



SÍNDIC ANNUAL REPORT 2012

SÍNDIC

EL DEFENSOR
DE LES
PERSONES

SUMMARY

- PRESENTATION 3
- OUTSTANDING FIGURES FOR 2012 4-11
- OUTSTANDING ACTIONS BY SUBJECT 12-30
 - Right to good administration 14
 - Consumers' rights 15
 - Rights of penitentiary center inmates 16
 - Education 17
 - Civil service 19
 - Elderly people 20
 - Immigration 20
 - Children and adolescent affairs 21
 - Freedom, safety and Justice Administration 22
 - Environment 24
 - Persons with disabilities 25
 - Health care 26
 - Situations of social exclusion 27
 - Work and pensions 28
 - Taxation 29
 - Urban planning and housing 30
- INSTITUTIONAL AND INTERNATIONAL ACTIVITIES 31-35

PHOTOS

Síndic: pages 3 (right), 10, 14, 16, 23, 24, 26, 28, 33, 34

Jordi Soteras: pages 15, 17, 21, 22, 27, 29

Parliament of Catalonia: pages 3 (left), 4 (right) and 11

Jaume Soler (Barcelona's City Council): page 4 (left)

Image Bank of the Ministry of Education: page 12, 18, 19, 20, 25

ENOC: page 32

IOI: page 31

Molins de Rei City Council: page 35 + Navas Quarter Neighbours Association: cover and page 30



The activity of the Síndic de Greuges (Catalan Ombudsman) has risen significantly since the onset of the economic crisis. In the year 2012 alone, the Catalan Ombudsman opened a total of 25,053 interventions, 10% more than in prior year. Of that total, 32.8% (8,231) were complaints, 0.6% (155) were ex-officio actions and 66.5% (16,607) were queries.

It would be reasonable to conclude that the impact caused by the economic crisis in recent years on public budgets, and in general the entire range of public administrations and policies, explain this accentuated rise in citizens addressing the Ombudsman in the hopes of getting a solution to a problem they believe affects their rights.

Another factor that could explain the Ombudsman staff's greater workload is citizens' growing disappointment and indignation toward institutions that have given slow and unclear responses to problems like evictions, making little progress in the realm of public information or transparency.

That the decisions for expenditure reduction have been aimed at some of the benefits for people without economic resources, and in the worst socio-economic situation, as the Catalan Ombudsman has repeatedly decried in reports and decisions, is most worrisome.

Last, on a positive note, it can be said that in all of the Ombudsman's decisions in which there have been suggestions, the degree of acceptance has been very high, at 94.16%, a 2% increase over last year. Along these lines, in 93.1% of the cases the administration has followed the recommendations made by the Ombudsman after accepting them; 69.3% completely, and 23.8% partially. The administration only failed to follow the recommendations after accepting them in 3.7% of the cases.

Rafael Ribó
Catalan Ombudsman

OUTSTANDING FIGURES FOR 2012

The number of complaints received by the Catalan Ombudsman has risen by 38.7% since the onset of the economic crisis. The total number of people served by the institution in 2012 was 38,468.

The complaints received (8,231), ex-officio actions opened (155) and queries handled (16,667) stand for the largest number of interventions ever carried out by the Catalan Ombudsman (25,053) in a year's time.

The Administration accepted the Ombudsman's recommendations in 94% of the cases, following through on them and favorably resolving the complaint in 93% of them.

Most complaints have been on social services (20.1%), public administration (16.6%) and town planning and housing (10.2%). The leading area in queries was consumer affairs (26.7%).

33% of cases had to do with rights violations

As for the actions completed, 34% of the time the case files concluded with correct conduct on the Administration's part. On the negative side, rights violations by some body of the administration have been detected in 33% of the cases studied.

Over 50% of the complaints had to do with the autonomous community administration

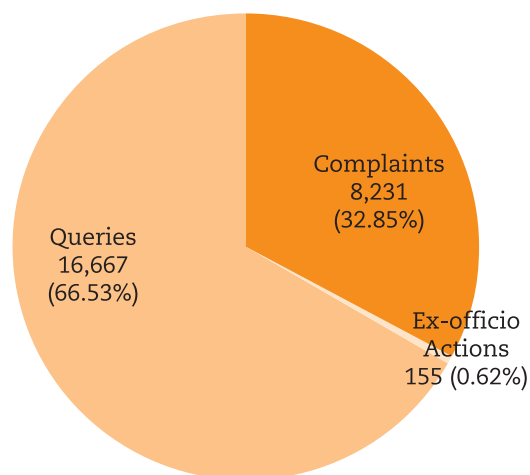
In 51.5% of the complaints opened, the involved administration was that of the autonomous community (ministries of the Generalitat, Autonomous Government of Catalonia, or an autonomous body affiliated with it), and the local administration 30% of the time. 7.7% of the complaints have been on a company providing general-interest services, and 5.1% were on the general administration of Spain.

42 ex-officio actions on public safety and justice

The Ombudsman opened 155 ex-officio actions in 2012, of which 42 dealt with the area of public safety and justice, 38 on children and adolescent affairs, and 28 on education and research.



Number and type of actions in 2012

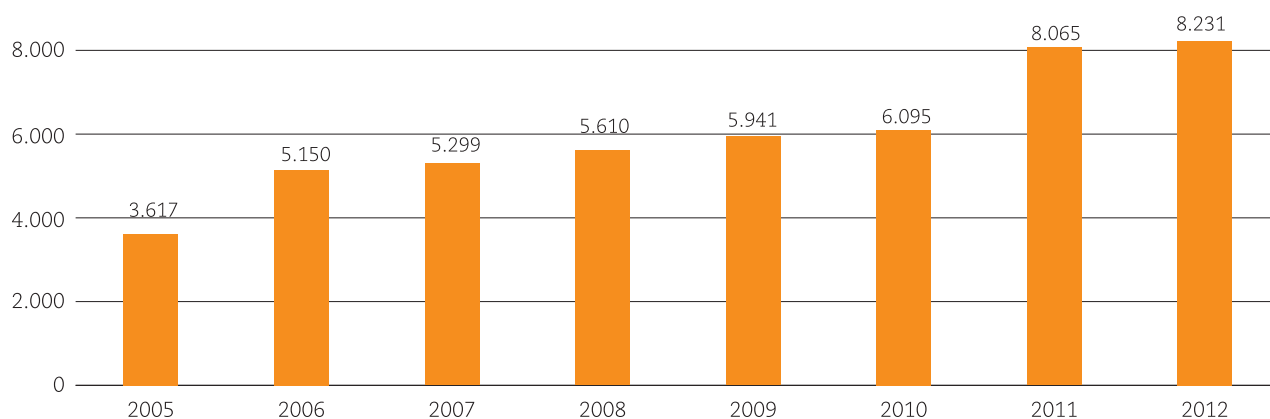


Complaints: actions promoted through disagreement, discontent or dissatisfaction with the action or lack of action by the public administration.

