Free Legal Aid project.

The strong will by the institutions of Nis and Belgrade augurs the permanence of the system started with our pilot project, as thanks to the signing of agreements in 2004 between the Bar associations of Nis and Belgrade with their respective Town Councils, locally-funded free legal aid will be provided in both cities.

On the other hand, the Serbian institutions and authorities are aware of the meaning and importance of the pilot project and that the free legal aid model which we suggest is considered to be feasible thanks to the good results obtained and the resolute political will of

## WE HAVE PUBLISHED

- Thanks to the funding by AECI a magazine type publication making known the task carried out by the Co-operation Institutional Programme since 1999 and which has been widely disseminated, in the Balkans and here at home.

## NEW OMBUDSMEN

- We welcome enthusiastically the creation in 2003 of the Ombudsman institutions of the Republic of Montenegro and of the Autonomous Region of Vojvodina (Serbian Republic).

the Serbian institutions. We have published a three-page brochure compiling the origin, the characteristics and the statistical data of the pilot project.

#### - Support to the Regional Institutions of the Ombudsman in Bosnia-Herzegovina

On the 28th and 29th of February the ombudsman of the Srpska Republic (Bosnia-Herzegovina) organised in Banja Luka a conference with the title "The Role of the Regional Ombudsman in the Protection of the Fundamental Human Rights". The Deputy Síndic de Greuges and an advisor of the Spanish Defender of the People were invited, together with representatives from Macedonia and Greece, countries in which there only are state ombudsmen. The Deputy Síndic focused his contribution on the experience of the institutions of Ombudsman of the Spanish state at the time of articulating mechanisms of co-operation and collaboration among them.

#### -Catalonia: a model for the Autonomous Region of Vojvodina (Serbia)

A delegation from the Parliament of the Autonomous Region of Vojvodina, located in the north of Serbia and characterised by a multiethnic population, visited Barcelona from 5th to 9th of November, at the invitation of the Síndic, after a request from the President of the Parliament of Vojvodina, as the works of elaboration of the Statute of Autonomy of Vojvodina had based themselves on the model of the Catalanian Statute of Autonomy.

## Statistics

The number of files initiated in 2003 was 4,617, of which 46 have been actions by the initiative of the Síndic (or *ex officio*) and the remaining 4,571, complaints brought by physical or juridical persons, and by collectives.

A slight increase of 1.65 % is experimented when compared to the number of actions undertaken in 2002. If in 2002 we explained that we had had two groups of complaints of equal content representing 478 actions, this year 2003 we have had one, which has represented 618, relative to the disagreement with the suppression of the Compensatory Education Programme (PEC) by the Department of Education of the Generalitat. We insist, however, that even if the subject matter is the same, our relations with the affected or the promoters are personal and individual.

If there is a more or less stable datum, i.e., the number of actions started, then the origin of the complaints is stable too, as they largely come from the regions surrounding Barcelona, even though we have observed a slight decrease this year, something which could be related to the complaints mentioned earlier about the suppression of the PEC, which have reached us from everywhere.

This is also the reason for the increase in the complaints in children's issues, where we incorporate all issues relating to teaching. Apart from that, the sphere from which we receive the greatest number of complaints is still that of the general Administration, followed by Consumer affairs, and Town and country planning.

