



# ANNUAL REPORT 2017

## ABSTRACT

**SÍNDIC**

EL DEFENSOR  
DE LES  
PERSONES



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# ÍNDEX

■ GENERAL CONSIDERATIONS	5
■ ACTIVITIES OF THE CATALAN OMBUDSMAN IN 2017 IN FIGURES	21
2.1. FIGURES BY SUBJECT MATTER	24
2.2. STATUS OF ACTIONS	25
2.3. USER PROFILES	29
2.4. PROCESSING TIME	30
2.5. PROCESSING WITH ADMINISTRATIONS AND COMPANIES	31
2.6. CATALAN OMBUDSMAN SERVICE EVALUATION	31
2.7. TERRITORIAL PRESENCE OF THE CATALAN OMBUDSMAN OFFICE	36



## ■ GENERAL CONSIDERATIONS





## GENERAL CONSIDERATIONS

The 2017 Report of the Síndic de Greuges de Catalunya (Catalan Ombudsman) details all of the activity carried out by the institution, and highlights the most relevant actions taken in each area, in an exceptional year, due to both the worst terrorist attacks suffered by Catalonia in decades as well as the events surrounding the October 1 independence ballot.

In the first realm, on August 17 Barcelona and Cambrils witnessed a jihadist terror attack that caused 17 deaths and numerous injuries. The prevention of radicalization processes and police coordination to counter acts as serious as this were the subject matter of a report by the Catalan Ombudsman presented to Parliament at year-end. In it, among other pleas, a call was made for the Police of the Generalitat (Catalan Government) to have full access to domestic and international police organizations, as well as a thorough clarification of the ties between the leader of the terrorist cell and the secret services of the Spanish State.

In the second realm, our country has been shaken by contraventions of the Constitution and other laws by the Autonomous Government of Catalonia as well as the Spanish State government's response to these violations; this response can be framed in a regression of such important rights as that of assembly, free speech and demonstration. The Catalan Ombudsman has been warning about these regressions for years now, and other international bodies, such as the GRECO of the Council of Europe, have called attention to the serious shortcomings that exist in the Spanish judiciary.

The disproportionate response through criminal courts to political conflicts, the pretrial incarceration of social and political leaders, including the former General Deputy Catalan Ombudsman, or the effects on social rights caused by the financial intervention of the Catalan government and application of Article 155 of the Spanish Constitution are all clear examples of this regression. Some of these events, especially the actions of Spanish police on October 1st, have drawn the attention of European organizations devoted to the supervision of human rights, such as the Council of Europe and the United Nations,

which have called for an impartial investigation to be opened. At the time of writing, this had yet to occur.

Following the system in place over recent years, and as established by the Catalan Ombudsman Act, this chapter on general considerations is followed by another containing statistical data detailing the Ombudsman's actions in figures for this year and compared to prior years, in absolute terms and broken down by subject matters, geographical origin, user profiles, affected public administrations, etc. The third chapter describes, by subject matter, the most significant actions carried out this year. It features a number of complaints included as examples, and reports on the ex officio actions launched by the Ombudsman in each of the areas. Following that, also in compliance with the Catalan Ombudsman Act, each of the Ombudsman's decisions not accepted by the administration are listed. There is also a sample of the decisions that have been accepted. The report concludes with a chapter devoted to the Ombudsman's institutional and dissemination activities.

This report on the annual work of the Catalan Ombudsman must be considered complemented by the three other annual reports that the institution presents to the Parliament of Catalonia by legal mandate. All of the information from the realm of children's affairs and education is gathered in the *Report on Children's Rights*, which was delivered to Parliament on November 30, 2017 and can be consulted on the Catalan Ombudsman's institutional website ([http://www.sindic.cat/site/unitFiles/4893/Informe%20sobre%20els%20drets%20infant\\_2017.pdf](http://www.sindic.cat/site/unitFiles/4893/Informe%20sobre%20els%20drets%20infant_2017.pdf)). Furthermore, the activity and recommendations made as the Catalan Mechanism for Prevention of Torture can be found in the relevant report, presented to Parliament on December 28, 2017 and that can also be accessed on the institution's website ([http://www.sindic.cat/site/unitFiles/4935/Informe%20MCPT\\_2017\\_cat.pdf](http://www.sindic.cat/site/unitFiles/4935/Informe%20MCPT_2017_cat.pdf)).