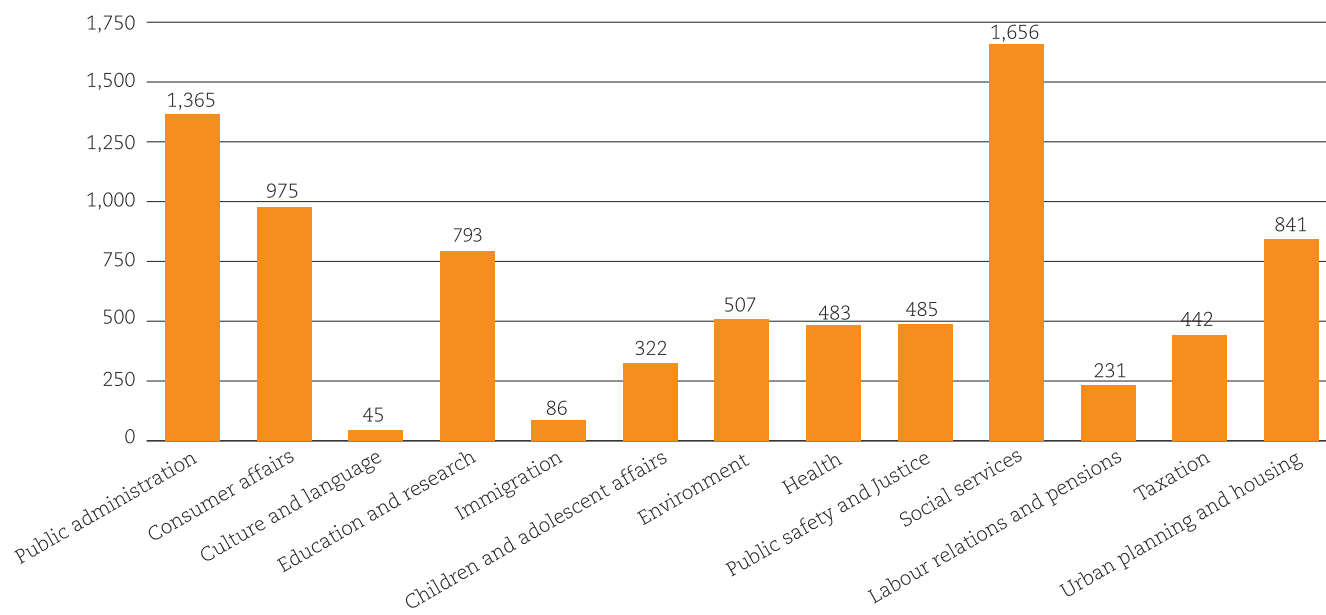
Queries: actions promoted to obtain information and guidance on a particular matter.

Ex-officio actions: investigations begun at the initiative of the Catalan Ombudsman when it is considered appropriate to open a case in order to protect the rights of people, either to control the actions of public administrations or to uphold public rights in relevant social circumstances.

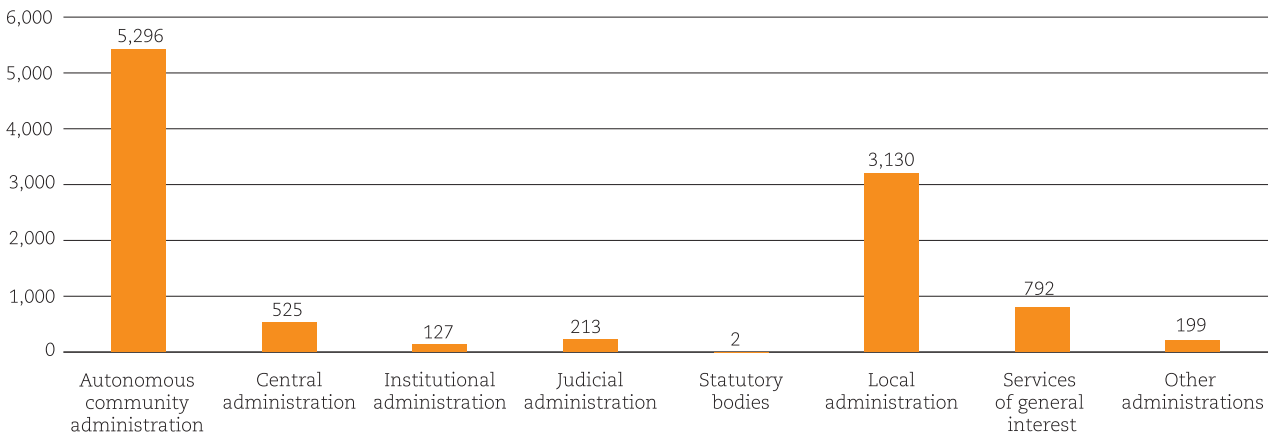
Evolution of complaints over recent years



Actions by subject



Complaints and ex-officio actions by affected Administration

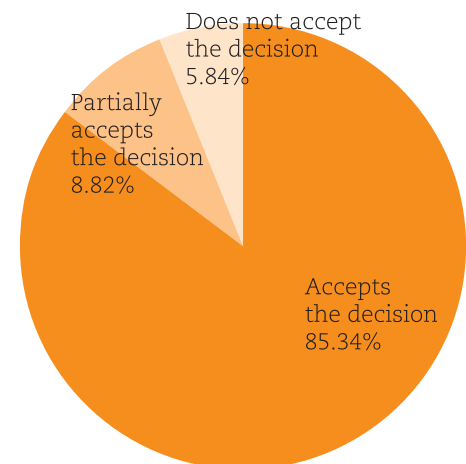


Result of the complaints and ex-officio actions conducted

Sum of the actions (complaints and ex-officio actions) handled throughout 2012; those initiated in 2012 (8.386) and those originating in previous years (5.066). A total of 13.462 have been handled.

Results	Total	
1 Being processed	4.826	35,88%
a Actions prior to Síndic's decision	3.777	20,08%
b Actions subsequent to Síndic's decision	1.049	7,80%
2 Actions concluded	8.310	61,78%
a Correct action of the Administration	4.619	34,34%
a ₁ Prior to the Síndic's intervention	2.700	20,07%
a ₂ After the Síndic's intervention	1.919	14,27%
b Accepts the decision	2.207	16,41%
c Partially accepts the decision	228	1,69%
e Does not accept the decision	151	1,12%
d Hindering	0	0%
e Does not collaborate	3	0,02%
f Abandonment of claimant	505	3,75%
g Procedures with other institutions	597	4,44%
3 Rejected	316	2,35%