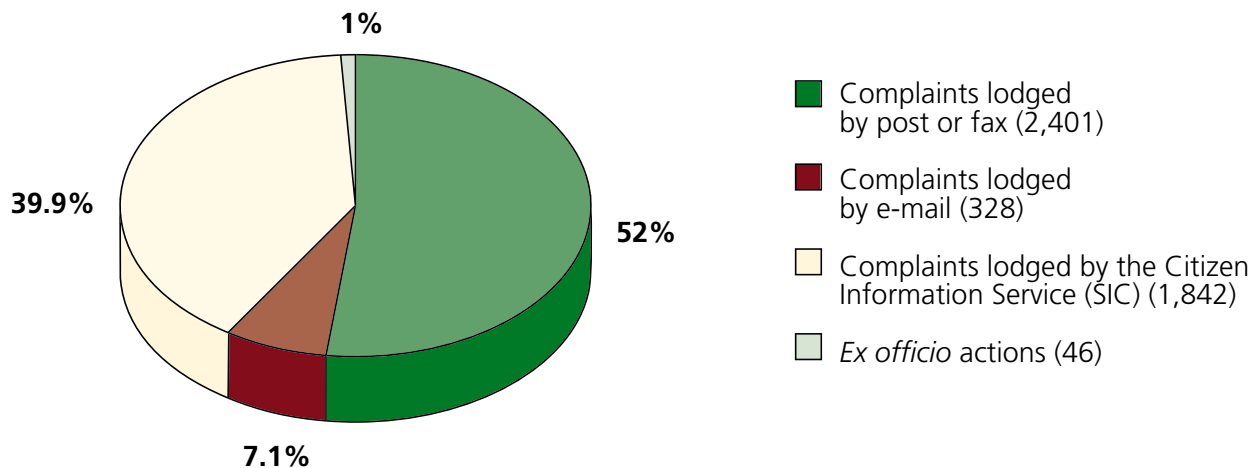
As for the administrations affected, the effect of the group of complaints about the PEC is that the autonomous beats the local this time, the latter being usually first.

The files solved during the year were 4,459, of which 3,235 corresponded to the actual year of 2003. The number of issues being processed on 31st December was 1,877. If we take away 618 corresponding to the PEC, the response for which is still pending from the Administration, the figures are more or less similar to those from previous years.

As regards the percentage of acceptance of the considerations made by the Síndic when asking the administrations to modify their action is 74.38 % on 31st December 2003. By 13th April 2004, with more replies sent by the Administrations, the percentage of acceptance rose to 77 %.