Last, and pursuant to Law 19/2014 of December 29, on transparency, access to public information and good governance, that attributes to the Catalan Ombudsman the specific competence for evaluating its compliance, the second annual report

evaluating the law was presented to the Parliament of Catalonia on July 6, 2017 ([http://www.sindic.cat/site/unitFiles/4584/Informe%20transparencia\\_17\\_cobertes.pdf](http://www.sindic.cat/site/unitFiles/4584/Informe%20transparencia_17_cobertes.pdf)). Other monographic reports will be referenced later.

In any event, the report features a brief summary of the main recommendations from the children's affairs and education area (paragraph 3.1.4) and lists the 47 visits made as CMPT to facilities where individuals are being held, deprived of liberty (paragraph 3.5). Reference is also made to the Catalan Ombudsman's activity in the area of transparency, both in the supervision of administrative procedure, as well as that which refers more specifically to urban planning matters (paragraph 3.3.2).

The full account of all of the Catalan Ombudsman's actions and recommendations can be found over the following pages, and on the website, where all the decisions handed down over 2017 are listed (<http://www.sindic.cat/ca/page.asp?id=221>).

As stated above, this report summarizes the activity of the Catalan Ombudsman in an extremely convulsive year, in which the political conflict affecting the self-government institutions, and the disobedience of court orders and rulings from the Constitutional Court culminated in the application, for the first time ever in Spanish history, of Article 155 of the Spanish Constitution, the dissolution of the Parliament of Catalonia by the Spanish government and the consequent calling of elections, as well as the firing en masse of the president and executive council of the Generalitat and other senior government officials. It must not be overlooked that this action was preceded two months beforehand by the complete intervention of the Generalitat's accounts by the Spanish Treasury, in violation of the system laid out in Organic Law 2/2012, on budgetary stability.

Furthermore, the year ended with two members of the ousted government in prison, other members of the same government in a foreign country, and all of them as well as part of the Parliament's presiding board facing indictments for rebellion before the Spanish Supreme Court. Two other civil society leaders are being held

in cautionary custody, in this case accused of sedition; two senior officers of the Mossos d'Esquadra also face indictments on these charges, and other individuals are being investigated.

It is not up to the Catalan Ombudsman to evaluate the political aspirations that society or its representatives advocate, although, given the degree of tension reached around the October 1 referendum, the Catalan Ombudsman, within the competencies derived from the law regulating the office, offered himself as a mediator to facilitate the necessary political dialogue. Even today, the Catalan Ombudsman insists that political and institutional conflicts must be solved through dialog, and that this dialog is indispensable to solve the matter politically, not in criminal courts. This must be done with a view to achieve the fulfillment of rights and liberties, the re-establishment of self-government and structuring the fit within Spain of Catalonia, the horizon of which must necessarily address the demand of a majority of Catalan society to be consulted on their political future.

On another note, supervising the public administration in all matters concerning the rights and freedoms of citizens does form part of our competencies. In this context, two of the monographic reports published this year and much of the Catalan Ombudsman's public activity as of the month of September have focused on the impacts on fundamental rights and freedoms being caused by the current situation in Catalonia. This is the case of the report on rights and freedoms regressions in the Kingdom of Spain

(<http://www.sindic.cat/site/unitFiles/4402/Informe%20retrocessos%20drets%20humans.pdf>) and the summary of actions related with the October 1 referendum ([http://www.sindic.cat/site/unitFiles/4819/Informe%20sintesi%201octubre\\_catala.pdf](http://www.sindic.cat/site/unitFiles/4819/Informe%20sintesi%201octubre_catala.pdf)). These actions and decisions taken by the Catalan Ombudsman are also examined in several paragraphs in Chapter 3 of this report (sections 3.5 and 3.8).

Following this, the focus is turned to the considerations and the recommendations of a general nature that can be derived from the activity carried out by the Catalan

Ombudsman, whose significance makes them worthy of mention.

## PROTECTION OF SOCIAL RIGHTS

This year, the actions taken in the area of social rights have again stood for nearly a third of the total of the complaints received by the institution, through it must be mentioned that for the first time in many years, complaints in this area did not reach 30% of the total. Although it could be said that the worst socio-economic crisis of the past decade is behind us, many families still find themselves in situations of vulnerability, which also have a direct impact on social, health and public education services, or access to housing, among others.

In the realm of social services, from a legislative standpoint, special attention is deserved by the approval of ten pieces of legislation which must make for advancement in protection of especially vulnerable social groups.