Degree of acceptance by Administration

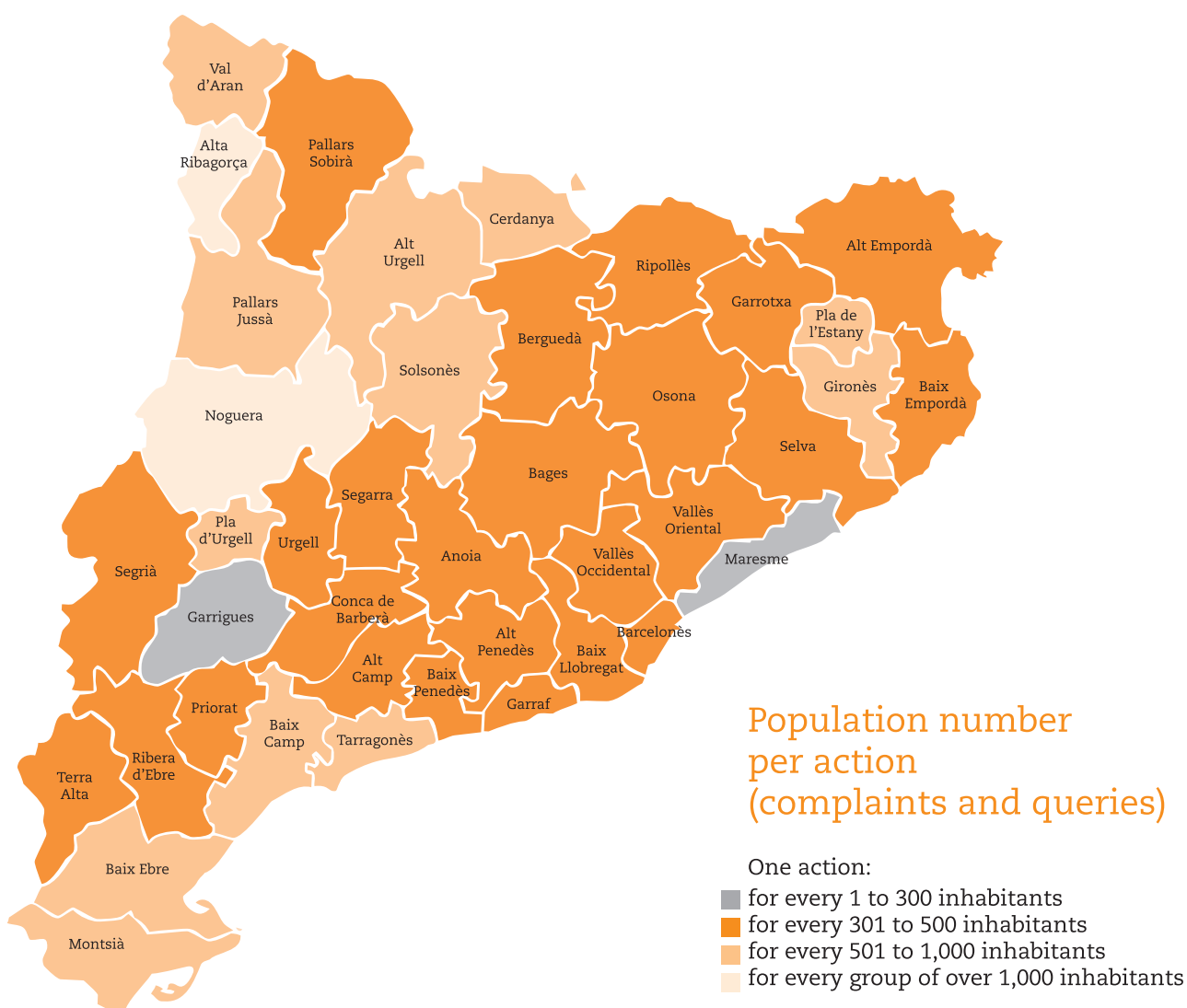


Geographic distribution of the actions

As for the ratio of actions (complaints and queries) per number of inhabitants, as in the previous year, the majority of counties had one action per 301 to 1,000 inhabitants. The consolidation of the traveling Citizen Services Unit (CSU), which travels to two different destinations around Catalonia every week, has contributed to this territorial balance.

The Les Garrigues region, with 117 actions and a ratio of 173 inhabitants per action, has led the ranking, proportionately.

At the other extreme, and as in 2011, with only three actions and a ratio of 1,412 inhabitants per complaint or query, is the Alta Ribagorça area.



The CSU makes 72 trips

An effort was made in 2012 to consolidate the Ombudsman Office's trips around Catalonia (municipalities and neighborhoods) on a twice-weekly basis.

This periodicity has resulted in 72 trips being made in 2012, on which 709 complaints and 489 queries have been gathered.

Municipality	Date of visit	Complaints	Queries	Visits
Santa Coloma de Farners	12/01/2012	16	13	29
Barberà del Vallès	17/01/2012	8	6	14
Parets del Vallès	19/01/2012	3	11	14
Sant Adrià de Besòs	24/01/2012	5	5	10
Mollerussa	26/01/2012	5	4	9
Les Borges Blanques	26/01/2012	56	5	61
Torredembarra	31/01/2012	8	9	17
Palamós	01/02/2012	15	5	20
Castellar del Vallès	07/02/2012	9	8	17
Esparreguera	09/02/2012	7	7	14
Pineda de Mar	14/02/2012	12	12	22
Sant Sadurní d'Anoia	16/02/2012	4	1	5
Gandesa	21/02/2012	3	4	7
Móra d'Ebre	21/02/2012	4	5	9
Bellvitge (Hospitalet)	23/02/2012	8	7	15
Mataró	28/02/2012	8	10	18
Sallent	01/03/2012	7	4	11
Canet de Mar	07/03/2012	16	1	17
Matadepera	09/03/2012	4	2	6
Guissona	13/03/2012	4	2	6
Canovelles	15/03/2012	10	2	12
Súria	22/03/2012	4	5	9
Sta Coloma de Gramenet	27/03/2012	6	5	11
Sant Vicenç dels Horts	28/03/2012	11	6	17
Gràcia (Barcelona)	03/04/2012	4	2	6
Olot	11/04/2012	16	6	22
Sant Cugat del Vallès	17/04/2012	23	8	31
Calafell	19/04/2012	18	8	26
Ripollet	24/04/2012	13	5	18
Arenys de Munt	26/04/2012	2	2	4
Sant Joan Despí	10/05/2012	14	5	19
Llinars del Vallès	15/05/2012	1	4	5
Lleida	17/05/2012	23	9	31
Valls	23/05/2012	13	22	35

Municipality	Date of visit	Complaints	Queries	Visits
Tàrrega	24/05/2012	11	5	16
Cornellà de Llobregat	31/06/2012	6	4	10
Ripoll	05/06/2012	6	6	12
Gavà	07/06/2012	10	3	13
Roses	12/06/2012	9	1	10
Piera	14/06/2012	10	10	20
Montornès del Vallès	19/06/2012	11	3	14
Torroella de Montgrí	21/06/2012	2	5	7
El Prat de Llobregat	27/06/2012	17	4	21
Sant Esteve Sesrovires	28/06/2012	7	2	9
Vilassar de Dalt	03/07/2012	6	5	11
Sant Quirze del Vallès	05/07/2012	8	3	11
Cervera	10/07/2012	7	5	12
La Llagosta	12/07/2012	5	1	6
Abdera	13/09/2012	9	7	16
Vila-seca	18/09/2012	4	3	7
El Vendrell	20/09/2012	25	9	34
Sabadell	25/09/2012	16	22	38
Arbúcies	02/10/2012	5	14	19
Torelló	04/10/2012	5	12	17
Lloret de Mar	09/10/2012	13	4	17
Molins de Rei	16/10/2012	1	1	2
Sant Andreu de Llavaneres	18/10/2012	0	5	5
Cubelles	23/10/2012	4	2	6
Figueres	25/10/2012	15	25	40
Rubí	30/10/2012	13	3	16
Sant Pere de Ribes	06/11/2012	7	7	14
Vilanova del Camí	08/11/2012	2	3	5
Palau-solità i Plegamans	13/11/2012	6	9	15
La Bisbal d'Empordà	15/11/2012	12	13	25
Manresa	20/11/2012	19	10	29
Cardedeu	22/11/2012	4	11	15
Tortosa	27/11/2012	7	16	23
Poblenou (Barcelona)	29/11/2012	17	16	33
Cambrils	04/12/2012	8	8	16
Pallejà	11/12/2012	3	4	7
Premià de Mar	13/12/2012	25	6	31
Reus	18/12/2012	16	11	27
Total		709	489	1.198

Nearly 63% of all Catalans know the Ombudsman

According to a survey carried out at the end of 2012, 62.7% of the people living in Catalonia know the Catalan Ombudsman institution. Therefore, it can be said that familiarity of the Catalan population with the institution has grown moderately over the level of year-end 2010, when it was 58.9%.

As for the usefulness of the Catalan Ombudsman, the score of respondents who said they were familiar with the Ombudsman was positive, at 5.9, similar to the level achieved two years ago, 6.3. Of all the people interviewed, those who spontaneously mentioned that they had knowledge of the Catalan Ombudsman gave the institution a 6.4.