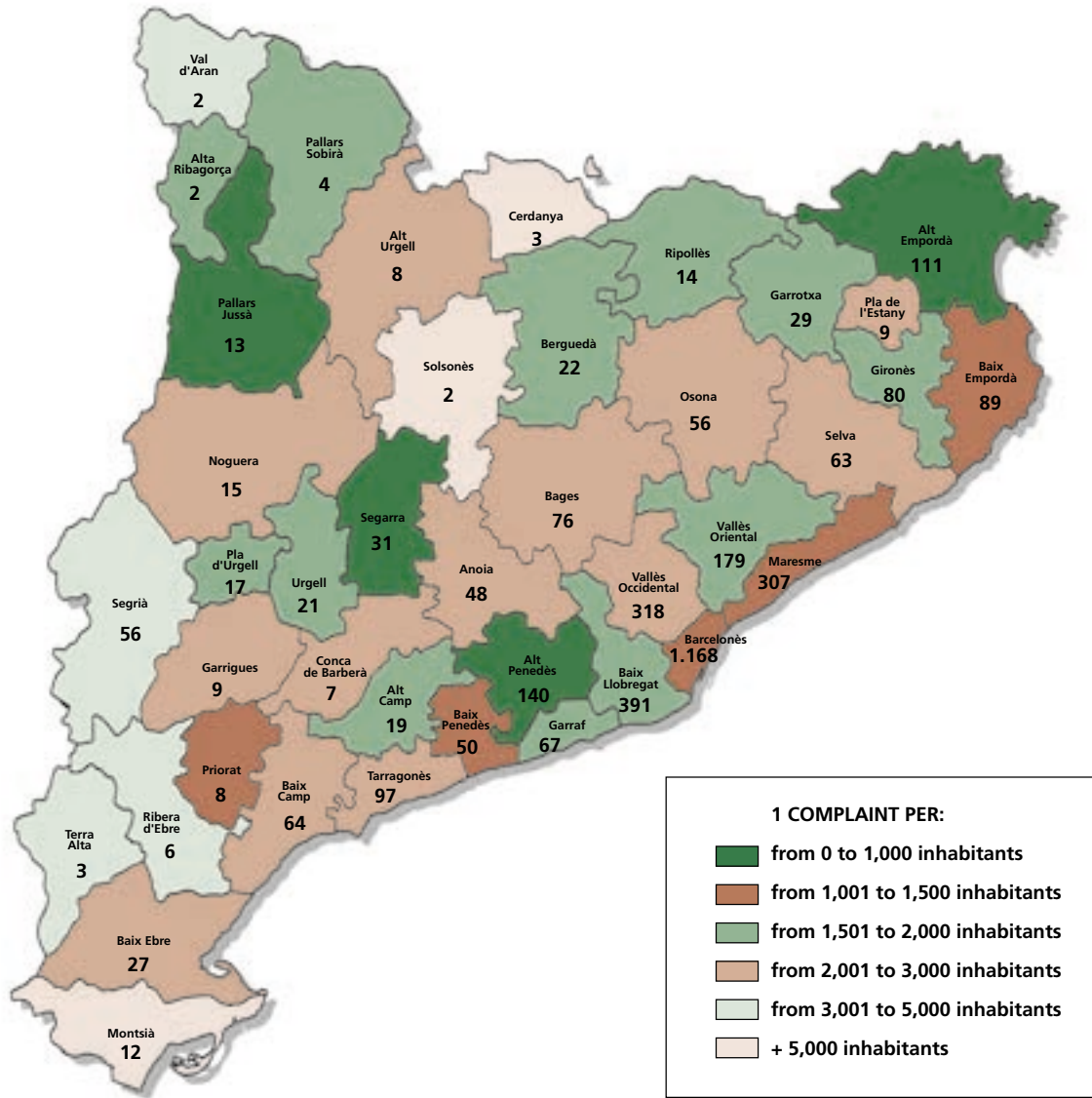
### ACTIONS OF THE SÍNDIC DE GREUGES

TOTAL: 4,617



## GEOGRAPHIC DISTRIBUTION OF COMPLAINTS

The figures on the map indicate the written complaints received in 2003 from Catalonia not including the complaints received from the rest of Spain and or those from abroad, nor the ones being this datum non available. The colour intensity indicates the number of complaints linked to the population index.

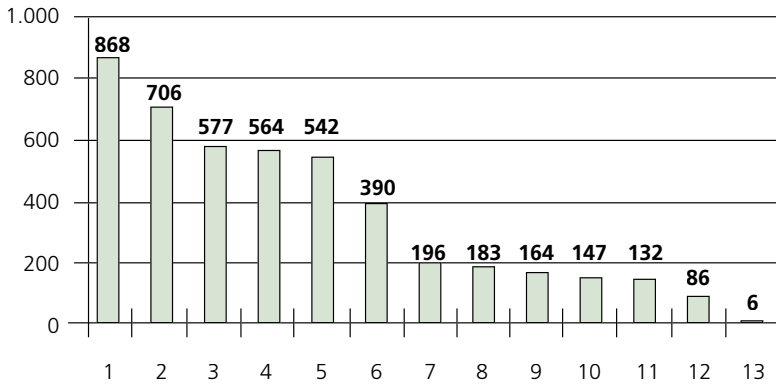


In relation to the figures quoted here, it is important to note that they include complaints made by people in penitentiary centres, according to number and geographic distribution as follows in:

Alt Empordà	1
Barcelonès	13
Baix Llobregat	9
Gironès	1
Segrià	7
Tarragonès	8
Vallès Oriental	13
<b>Total</b>	<b>52</b>