First, on September 15, Law 14/2017 of July 20 on guaranteed income for citizens came into force. This law creates and regulates a new social benefit of an economic nature, and received on a regular basis, with the character of a subjective right. Its purpose is to ensure the minimums of a dignified standard of living for individuals and families who find themselves in situations of poverty. The Law, which still requires regulatory implementation in several aspects, will make for significant changes in the system for protection and coverage of basic needs. For this reason, given the importance that this benefit can have from the standpoint of an individual's rights, the Catalan Ombudsman has deemed it appropriate to open an ex-officio action meant to follow up on the implementation of the Law and this benefit.

Second, Royal Decree 897/2017, of October 6, regulates the figure of the vulnerable consumer, tariff subsidies and other protection measures for domestic consumers of electrical energy, a rule implemented by means of Order ETU/943/2017 of October 6 (BOE no. 243, of October 9). The aforementioned royal decree calls for discounts that reference power

marketers of electrical energy supply must offer consumers in situations of economic vulnerability, depending on their level of income and compliance with certain requisites. Said discounts range from 25% and 40% of the amount charged for power and consumption, and 100% of the total of the bill. This new regulation on tariff subsidies has been analyzed by the Catalan Ombudsman.

Despite the social advancement that this legislation may mean for the most vulnerable social groups, the Catalan Ombudsman must express his concern regarding this report and the possible overload of work it may bring about for social service centers, in terms of increasing the number of formalities to be completed by professionals, as well as the higher number of persons accessing the social services network. The insufficient allocation of resources for the needs of the various underprivileged social groups, and the shortcomings in the management of benefits and subsidies by the involved public administrations may worsen the situation.

After ten years in force, the Dependency Act has proven to present challenges in the proper follow-up of each individual's situation and the benefits available to them, which is a matter of increasing importance. In Catalonia there is not a model for follow-up, or general instructions or protocols that could help develop this part of the process of providing services to dependent persons. At first, the Catalan Ministry of Labor, Social Affairs and Families stated that it did not consider it necessary. But it has recently stated that it would work on this matter with local governments, with which it would be advisable to reach common criteria. Further, it also considers necessary the implementation of a shared computerized tool, a project it will include in an upcoming strategic plan.

Both the Catalan Ombudsman and the majority of local councils consulted believe it necessary to reinforce follow-up actions by all of the services involved, while intensifying visits and direct contact with dependent individuals.

In the area of the right to health, the 2016 Annual Report already mentioned the Catalan Ombudsman's concern about the

overcrowding of certain emergency departments, a situation that triggered an ex officio action and the first of a number of on-site visits with the aim of analyzing the status of the situation and making improvement proposals. This year, complaints have continued to be received from persons who have had to go to the hospital emergency department and/or their family members, mainly for the hours they have to remain there and the conditions in which they do so, often on gurneys in the department corridors. In the Catalan Ombudsman's view, this situation not only affects the enjoyment of the right to the best possible standards of health, it also contravenes patients' right to privacy. The National Emergency Plan of Catalonia (PLANUC), presented in April 2017, seeks to respond to the necessary planning and sizing of emergency departments, in the context of an aging population, while also taking into account preventive factors. The Catalan Ombudsman will track the application of the PLANUC in emergency care in general and hospital emergency departments in particular.

Over recent years, there has been a constant presence of complaints received from persons who state that they have not been treated properly when called by the Catalan Institute of Medical Evaluations (ICAM) in order for their work capacity to be evaluated, or express their disagreement with the actions of this organization. The complaints often have their origin in the difference between the individual's expectations of continuing on health-related leave, and the outcomes of the medical evaluations when they determine them fit to return to their job post.

The Catalan Ombudsman cannot evaluate or question the medical criteria applied by the attending physicians. Nonetheless, among other requests, it has been asked that the ICAM apply the rights derived from the Charter of Citizens' Health and Health Care Rights, or to take into account the medical reports brought by patients from specialists who have treated them as an additional element for evaluation. Furthermore, to correct any possible instances of impoliteness from professionals in the care they provide to patients, the Catalan Ombudsman has suggested specific training for these professionals in communication skills and person-to-person contact. The Catalan

Ombudsman also believes that restrictions on the presence of companions during the medical evaluation visit in the ICAM makes for an unjustified limitation on patients' rights, and has suggested that this right to accompaniment be reinstated.