These data show that there is a clear margin for improvement to reach higher levels of familiarity with the institution, and also in the appreciation of its work. The first step is to intensify efforts for dissemination on the Catalan Ombudsman.

Users give the Catalan Ombudsman's service a 6.6

This year a total of 1,654 people responded to the surveys on the service received from the Catalan Ombudsman, 35% of the total sent out. This number is higher than that of the prior year, when 1,315 people answered, which stood for 24% of the total surveys sent.

As for overall satisfaction with the service, the average score achieved, on a scale of 0 to 10, was 6.6. These scores can be considered satisfactory: 90% said that filing the complaint was easy or very easy; 88% believed that the service and information received were good or very good, and 75% were satisfied or very satisfied with the professionalism of the persons who helped them.

Standing out among criticisms were the need to have a more expedient process (23%), followed by that of offering better information to users.





21 recommendations of the CAPT

The Catalan Ombudsman presented the report on the third year of activities as the Catalan Authority for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAPT) to the Parliament of Catalonia.

The document featured 21 recommendations, derived from visits to 33 facilities. Fifteen of the recommendations were made for the first time. The rest (6), were contained in the prior year's report, but were still pending acceptance or compliance. The only facility that the Catalan Ombudsman and CAPT Team did not have access to was the Foreigners Holding Center in the Zona Franca of Barcelona.

The main recommendations are: all detainees must be immediately sent to court once the arrest report has been completed; notification of the Bar Association regarding any police arrest must be made from the time the arrest is made to make legal aid effective; to prevent abuse, the compliance with existing protocols in some cases, and the establishment of new ones in others, must be considered. effective mechanisms are needed to immediately, impartially investigate complaints on alleged abuse in penitentiary centers.

Priority to children's services policies

The 2012 Report on Children's Rights, which fulfills the obligations set out in Article 29.2 of the Children and Adolescent Rights and Opportunities Act, outlines cases of children's rights violations in Catalonia, worsened by the economic vulnerability of families due to the economic crisis, and public administrations' austerity policies.

The study revealed that administrations have not maintained policies and benefits aimed at children, especially those in situations of vulnerability. It also describes how the suspension of certain aids and services, the generalized reduction of benefits or raising of eligibility criteria for access to services have heightened the vulnerability of children living in impoverished conditions.

The Catalan Ombudsman proposed a prioritization of expenditures in policies aimed at children, especially the most underprivileged, and drew attention to the risk in the realm of juvenile justice, of a devaluation of the system's quality and success of individual reintegration programs.

OUTSTANDING ACTIONS BY SUBJECT

In the area of access to public information, in the monographic report presented on this subject, the Catalan Ombudsman proposed that a comprehensive body of regulations be drawn up on this right. As for consumers' rights, malpractice and significant breaches of ethics and respect for the rights of persons were found in the sale of preferred shares.

The Catalan Ombudsman continued to urge greater efforts to guarantee the right to education through the proper provision of aid in the form of school lunchroom, school supply and other complimentary benefits. Reiterated claims were made through 2012 that social policies prioritize the fight against child poverty.

In the area of public safety, mention should be made of the request to suspend the use of rubber bullets until the Catalan Parliament receives the report it requested from the Catalan Government and makes a statement on the matter. One of the most recurrent topics of Catalan Ombudsman action in 2012 were the numerous recommendations on housing and the prevention of evictions.



	<i>Complaints</i>	<i>Queries</i>	<i>Ex-officio</i>	<i>Total</i>
Right to good administration	897	2,377	5	3,279
Consumer's rights	975	4,451	17	5,443
Rights of penitentiary centre inmates	220	80	13	313
Linguistic and cultural rights	45	68	1	114
Education	793	689	28	1,510
Civil service	381	379	1	761
Elderly people	196	192	1	389
Immigration	86	116	2	204
Children and adolescent affairs	322	485	38	845
Freedom, safety and Justice Administration	265	775	29	1,069
Environment	507	573	2	1,082
Rights to participate	87	63	1	151
Persons with disabilities	256	393	4	653
Labour relations and pensions	231	472	2	705
Health care	483	1,272	5	1,760
Marginalization situations	1,204	1,034	3	2,089
Taxation	442	651	1	1,094
Urban planning and housing	841	916	2	1,759
Private or unespecific matters	-	1,681	-	1,681
Total	8,231	16,667	155	25,053

Right to good administration

Comprehensive regulation on the right of access to public information needed

In the area of access to public information, in the monographic report presented on this subject, the Catalan Ombudsman proposed that a comprehensive body of regulations be drawn up on this right. These regulations should consider that the access to public information is a requisite for the democratic control of public authorities, and to guarantee citizens' high-quality participation in public life.

In the same vein, it was recommended that the law include the obligation of disseminating information of public information, as a manifestation of the principle of transparency and efficiency, since intensive dissemination activity—now made possible by information and communication technologies, would reduce the need for specific and individual requests for access.

The report features several recommendations on the contents that the new regulations should include. Some of the proposals were: anyone should be able to apply for access to public information without needing to accredit any personal interest or justify their application; the general rule must be to allow access to information, and refusal should be the exception; what must be relevant for the application of the law is that the information refer to public activity.

Electronic notification of traffic fines must be promoted

Year after year, the same problems arise regarding administrative notification of traffic tickets: attempted notifications to incorrect addresses, attempted notifications resulting in unknown or absent addressees or cases in which the interested party denies that any notification slip was ever left in their mailbox.





There are still frequent complaints from persons who claim that their first knowledge of having received a ticket is when they receive notification of the coercive measure, that is, once the executive enforcement proceedings have begun.

The Catalan Ombudsman has recommended the promotion of electronic notifications with formulas for cooperation, if necessary, to all Catalan administrations with competencies in traffic law.

The Catalan Ombudsman believes that a good option to prevent sending telematic notifications that do not materially reach the natural persons, and in a manner similar to that used in the tax realm, would be to regulate the exclusion to thirty days per year for the dates in which the electronic traffic notifications can be made.

Consumers rights

The Catalan Ombudsman demands solutions for preferred share victims

The Catalan Ombudsman found malpractice and significant breaches of ethics and respect for the rights of persons in the sale of preferred shares. Following the investigation carried out due to the numerous complaints and queries received, and news items in the media, the Catalan Ombudsman made a number of suggestions, sent to the competent administrations and supervisory bodies, the financial institutions involved and the Spanish Ombudsman.

Specifically, it is believed that free arbitration services should be offered for the most flagrant cases. If it is concluded that rights have been violated, a full refund of the amounts invested must be made.



El síndic, l'alcalde de Mataró i representants de la Comissió Municipal d'Afectats per les Preferents en una reunió per presentar solucions sobre el cas de les participacions.

Likewise, the Catalan Ombudsman has asked that financial institutions' sales malpractice be done away with, and that consumers have access to detailed information. Last, it has been proposed that supervisory bodies work further in monitoring banks' sales practices and that the Catalan Consumer Affairs Agency specialize more in the banking industry.

In 2013, following a meeting with Joan Mora, mayor of the city of Mataró, the Catalan Ombudsman has demanded an immediate solution for the Bankia preferred shareholders who had come from Caixa Laietana Savings Bank. The Catalan Ombudsman requested that the arbitration process begin within a maximum period of three months and conclude within the following six months. Based on the evidence of a double fraud, it is believed that the amounts invested must be returned immediately, with the guarantee of the FROB (Fund for Orderly Bank Restructuring, the Spanish bailout program). Last, the Catalan Ombudsman has informed the Public Prosecutor's Office of the findings for it to take the proper measures.