## CLASSIFICATION OF COMPLAINTS BY SECTIONS

TOTAL: 4,571

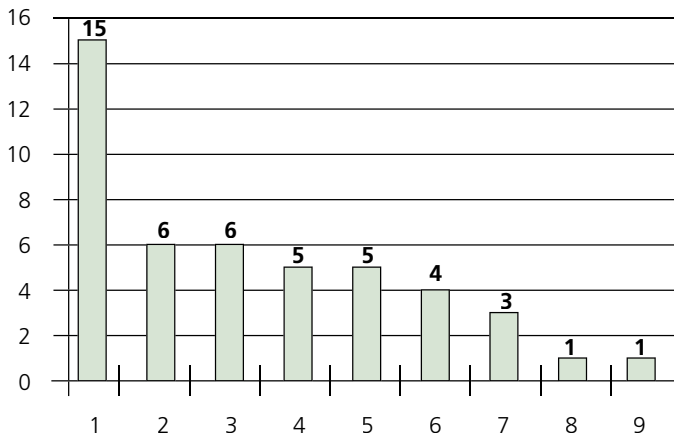


1. Children (18.99%)<sup>(1)</sup>
2. General Administration (15.44%)
3. Consumer affairs (12.62%)
4. Territorial development (12.34%)
5. Justice (11.86%)
6. Private (8.53%)
7. Taxation (4.29%)
8. Health (4%)
9. Employment and pensions (3.59%)
10. Immigration (3.22%)
11. Social Services (3.11%)
12. Culture (1.88%)
13. Women (0.13%)

(1) 618 complaints with the same content of the Programme of Compensatory Education.

## CLASSIFICATION OF EX OFFICIO ACTIONS BY SECTIONS

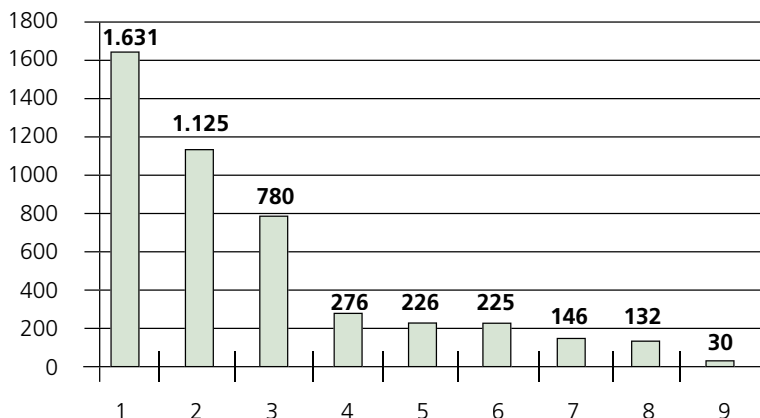
TOTAL: 46



1. Children (32.62%)
2. Justice (13.04%)
3. General Administration (13.04%)
4. Territorial development (10.87%)
5. Health (10.87%)
6. Consumer affairs (8.70%)
7. Social Services (6.52%)
8. Immigration (2.17%)
9. Employment and pensions (2.17%)