One of the social groups most affected by the financial crisis are working-age young people. The Catalan Ombudsman has received complaints from unemployed young people unable to access the benefits of the Youth Guarantee program, supported by the European Union, because they had worked a number of hours during the 30 days prior to the application. The legislation that was hindering this access has been amended with Royal Decree-Law 6/2016, of December 23, which has substantially modified the complexity of the registration process and the strictness of the requirements imposed, such as not having worked, or received any type of training, over the 30 days prior to the application.

Notwithstanding this, there are still cases pending resolution, such as that of young people who work part-time or every other day, who are left out of the Youth Guarantee program, because, despite the short span of working days, they have been registered with the Social Security Administration. This is also true for young foreign citizens over 18, previously under wardship, who hold residence but not work permits and are able to register as job candidates, but not in the Youth Guarantee program. That is why the Catalan Ombudsman addressed the Spanish Ombudsman, who responded that he would take the necessary actions to contribute to a better, more effective operation of the National Youth Guarantee System.

The right to housing continues to be a concern of the Catalan Ombudsman, who has reiterated his criticism of the shortcomings in suitable social housing stock. Without a doubt, the attitude of large owners of housing stock, most especially that of the SAREB, has not helped reach transfer agreements of vacant housing to the administration in order to use them to guarantee the right to housing for the most vulnerable persons and social groups.

Nonetheless, the Catalan Ombudsman's investigations have made it possible to



confirm that the public administration has made little use of its preferential purchase rights. Therefore, very few housing units have been acquired by the administration of the Autonomous Catalan Government or local councils through this channel. The Catalan Ombudsman, in a report soon to be presented to the Parliament of Catalonia, seeks a stronger commitment from the SAREB and other large owners of housing stock, and that public administrations renew the development of social housing, while also formulating the mechanisms necessary for coordination and cooperation between the Autonomous Catalan and local administrations.

With regard to children's and adolescents' rights, one of the year's main issues has been the fight against educational inequalities, including school segregation. While acknowledging the adoption of certain measures to fight school segregation, especially in the planning of the educational offering, the Catalan Ombudsman also points to certain unmet challenges, such as a new student admissions decree based on new instruments, or the Pact Against School Segregation in Catalonia among all educational stakeholders. With regard to other areas of the fight against school segregation, such as the non-disclosure of results by schools, or the guarantees of free-of-charge enrollment in subsidized schools, no significant advancements have been made.

In another matter related with education, the Catalan Ombudsman has received certain complaints regarding the alleged indoctrination of children in Catalan schools, a subject on which he is now preparing a monographic report. This notwithstanding, it must be underscored that the cultural and linguistic plurality of Catalonia, in a balance that has been praised by international bodies such as the Council of Europe, is a treasure that must be preserved. The complaints that reach the institution on language-related affairs continue to be a tiny fraction of the total, and it is essential to keep peaceful civic co-existence out of the partisan debate.

Last, the Catalan Ombudsman expresses his alarm in light of the numerous laws with social rights content approved by the Parliament of Catalonia have been appealed by the Spanish Government before the

Constitutional Court, which has granted injunctions to suspend them on a cautionary basis. Over 2017, this has been the case of a Law on Housing Rights Protection, with measures for individuals at risk of housing exclusion; of the Law of Book Six of the Civil Code of Catalonia, on obligations and contracts; the Digital Wills Act; the Social Protection Agency Act, and the Catalan Climate Change Act.

## TERRITORY AND CONSUMER AFFAIRS

The area of territorial policies, including such matters as town planning or protection of the environment, has stood for 24% of the Catalan Ombudsman's interventions this year. Considering only the complaints received, this percentage rises to 32%, and stands for the area of the institution in which the most new complaints have been filed this year. Unsurprisingly, the aggressions committed against the territory already denounced in last year's report continue to jeopardize our country's natural assets.

In the realm of the natural environment, noise and odors are a few of the most frequent grounds for complaints to the Catalan Ombudsman. A great many complaints have been received due to noise caused by festivals, outdoor dances or concerts organized by local councils, or in municipal facilities or premises that do not have the necessary soundproofing. This also applies to outdoor activities, especially the annual festivals of towns or cities, as has been detailed in the monographic reports on this topic in 2016 and 2017. In such cases, the Catalan Ombudsman has reminded the local councils that the acoustic impact of the events held in their towns must be analyzed to ensure that public spectacles and recreational activities carried out in public facilities do not contravene the rights of the neighbors.