Users are entitled to clear information on utility service tariffs and terms

Companies providing general-interest services must be urged to provide specific protection of consumer and user rights, which should especially include the right to receive information on the tariffs and terms of the service in a clear way.

Therefore, the sales offerings sent to users, regardless of the channel used, must be very clear as regards tariffs and the new contractual conditions being offered.

Although these are tightly regulated sectors, complaints are still received on unfair or abusive sales practices in the recruitment of new customers, or the modification of contracts that depart from the good faith and balance of legal positions, which must be at the base of consumption relationships.

Rights of penitentiary center inmates

More video surveillance and identification of prison officers to prevent abuse

In early 2012, an increase was seen in the complaints filed by inmates reporting to have suffered physical and mental abuse in the Closed-system (DERT) and Disciplinary (DS) Units at Brians 2 Penitentiary Center.

The complaints in question referred to guards of certain departments as well as irregularities in the workings of these units. The Brians 2 Penitentiary Center has extensive security coverage through its video surveillance system.

Education

Higher nursery school fees exclude low-income families

Without prejudice to that, from interviews with inmates, it was concluded that the places where the abuse allegedly took place were areas not equipped with these technological systems. For this reason, the Catalan Ombudsman has recommended to the Ministry of Justice that it install video surveillance systems in the rooms where strip searches are performed, wherever inmate/guard interactions take place, and to the degree possible, in the stairwells that connect the different access points or floors.

On the visits to the penitentiary centers, it was observed that some penitentiary guards do not wear identification. Therefore, the Catalan Ombudsman has insisted on the need to print the guards' professional ID numbers on all pieces of their uniforms or provide an ID card they can wear around their neck, and that remains visible at all times.

Non-mandatory education, either due to the lack of guarantees of it being free of charge, or because of its non-mandatory nature, is the regulated education area with the most access inequalities. Along these lines, the reduction of the contributions made by the Catalan Ministry of Education to municipalities has led to price hikes at nursery schools, making them unaffordable for some families.

Some municipalities have set up social fee systems based on the household income. The Catalan Ombudsman takes a positive view of these systems.

Further, the Catalan Ombudsman has suggested that the Catalan Ministry of Education study whether the creation of a public price would impact the level of demand for advanced level specific vocational training and attenuate the tendency of increased enrollment numbers experienced in recent years.



Collection terms and decisions for university grants must be guaranteed

Numerous complaints were presented this year regarding the delay in collection of grants approved pursuant to the criteria established in the official call for general and mobility grant applications of the Spanish Ministry of Education for the 2011-2012 academic year.

Complaints were also filed regarding the delay in the decisions on grants announced with respect to the time frame established in the terms of the official calls.

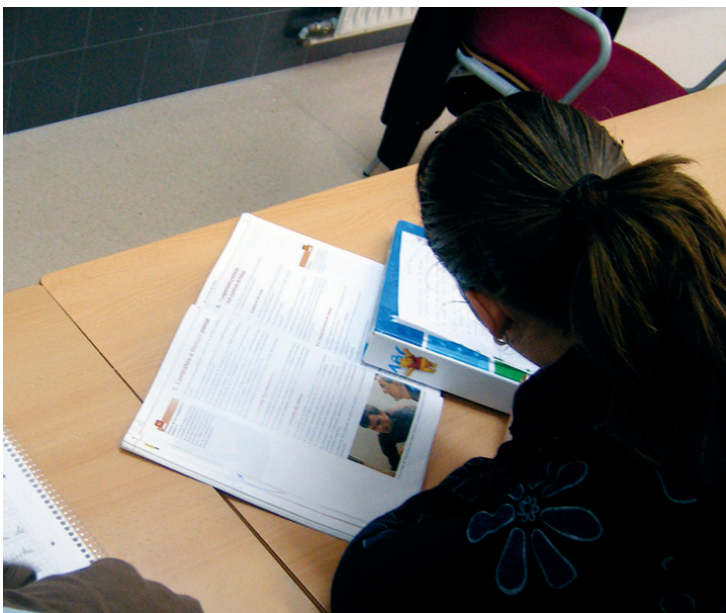
The Catalan Ombudsman does not question the parameters established in the official calls for grants to university and research students. This notwithstanding, the Catalan Ombudsman's Office has requested that, to the extent possible, the circumstances that could hinder decisions within the established time frames be foreseen, and that they adjust to the dates of the official call to ensure compliance with the decision periods set in all cases.

The Catalan Ombudsman detects irregularities in disciplinary measures applied to students

The Catalan Ombudsman received a complaint regarding the disciplinary measures applied to a group of primary school students who had vandalized (by urinating and spitting on) a teacher's car. The disciplinary measures handed down by the school were to: deprive them of recess time for the rest of the quarter (four weeks); bar them from taking part in the Christmas festival; bar them from taking part as organizers of any of the course festivals.

The complaint expressed disagreement with these measures on the grounds that they did not consider that the children admitted their deeds, apologized to the affected teacher and had never committed any rules violation or exhibited behavior contrary to the school community prior to that occasion. Furthermore, it stated that in the application of the measures there had been no consideration that they had to be proportionate to the deeds committed and contribute to the students' educational process, that the families had not received any written notification of these measures, and that they had been enforced by a body not competent to do so.

Following analysis of the Catalan Ministry of Education's response, the Catalan Ombudsman stated, first and foremost, that the students' behavior was reproachful and had to be punished by the school. Nonetheless, the Ombudsman's office also judged that the schools had applied the disciplinary measures directly, without opening case proceedings; when determining the severity of the measures, it had not taken the students' lack of prior records into account; several disciplinary measures were applied for the same deeds, which contravened the principle of not being punished twice for the same offense; in some of the measures, the duration exceeded the maximum period allowed by the regulations, and were applied automatically, before reaching any agreement with the families, or agreement to open proceedings.





For all the foregoing, the Catalan Ombudsman suggested that: the processing of these measures be reviewed, and instructions be given to the school and educational inspection office for them to adjust the handling of disciplinary proceedings to the terms stipulated in the regulations; and that they annul the disciplinary measures remaining to be applied to the group of students due to the irregularities detected, and the fact that they had already been punished.

These suggestions were not accepted by the Catalan Ministry of Education.

Civil service

The Catalan Government must justify contention measures

Of the many complaints received on public employment, those relative to access, working hours, remuneration, employment plans, leaves and retirement especially stand out.

The Catalan Ombudsman opened an ex-officio action regarding several news items in the media on the termination of contracts in the area of autonomous state companies. Regarding this, the Catalan Ombudsman issued the reminder that, in the adoption of personnel expense contention and reduction measures due to the economic circumstances, the Autonomous Government of Catalonia was obliged to objectively serve the general interest, and was expressly prohibited from exercising any form of arbitrariness. Therefore, it had to justify the rationality behind the measures.

The Catalan Ombudsman believes that the Autonomous Catalan administration must scrupulously subject itself to the general principles and criteria outlined in the employment plan approved by the government, and issued the reminder that if they affect the working conditions of public employees, they must be applied following the necessary collective bargaining.



Elderly people

Training for non-professional caregivers must be improved and extended

Within an ex-officio action on the current situation of non-professional caregivers, and the follow-up of issues discussed in the report Care for the Dependent Elderly in Catalonia, the Catalan Ombudsman recommended to the Catalan Ministry of Social Welfare and Family that it improve the coverage of training programs aimed at non-professional caregivers, and that it extend the coverage of complementary services or other actions to help alleviate these caregivers' situation.

The Catalan Ombudsman also suggested they expand coverage of the economic benefits for personal assistants and that the figure be reinforced.