## CLASSIFICATION OF COMPLAINTS BY AFFECTED ADMINISTRATIONS

TOTAL: 4,571

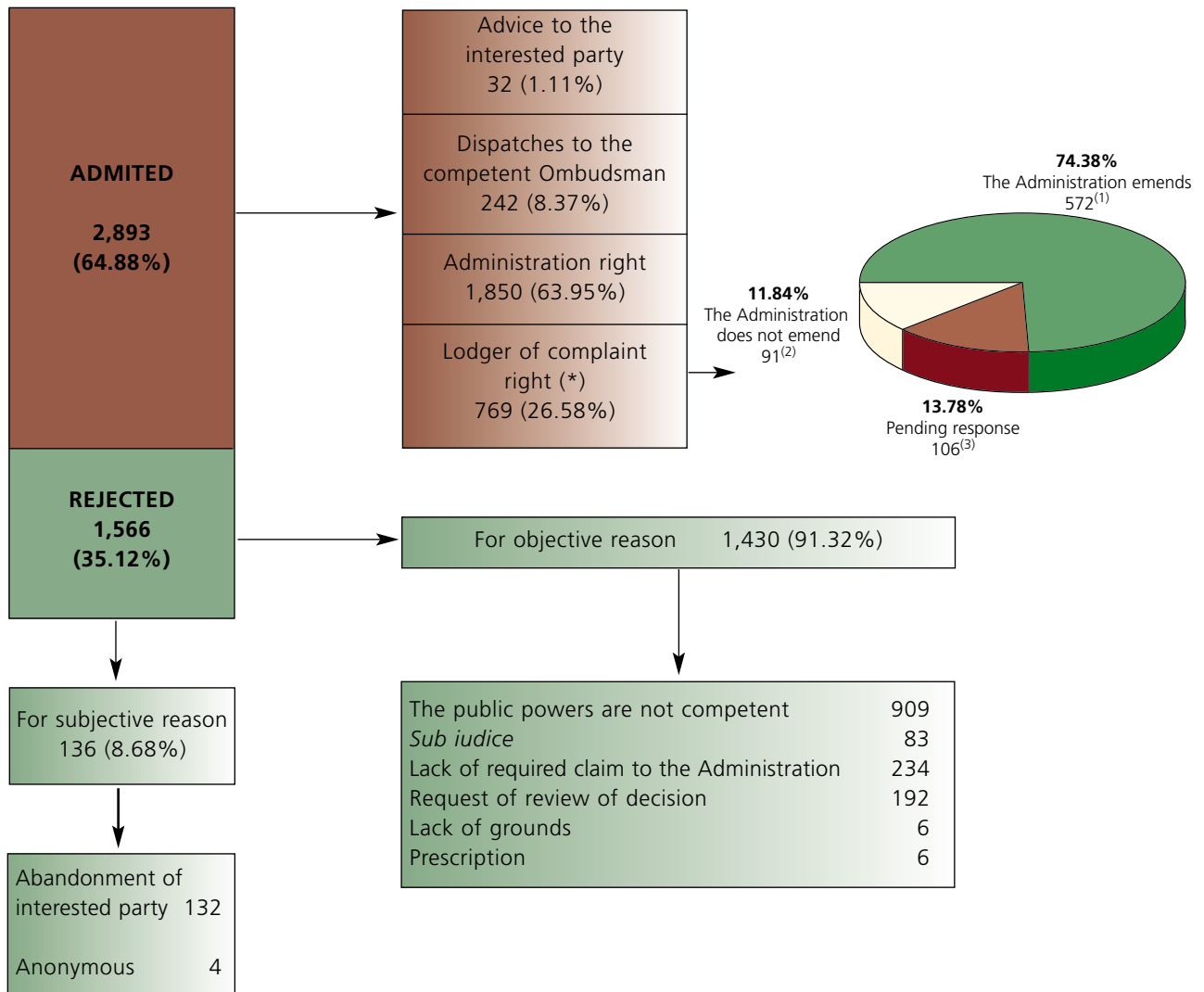


1. Autonomous (35.68%)<sup>(3)</sup>
2. Local (24.61%)
3. Private (17.06%)
4. Judicial (6.04%)
5. Central (4.94%)
6. Peripheral (4.92%)
7. Universities and Prof. Associations (3.20%)
8. Privatised Public Services (2.89%)
9. Other administrations (0.66%)

(3) 618 complaints with same content of the Programme of Compensatory Education (a competence of the Department of Education of the Generalitat).

**DISTRIBUTION OF COMPLAINTS CONCLUDED IN 2003**

Admitted and rejected complaints  
TOTAL: 4.459



(1) a 13.4.2004 closing date of this edition 591 (76.86%)  
 (2) a 13.4.2004 closing date of this edition 97 (12.61%)  
 (3) a 13.4.2004 closing date of this edition 81 (10.53%)

(\*) The heading "Lodger of complaint right" includes all the matters resolved in 2003 in which the Síndic considered that, for one reason or other, the Administration should have acted differently than it did and the matters in which the Síndic requested the Administration for a report, owing to the reception of a complaint when the time available to the Administration to resolve a matter had expired and the Administration issued was accompanied by a copy of the resolution already adopted.

If you would like more information

**about the Síndic de Greuges of Catalonia  
or would like to lodge a complaint,  
contact our office:**

Síndic de Greuges de Catalunya

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