On another note, Catalonia does not yet have any regulations on odor pollution, although the Parliament of Catalonia urged the government, by means of Decision 403/of 14 of December, 2016, to include specific rules to fight odor problems in the framework of the future environmental quality law. The complaints on odors, and nuisances caused by gases, fumes and miscellaneous emissions are approached emphasizing the need to

guarantee that an economic activity must be carried out with full respect for the legal framework in force, and the rights of the neighbors to live without nuisances that exceed the reasonable limits of tolerance.

In the ambit of consumer affairs, which made for some 15% of the Catalan Ombudsman's interventions this year, the institution maintains its cooperation with companies from the energy, telecommunications, transport, water supply and funeral service sectors.

The public consumer advocacy services—especially the Catalan Consumer Affairs Agency—are supervised by the Catalan Ombudsman, which handles and investigates the complaints on irregularities in their activities or cases of maladministration.

The failure to respond to queries presented to the Catalan Consumer Affairs Agency, or the municipal or county consumer information offices are the target of many of the complaints received by the Catalan Ombudsman in this area. This office has reminded them of their obligation to respond to citizens, aware that public consumer affairs services receive many citizen demands in first instance for information, advice, guidance, and in a diverse array of subject matters, without having, in many cases, the human, material or financial resources necessary to meet them.

Lately, it has become evident that basic utility supply companies, as well as those of telecommunications or transport, are the source of many public consumer affairs service interventions, as these large corporations' customer service departments do not always propose streamlined circuits or solutions to process complaint case files. That is why the Catalan Ombudsman believes it absolutely necessary to promote and encourage mediation, arbitration and other out-of-court conflict resolution systems in consumer affairs disputes. Therefore, it is essential that there be proper transposition of the European directives on alternative dispute resolution (ADR) that guarantee the role of public institutions, such as the Catalan Ombudsman, in the safeguarding of fundamental rights.

On another note, there have been several complaints that reveal excessive billing of

water, generally caused by a water leak in the interior plumbing works, improper operation of the meter or other circumstances.

The design, calculation and application of the water supply tariff structure penalizes higher consumption levels with higher prices for the sake of water savings. That notwithstanding, if the consumption is high due to an accidental leak, penalizing consumption does not make as much sense.

In short, the Catalan Ombudsman believes it is a matter of modulating the amount that must be paid when water has been lost for a reason not attributable to negligence by the user.

Last, mention must again be made to the Castor project. In November, 2014, the Catalan Ombudsman presented in Parliament his *Report on the Castor Project*, written following a number of meetings with professional associations and sufferers' groups. Over these years, the Catalan Ombudsman has continued his follow-up. This year, two developments have brought the Castor project back into the public eye.

First, in May 2017 the report prepared by the Massachusetts Institute of Technology (MIT) on the Castor offshore gas rig was published. It confirmed that the earthquakes were caused by the injection of gas into the underground storage facility, causing seismicity along the Amposta fault line. Second, the ruling by the Constitutional Court of December 21, 2017, invalidating articles 2.2, 4, 5 and 6 of Royal Decree-law 13/2014, therefore including those that regulate the compensation that could be paid to Escal UGS, SL, and the manner in which this is charged to consumers, by recognition of rights in favor of Enagás to collect monetary amounts on the gas system, which are regularly charged to consumers' gas bills, as determined every year by ministerial order. Now it will be necessary to demand the full application of the ruling and the reparation of affected rights.

The Catalan Ombudsman will continue to act so that consumers not be penalized in their bills by a cost overrun resulting from poor management and contracting practices by the Spanish Government. He is now working on a report in which it is confirmed that, as of

today, there is evidence enough to demand a technical audit, and determine whether the actions of the Escal company were technically correct. To do so, he has renewed contacts with a number of professional associations and the Plataforma Ciutadana en Defensa de les Terres del Sénia (Citizens for the Defense of the Sénia Region).

### TRANSPARENCY AND THE RIGHT TO GOOD ADMINISTRATION

The complaints on good administration have increased steadily over the past three years and have now reached nearly 20% of those begun this year by the institution. From a qualitative standpoint, those having to do with transparency and access to public information are most noteworthy.