Last, he recommended that the personal assistant service, currently provided to the beneficiaries of pilot projects, be linked to the public social service network in the terms established in the Charter of Services and in the same economic system established for other services described in the Charter.

Immigration

The relationship with local bodies in the preparation of foreign citizen reports must be revamped

The Catalan Ombudsman received a number of complaints in which the claimant described the delays incurred in receiving foreign citizen reports. The investigation was based on Instruction 1/2012, of March 20, which establishes the general criteria for writing foreign citizen reports. The Instruction stipulates that the Autonomous Government of Catalonia, the administration competent for issuing the report, can commission the process to local bodies with which they reach agreements.

The Catalan Ombudsman has suggested to the Ministry of Social Welfare and Family that it review and correct the dysfunctions detected in the circuit and procedure outlined in the Instruction. With a view to achieving management that is more effective and in line with the rules in force on the report-writing procedure, the Ombudsman has suggested that it may be appropriate to revamp the way the relationship with local councils is articulated.

Children and adolescent affairs

An integrated benefit system is needed to fight child poverty

On September 21, 2012, the Catalan Ombudsman delivered to the Parliament of Catalonia the *Report on Child Poverty in Catalonia*, in which he urged the implementation of a social policy that prioritized the eradication of this situation.

The benefits aimed at children, which account for the largest part of the investment, as well as the universal child dependent benefit, the minimum income benefit and school lunchroom benefits have either been suspended or their amounts earmarked for them have been significantly reduced.

Some of the Ombudsman's noteworthy recommendations to fight child poverty are that they should:

- Prioritize social expenditure in policies aimed at children.
- Design comprehensive plans to fight child poverty.
- Develop regulations on children's rights to meet a proper standard of living.
- Develop guaranteed economic sufficiency income for children.
- Configure an integrated system of economic benefits to fight child poverty.

The Catalan Ombudsman, against the closure of the Montilivi and Til-lers Juvenile Centers

The Ombudsman received a complaint from a juvenile justice professional expressing his disagreement with the closure of the Montilivi and Til-lers Juvenile Centers. The complaint stated that this measure jeopardized the juvenile justice model, based on the reeducation and reintegration of young people, and individualized care, which had been a forerunner in Spain, rendering optimum results.

The professional who wrote the Catalan Ombudsman also expressed concern that the closure could lead to overcrowding of existing facilities, which would hinder individualized care and generate conflictive situations. Along these lines, the writer spoke of the need to keep from exporting the penitentiary system to the juvenile justice system.

Further, he alluded to the fact that center occupancy had a cyclical character, and there was no guarantee that the number of young people held there would not rise again. After studying the information, the Catalan Ombudsman recommended to the Catalan Ministry of Justice:

1. That the decision to close the Els Til-lers center and reduce capacity at the Montilivi center be suspended.
2. That the decision to increase capacity at the Catalan Ministry of Justice's Can Lluçà, El Segre and l'Alzina education centers be reconsidered, so that they could maintain their current capacity.
3. That promotion of open systems and mediation programs to prevent relapses be maintained.
4. That the individualized educational nature of work with minors in the centers be guaranteed.



Freedom, safety and Justice Administration

The Catalan Ombudsman calls for a moratorium on the use of rubber bullets

In recent years, the Catalan Ombudsman has become aware of several cases of persons injured by rubber bullets, some of whom have lost eyes or even their lives.

The debate around the use of these projectiles by the Mossos d'Esquadra (Catalan Autonomous Police) have led to the presentation of numerous initiatives in the Catalan and Spanish parliaments, respectively, which in the end, were unsuccessful. Nonetheless, it should be remembered that in the Parliament of Catalonia a decision was approved by which the Catalan Government was urged to present a report on the use of this anti-riot equipment.



Within the framework of this ex-officio action, the Catalan Ombudsman has made the following suggestions:

1. That in cases of rallies and demonstrations, the practice of mediation should be insisted on.
2. That an increase in numbers of police officers at rallies and demonstrations be considered.
3. That the training received by agents of special units that may use anti-riot gear be reviewed.
4. That work procedure PNT 217/03/11 be reviewed to adjust it to the following parameters:
 - Establish a clear, numbered order of actions with the steps or phases to be followed in the event that anti-riot gear is used.
 - Specify the number of warning shots that must be made before police weapons can be used.
 - Better plan the number and participation of ambulances that accompany the police contingents.
 - Include a section on the participation of the Mediation Unit in the Mobile Brigade or ARRO.
5. That the Ministry of Home Affairs decree a moratorium on the use of rubber bullets. This suspension should remain in effect until the government delivers to the Parliament of Catalonia the report it was requested to produce on the use of rubber bullets, and the Parliament states its position.
6. That the Catalan Ombudsman be informed on whether any studies have been conducted on the use of anti-riot equipment by specialized units from other police corps, and the conclusions reached.



The Catalan Ombudsman recommends regulation of vigilance committees

The rise in burglaries in rural areas of certain municipalities of Catalonia, mainly on the Lleida plain, has generated a feeling of unsafety in the affected areas. To fight it and try to stem these crimes, vigilance committees have been set up by local farmers and residents themselves.

The Catalan Ombudsman has opened an intervention on this subject, and made certain recommendations. For example, that a comparative law study be carried out on the regulation of these initiatives; further, that there be an evaluation of the current distribution of police resources posted in the rural areas with higher crime rates; that efforts for on-site gathering of complaints be intensified; that there be urgent regulation (as they are already operating), of the figure of these vigilance committees, that records be kept of the patrols that are in operation at this time, and that they be subjected to the necessary monitoring and follow-up.

The Catalan Ombudsman, repeatedly denied entry at the Zona Franca Foreigners Holding Center (CIE)

Throughout the year, the Catalan Ombudsman has repeatedly been denied access to the Foreigners Holding Center (CIE) in the Zona Franca, in a clear attempt to impede the work of this institution, and expression of hostility toward the Statute of Autonomy and the Catalan Ombudsman Act. Despite the refusal of the responsible officials at the Ministry of Home Affairs and the Spanish Government Delegation in Catalonia to allow a standardized activity by the Catalan Ombudsman in this facility, the Ombudsman has received a number of complaints from detainees throughout the year. These complaints have been conveyed to the Superior Court of Justice in Catalonia, and the cabinet of the Minister of Home Affairs.

The death of a young man from Guinea in early 2012 at the Zona Franca CIE seemed to mark a turning point in the debate on the nature of these centers.

On another note, in 2012 the Catalan Ombudsman received complaints from persons being held at the Zona Franca CIE, for whom there were imminent deportation orders although there were reasonable indications that they had social roots in the country. For example, two of the deportees had minor-age children who had been born in Catalonia (6 and 12 years of age).

In light of the urgency of the case, the Catalan Ombudsman requested by letter to the Spanish Minister of Home Affairs, Jorge Fernández Díaz (copying the Spanish government delegate in Catalonia and the then-acting Spanish Ombudsman) that the deportation orders be reviewed.

Nevertheless, days later, the Catalan Ombudsman learned that the persons who had written to him with pending deportation orders had in fact been deported.

Environment

Local councils must ensure proper operation of holiday rental apartments

Many of the complaints received on holiday rental apartments have the common denominator of local councils' inactivity or failure to respond to neighbors' complaints on the nuisances caused by noise and antisocial behavior of certain holiday rental tenants.

For this reason, the Catalan Ombudsman asked local councils to make a special effort to guarantee that the conduct of a business activity such as a holiday rental home be done with full respect for the legal code in force and the rights of neighbors to live free from nuisances that go beyond the reasonable tolerable limits.