The second report for evaluation of the Transparency and Access to Information Act, presented to Parliament in the month of July, 2017, confirms significant advancements in areas such as the registration of interest groups. Further, the statistics provided by the public administration on the right of access to public information appear to point to a more than notable increase in applications over the first year of the law being in force. Additionally, a greater knowledge and exercise of this citizen right should not obscure the need to carry out public dissemination campaigns to make it known throughout all segments of society.

Therefore, the report reminds the public administration of the need to expressly respond to all information access requests. As for the transparency platforms, the Ombudsman has reminded the administration that all of the information relevant for citizens must be published, and that the portals have to meet the parameters of quality established by law. Last, in the area of open government, there must be an ongoing effort by the administrations to advance toward a model in which citizens participate in public decision-making and the making of rules.

Others areas of the public administration in which the Catalan Ombudsman has been active are the changes in the administration's financial liability system and the difficulties in some municipalities to register in the

municipal census persons who occupy housing units irregularly.

As for the former, the entry into force of Basic Law 40/2015, on the legal regime of the public sector, has led to a significant modification in the liability system that applies to public companies for damages arising from their activity. Specifically, the Law establishes that the regimen of liability requirable from companies with private legal structure, and that act in accordance with private law is that of financial liability regulated by this law, even if the liability is directly demanded from the private-law organization or the company insuring its liability. Consequently, lawmakers have decided to establish full subjection of public companies with corporate structures to the financial liability system, and overcome the doubts that had arisen around this matter with the previous legislation. They have also decided to unite the system governing liability for damages derived from the operation of public services regardless of the form—direct or indirect—in which the public administration has chosen to render them.

With respect to the issue of municipal census registration for squatters, the Catalan Ombudsman does not condone squatting. But he has reminded municipal administrations that the refusal to register individuals who habitually reside in the municipality in the municipal census simply because they are unable to produce a title of occupancy is not grounded in any legal criteria. The decision whether to register an individual must be based on their effective residence in the domicile of registration, and not on their right to reside in the housing unit. The latter case involves judging matters of a private nature in which the local administration is not competent. The municipal census is an administrative registry that lists the residents of the municipality and indicates the domicile in which they live, regardless of the rights they may or may not have to live there.

In the area of tax affairs, complaints are still being received that confirm the existence of problems related with the clarity of the information received, with the taxpayer's right to be informed and assisted by the tax administration on the exercise of their rights and fulfillment of their tax obligations, the

delay in the decisions on requests and appeals, or the notification of poorly-grounded rulings. The Catalan Ombudsman has underscored the fact that correct information from the administration and its employees is essential to guarantee a fair tax system that generates trust and guarantees legal security for taxpayers.

Additionally, the Catalan Ombudsman has stated that, at least since 2014, no capital gains taxes can be claimed for the conveyance of any real estate, and less so in cases which, as a consequence of the financial crisis, there has not been an increase in the value or capital gains of lands for the taxpayer. This year, the Constitutional Court has ruled to invalidate the municipal capital gains tax in cases in which there has not been an increase in the value of the land. It has given a direct mandate to lawmakers so that, within their freedom of regulatory configuration, they carry out the modifications in the tax law that make it possible to determine the way in which not to subject to taxation those situations in which there has not been an increase in value of urban real estate.

### FREEDOMS AND DEMOCRATIC QUALITY

Two elections were called in Catalonia in 2017, and between the first and the second, Article 155 of the Spanish Constitution was applied to Catalonia. The first ballot, meant to be a referendum, was held October 1, despite the suspension by the Constitutional Court of the Parliamentary law meant to provide coverage for it, which was later ruled unconstitutional by that same Court. The actions of Spanish law enforcement agencies and corps to block the vote have generated numerous complaints sent to the Catalan Ombudsman. The disproportionate criminal-law responses to the political conflict, including the pretrial incarceration of social and political leaders, also form part of interventions performed by the Catalan Ombudsman this year. There have also been complaints on the use of personal details to prepare the census for this ballot. The second general parliamentary elections were called by the president of the Spanish government after having fired the Executive Council (executive branch) of the Catalan

Government in an abusive application of Article 155. In this case, the complaints sent to the institution have focused on the difficulties found in absentee voting by mail and from foreign countries.

This report also mentions Laws 11/2014 of October 20, and 17/2015, of July 21, which grant the Catalan Ombudsman specific competencies for the defense of rights and freedoms that may have been violated by the actions of the administration, or by companies that provide Services of general or universal interest, in the subject of non-discrimination of LGTBI individuals, first, and second, equality between women and men. Both laws propose that the Catalan Ombudsman sign collaboration agreements with the public administration, which he has done with the Catalan Ministry of Labor, Welfare and Families in 2016, and that this year has been formalized with the Catalan Women's Institute.

In this context, it is incomprehensible that the Draft Bill for equal treatment and non-discrimination, the third pillar of this legislative corpus for the true equality of all persons, contains no reference to the guarantees ensured by the figure of the Catalan Ombudsman. This opinion was expressed to the department sponsoring the bill as well as in the seat of parliament. The abrupt end of the legislature caused the project to be stalled, but it is awaiting the new government that will be instated following the December 21 elections to present a technically-improved version that will grant a key role to the Ombudsman in the defense of equal rights, as is fitting to his statutory mandate.

In the topic of equality between women and men, this year there has been a noteworthy ex officio action to investigate whether the principle of parity is respected in elected offices and executive posts of Catalan institutions. From the information gathered, it can be concluded that male-female parity in elected offices, mandatory in electoral lists, progressively disappears in the most relevant posts of political responsibility. For example the Parliament of Catalonia elected in 2015 had an acceptable level of parity, but this did not translate into a gender-balanced Executive Council. To the contrary, when it was dismissed, the Executive Council was



made up of nine men and four women. It is worth noting that the election of the new Presiding Board of Parliament following the December 21, 2017 election, with six men and one woman, makes for a regression in the parity of men and women in representative bodies.

Furthermore, despite the ever-increasing number of women holding posts at the municipal level (councilors and mayors), local councils, in general, are still far from gender-balanced, a situation that worsens at the second-level municipal governments (provincial governments and county councils). Along these lines, the lack of female provincial MP's is especially severe in the Tarragona and Girona provincial governments.

Statutory institutions do not have an exemplary status either, especially as regards the politically elected collegiate bodies, especially the Council of Statutory Guarantees, where female elected officials have an absolutely token presence, as has historically been the case in the Catalan Public Audit Office. Nevertheless, the situation improves if the focus is turned to the senior posts of these institutions.

In the realm of public safety, most complaints received have to do with the disproportionate acts of the Spanish National Police and Civil Guard toward citizens waiting pacifically outside polling stations, as well as the violent acts that took place when they entered to confiscate electoral materials, causing severe injuries, and the consequent destruction caused to the voting sites.

In the area of penitentiary centers, mention must be made of the closure of Barcelona's "Model" prison, and efforts should not be spared to guarantee the rights acquired by the inmates that have been relocated to other centers, improve accessibility of families to these centers, and not ignore that the capital of Catalonia must assume its share of responsibility in the area of penitentiary facilities as soon as possible. Furthermore, the Catalan Ombudsman continues to insist on the need for widespread installation of surveillance cameras in the courtyards of punishment wards and all facilities where inmates'

rights could be infringed, as well as an improvement in the intervention and follow-up as regards persons in first degree incarceration regimes.

## SPECIAL REPORTS

One of the Catalan Ombudsman's most relevant activities, because of their scope, is the preparation of special monographic reports, in the form of the four regular annual reports, as is assigned to the institution by the Catalan Ombudsman Act and the Transparency Act. This special activity has become more significant in recent years, and is no longer a sporadic or special activity, but an important, routine part of the institution's duties. The format of the special report makes it possible to analyze in depth topics that cannot be addressed with sufficient scope in individual complaints. Aside from their public dissemination, the reports are registered with the Parliament of Catalonia, and debated in the Catalan Ombudsman Committee. This year, seven special reports have been registered in Parliament:

- *1st Report on Application of the Convention on the Rights of the Child*
- *Report on the Right to Co-existence*
- *Two years with Law 11/2014 on LGTBI Rights in force: the Catalan Ombudsman's activities*
- *Human Rights Regression in Spain: Elected Officials' Freedom of Expression and the Separation of Powers*
- *Report on private security in Catalonia and best practices*
- *Summary report of actions taken by the Catalan Ombudsman regarding the day of October 1, 2017*
- *Prevention of radicalization and terrorism in Catalonia*

The first four reports of this list have been debated in Parliament. But the dissolution of Parliament at the end of October, and the political climate of the previous months, meant that in the second half of this year it has been impossible to discuss the last three

monographic reports and the annual report on transparency and access to information.

In any case, all of these reports can be found on the Catalan Ombudsman's website, and most of them are discussed in Chapter Three of this annual report.