The laws in force state the owners of activities that may affect the environment, health and safety of persons must exercise them in keeping with certain principles, among them, taking the necessary steps to minimize effects that could harm third parties. That is why the local councils cannot neglect their competencies, as the law charges them with the two-fold task of ensuring the rights of private citizens to carry out certain economic activities, and the rights of neighbors to live without that activity causing them intolerable nuisances.

Persons with disabilities

The policy of benefits for occupational integration of disabled persons must continue

The diminishment of the state budget item devoted to active employment policies aimed at persons with disabilities and mental disorders has given rise to an intervention by the Catalan Ombudsman to assess the impact on this group's rights.

The bodies representing the sector have stated that this restriction compromises the viability of the special work centers and the jobs of persons with disabilities.

The loss of protected jobs implies obvious damage to persons with disabilities, as it complicates their full integration into society, and deprives them of the opportunity to maintain interpersonal relationships based on the acknowledgement of their work and abilities.

In the area of disabilities, administrations must continue to adopt all of the affirmative action measures available to them to fulfill their mandate of protection, promotion and integration of persons, with the aim of removing obstacles and persevering in the achievement of the material equality of this group.

That is why the Catalan Ombudsman has urged the Autonomous Government of Catalonia to continue with the policy of subsidies and aid aimed at the occupational integration of persons with disability and mental disorders, in all possible formats.

Health care

Health care of beneficiaries is maintained for 90 days in the event of a rights-holder's death

Access to health care through public funding has undergone a major modification, leading many people who had complete public health coverage to lose it, and have access only to emergency care.

Nevertheless, in Catalonia the autonomous government has announced that it will guarantee access to public health care to all persons who do not have the condition of public health rights-holder or beneficiary. It has established a progressive access criteria for foreigners whose access to health care is not recognized by the National Institute of Social Security.

Nevertheless, many complaints have been received regarding access to the CatSalut individual health care card.

Attention has also been devoted to the situation in which Social Security beneficiaries find themselves when a health care rights-holder dies. This was after the Catalan Health Care Service decided to apply the minimum level of coverage to them, the same level that is applied by default to any adult registered in a municipal census in Catalonia.

Given that the Catalan Ministry of Health had stated that work was being done for the right to health care of the beneficiaries to be conserved over a period of 90 calendar days following the death of the rights-holder, the Catalan Ombudsman suggested that they accelerate the proceedings being carried out to resolve this situation.

The Autonomous Ministry of Health has accepted the suggestion and since April 12, 2012 these persons have maintained the same health care coverage for 90 calendar days following the death of the rights-holder.





Complaints on the “euro per prescription” fee

Numerous complaints and queries have been received regarding pharmaceutical services. Notable among them were those on the implementation of a surcharge of one euro per prescription in Catalonia and on the new contribution criteria for beneficiaries of out-patient pharmaceutical services.

On another note, the Catalan Ombudsman also drew attention to the rights of users to obtain the medication they need and the obligation of pharmacies to dispense the medications and health care products requested of them.

In consequence, the Catalan Ombudsman has urged them to plan the actions necessary to ensure that no user who goes to a pharmacy with a prescription from the Social Security administration finds that they cannot have it filled because the pharmacy is unable to provide it, due to the delayed payment of medications invoiced by them.

Situations of social exclusion

Suspensions of MIB must be duly grounded

A citizen addressed the Catalan Ombudsman because they disagreed with the decision to suspend their minimum income benefit after they had traveled outside the country for a number of days. The citizen filed an appeal against this decision, which was unjustified in their view because they had previously notified the social services responsible for their case of the trip, and they still met all the requisites and commitments accepted.

The Catalan Ombudsman found that even though the new conditions established for this benefit were considered applicable, the circumstances to make possible a trip outside Catalonia were present, and it could not be considered that the claimant had violated their obligations. For that reason, he suggested to the Catalan Ministry of Enterprise and Labor that they rule on the appeal filed by the interested party as soon as possible, allowing it and renewing payment of the benefit without delay.

Work and pensions

Subsidies, trade schools and leisure guest houses accounted for most of the complaints received

There have been numerous complaints on the granting and later revoking of subsidies to promote self-employment, on grounds of review of case records and verification of compliance with the regulatory terms governing the grant.

The Ombudsman has recommended to the Ministry of Enterprise and Labor, and the Ministry of Economy and Knowledge, that they take the appropriate steps to expedite the process, to avoid delays and be able to make effective the right of affected persons to receive the relevant subsidy.

The economic crisis and recession have also affected the leisure guest houses in Lès (Val d'Aran) and Llançà (Alt Empordà) and the "relaxation and holiday city" in Tarragona.

The effects of the closure have not only been the rescission of contracts for temporary, casual and relief workers, but also a reduced social holiday capacity for the working people of Catalonia.

The Catalan Ombudsman has suggested in all cases pending a decision that the redistribution and rehiring of affected staff be expedited, and the guarantee clauses of labor contracts be respected.

The Ministry of Enterprise and Labor accepted all of the suggestions put forth, and carried out the appropriate consensus-building measures with the Intercenter Council for them to be put in place.

On another front, the disagreement with the procedure for an official announcement of subsidies to local councils, on occasion of a number of trade school projects, has been a source of complaint due to the alleged malpractice in the management of the Catalan Employment Service (SOC).





An investigation by the Catalan Ombudsman showed that the procedure carried out by the SOC was compliant with applicable regulations. This notwithstanding, the Catalan Ombudsman suggested to the Ministry of Enterprise and Labor that, in future announcements of trade school subsidies, the proper measures be taken to conclude the granting of subsidies more rapidly, and closer to the dates of positive evaluation reports, constitution of work groups, and staff and working student recruitment.

Taxation

Waste bins closer to homes

A citizen expressed their disagreement with the fact that the Local Council of Moià charged them a waste management fee when the waste bin closest to their home was two and a half kilometers away. In this case, the Catalan Ombudsman considered that

the service for which the fee was charged was not being provided.

For that reason, the Ombudsman suggested the installation of bins closer to the housing development where the claimant lived. If not, considering that the service was provided in a deficient manner due to the distance the affected person had to travel, that they not be charged the fee.

The Moià Local Council accepted the suggestion, and stated that in the Fiscal Ordinance 12, on the fee for municipal waste management service in fiscal year 2012, a modification had been made, so that in cases of homes that did not have a nearby collection service there would be a 50% discount of the fee to be paid.

Moreover, the local council stated that the bin localization scheme for that area had been restructured, to bring the service closer to the affected homes.

Urban planning and housing

Proposals regarding mortgage foreclosures and social housing

One effect of the economic downturn caused by the financial crisis has been a rise in housing problems. On one hand, there are families who have lost their homes due to their inability to service the debts for mortgages signed with banking entities; on the other, there is a clear need for there to a greater number of social housing units for rent, and debate on other social housing alternatives.

The Catalan Ombudsman has always underscored the importance of housing as a factor of social integration. Without a doubt, there is an economic dimension to housing, but there are also relevant personal and social facets that cannot be overlooked. Having a home does not only meet a person's need for shelter, but also facilitates their development and that of their families.

In keeping with this belief, the Catalan Ombudsman set up a working group that consisted of representatives of the Housing Agency of Catalonia, the Barcelona Bar Association, the Notaries' Association of Catalonia, the Superior Court of Justice of Catalonia, Càritas Diocesana de Barcelona and financial institutions. This group has drawn up several proposals that have been presented to parliamentary groups, both in the Parliament of Catalonia as well as the Chamber of Deputies (lower chamber of Spanish Parliament).

The proposals were:

1. Fiscal measures to encourage agreements between debtors and creditors
2. Regulation of a debt restructuring system in case of family over-indebtedness
3. Handling of capital gains in cases of mortgage foreclosure
4. Endowing the SAREB (Company for the Management of Assets proceeding from Restructuring of the Banking System) with social housing



INSTITUCIONAL AND INTERNACIONAL ACTIVITIES



IOI World Conference in Wellington at the Michael Fowler Centre

New IOI by-laws approved at the World Conference in Wellington

During the 2012 World Conference, held in Wellington, the Board of Directors had several agenda items up for discussion. Clearly, the most important were the new proposed IOI by-laws, which were approved in an assembly during the conference. These by-laws call for several changes, chiefly the expansion of the executive committee from three to four members (with the creation of a second vice-presidency), changes in admission criteria, and plans to hold meetings through electronic media.

The new formulation of the by-laws is a response to a demand for the Institute to modernize and adapt to the current times.

Another important part of IOI world conferences are the elections. At this running of the conference, the incumbent President, Beverly Wakem (Chief Ombudsman of New Zealand) was re-elected, as was the current Treasurer, Alan Lai (Ombudsman of Taiwan). As for the first Vice-President, Tom Frawley (Ombudsman of Northern Ireland) was suc-

ceeded by John R. Walters (Ombudsman de Namibia) and Diane Welborn (Ombudsman of Ohio, USA) was elected to the office of Second Vice President. Peter Kostelka, one of the three ombudsmen of Austria, continues as Treasurer.

As for the content of the presentations, this time an attempt was made to bring the defense of rights closer to the current context, both regarding the economic crisis as well as through legislative innovations. Therefore, roundtable discussions were held around the idea of the economic crisis and how to do more with less, with regard to the organization of ombudsmen's offices themselves and to the recommendations they make.

Current topics on the Ombudsman realm were also discussed, such as the supervision of private companies that provide general-interest services.

The Catalan Ombudsman also participated in the presentation of an international memorandum within the context of a financed project.

The Catalan Ombudsman participates in the European Network of Regional Ombudsmen Seminar

In October 2012, the European Ombudsman, in keeping with the biennial tradition, officially called the Network of Regional Ombudsmen Seminar. This running of the seminar, held in Brussels, discussed three main axes: Ombudsmen and internal conflict resolution mechanisms, the optimization of Ombudsmen’s work, and communication with citizens and administrations.

Catalan Ombudsman Rafael Ribó introduced the keynote speaker of the seminar, Luc Van den Brande (former president of the European Union Committee of the Regions), and also set the conceptual framework for his presentation: the work of ombudsmen and committees on petitions in increasing the democratic legitimacy in the Europe of regions.

The ENOC tackles the situation of juvenile delinquency and justice

The Annual Assembly of the ENOC was held from October 10-12, 2012 in Nicosia (Cyprus) under the title Juvenile Delinquency - Child Friendly Justice, Structures and Processes for Prevention and Intervention. It was attended by the Deputy Ombudswoman for the defense of children and adolescent rights, M. Jesús Larios, and the advisor to the Ombudsman, Anna Piferrer. Various experts gave presentations on this subject matter. Specifically, presentations were given by judge Renate Winter (Former Chair of the International Association of Youth & Family Courts Judges and Magistrates) and Kristen Sandberg Member of the UN Committee on the Rights of the Child).

As a result of this meeting, the ENOC General Assembly approved a “statement on the rights of children in conflict with the law”. It also approved the “statement on children in institutional care”.



Family photo at the Annual Assembly of the ENOC



Claire Bisset, médiatrice de Paris (esquerra), Maria Assumpció Vila, síndica de Barcelona i Rafael Ribó.

The Médiatrice de Paris (Parisian Ombudswoman) meets with the Catalan Ombudsman and Deputy for Children's Affairs

The Parisian Ombudswoman has taken a special interest in the Catalan Ombudsman this year. Ombudswoman Claire Bisset has held meetings with the Catalan Ombudsman and his staff, and carried out a monographic session with the Deputy Catalan Ombudswoman for the Defense of Children and Adolescent Rights, and her advisors; Ms. Bisset had served as the advocate for children's rights in France.

The Catalan Ombudsman also organized a meeting between the Médiatrice de Paris and the Barcelona Ombudswoman, in the framework of the Local Ombudsmen Network promoted from the European Division of the IOI.

Mental health, focal point of the Spanish Ombudsmen Coordination Seminar

This year, the Coordination Seminar for Spanish Ombudsmen was held by the Aragonese Ombudsman, in Zaragoza. This time, discussion focused on mental health and the actions carried out by Ombudsmen on all fronts.

Three workshops were held prior to this year's workshop: one, in the offices of the Spanish Ombudsman, on penitentiary measures that were alternatives to the service of sentences; another in the offices of the Andalusian Ombudsman, on mandatory treatment of the mentally ill, and last, the third at the offices of the Basque Ombudsman, on mental illnesses and special groups of young and elderly people. The Catalan Ombudsman's health care advisors were able to follow one of the workshops via video conference.

Recommendations on housing of the Ombudsmen in Oviedo

In December 2012, the Asturian Ombudswoman organized in the city of Oviedo, the conference entitled, "Measures for the Effective Protection of the Constitutional Right to Housing in a Context of Economic Crisis", attended by all of the autonomous community Ombudsmen and first deputy Spanish Ombudsman. At the session they shared all of the activities begun by each Ombudsman's Office, and reached a consensus on a document to convey to public opinion and the administrations the main steps in housing recommended by the Ombudsmen's Offices.

Four new agreements for individualized follow-up of local councils

Throughout 2012, four new agreements for individualized follow-up of local councils in Catalonia have been signed, namely: Molins de Rei, Olot, Arenys de Munt and Granollers.

When the Catalan Ombudsman supervises the activity of the various administrations of the Val d’Aran, he will take on the name of Proòmedera Val d’Aran.

October 2012 also marked the formalization of the new agreement between the Catalan Ombudsman the Conselh Generau d’Aran. This agreement is justified by the specific characteristics of Aranese self-government.

This figure, which had existed since the 13th century for the supervision of the different administrations of the Val d’Aran, will offer the Conselh Generau d’Aran a unique supervisory view.

New agreement with the Conselh Generau of the Val d’Aran



Individualized cooperation agreement signature with the Olot local council



Individualized cooperation agreement signature with the Molins de Rei local council

The individualized cooperation agreements oblige the Catalan Ombudsman to deliver an annual report to each institution an agreement is signed with. This report covers all of the information on the processing of complaints received, for people living in the municipality as well as those sent to the local council.

The agreement also involves a service of visits by the Catalan Ombudsman to the mu-

nicipality through a citizen services office that travels to the municipality at least once a year.

As for the administration, it has assumed the commitment to expedite as much as possible the processing of the complaints presented by the Catalan Ombudsman, expeditiously providing the information and also disseminating the Catalan Ombudsman institution as the defender of people.



The Síndic de Greuges de Catalunya (Catalan Ombudsman) is a member of:

IOI (International Ombudsman Institute)

FIO (Ibero-American of Ombudsman)

AOMF (Association of Francophonie Ombudsman and Mediators)

ENOC (European Network of Ombudspersons for children)

European Network of Ombudsmen

The Catalan Ombudsman also participates in:

Round Table of Ombudsman of the Council of Europe

Association of Mediterranean Ombudsmen

Síndic de Greuges de Catalunya

Passeig de Lluís Companys, 7

08003 Barcelona

Tel 933 018 075 Fax 933 013 187

sindic@sindic.cat

www.sindic.cat