## FINAL CONSIDERATION

The Catalan Ombudsman takes a positive view of the receptive attitude of the administrations and companies with which he has relations regarding the processing of complaints and their receptiveness toward suggestions.

It must be borne in mind that over 10,000 complaints have been received at the institution this year, and that over 16,000 have been processed. Last year's record figure of ex officio actions (281) has been matched and, counting the queries presented, over 26,000 case files have been handled. Considering that many complaints are of a collective character, some 60,500 people have benefited from these actions, over twice the number of the prior year.

It must also be mentioned that the Catalan Ombudsman has not detected any serious hindrances to his work by any public administration or company, despite acknowledging that the dismissal of the executive branch of the Generalitat government in the last two months of the year has slowed the processing of responses, especially the acceptance (or rejection) of the Ombudsman's decisions.

In this regard, it is positive that the percentage of decisions accepted by the recipient on a total or partial basis exceeds 98% of those handed down by this institution. In fact, only 1.6% of the decisions have been rejected by the administration, while another 22% have been only partially accepted. However, it must be remembered that these percentages are higher than those of the prior year and therefore, there is still room for improvement by administrations when it comes to accepting the Catalan Ombudsman's suggestions.

The Catalan Ombudsman will continue to work to improve these figures, both as regards the processing as well as the acceptance of

the recommendations. On this front, in early 2017 the Catalan Ombudsman's electronic platform was launched with a view to streamline communications with citizens and all administrations. Over these months nearly 600 formalities and over 3,000 queries of entries have been made. It is hoped these figures will increase in coming years, as this tool becomes more well-known.

Important among the challenges faced by the Catalan Ombudsman is that of achieving greater dissemination and presence of the institution among the population, being widely known as a guarantor of rights. Therefore, over 2017 the territorial citizen services unit has made 144 trips and visited over 115 different municipalities. That makes for an increase of 31 trips and 10 municipalities over 2016. The Catalan Ombudsman has also furthered his efforts to formalize unique supervision agreements with local councils, because this office has a significant local Ombudsman dimension. Not surprisingly, over 7,000 complaints and ex officio actions have been carried out regarding local issues this year, 45% of the institution's total. Thus, seven new supervision agreements (Sitges, Caldes de Montbui, Olèrdola, Santa Perpètua de Mogoda, Manresa, Castellbisbal and Òdena) have been signed, to total 33 agreements now in force.

Likewise, the institution wishes to continue working side by side with all relevant stakeholders, including local ombudsmen, autonomous community ombudsmen, the Spanish Ombudsman and international bodies with competencies in human rights.

Along these lines, in November the founding meeting of the Ombudsmen's Network of Catalonia was held. It was promoted by the Catalan Ombudsman and participated in by municipal, university and corporate ombudsmen who provide services of general or universal interest. The calling of this network is the education and exchange of experiences among Catalan institutions for the defense of rights in topics of common interest to guarantee proper attention to all citizens' rights.

Furthermore, by decision of the Catalan Ombudsman, the Catalan Structure of Human Rights was created on May 23, 2017, in conjunction with the Human

Rights Institute of Catalonia. It is inspired in the UN Paris Principles of 1991. In September, the Structure received from the government the assignment of drawing up a human rights plan for Catalonia. This was begun at the end of November with the appointment, following a public call, of its Advisers Council, made up of 20 people and bodies associated with different areas of human rights.

These improvements and the networking activities carried out will enable the maintenance and growth of the positive opinion of this institution held by those who have been in contact with it. It is a positive opinion that is only possible through the professional attitude and dedication to service of the Catalan Ombudsman's staff, who must be thanked once again for their hard work and devotion.



**■ ACTIVITIES OF THE  
CATALAN OMBUDSMAN IN 2017, IN FIGURES**



## 2. ACTIVITIES OF THE CATALAN OMBUDSMAN IN 2017, IN FIGURES

The following pages offer several statistics on the functional activity of the Catalan Ombudsman in 2017. These figures give a summarized explanation of a much more complex, detailed reality, with a view to facilitating their interpretation.

The figures reflect the outcomes of the actions on complaints received and begun between January 1 and December 31, 2017. The statistics also include the actions processed throughout the year; in other words, all of those that have been worked on during the past year regardless of when they were launched. Once again, and for the third year running, 2017 saw the opening of over 10,000 complaints, making for 150 more than in prior year. The historical record of ex officio actions launched by the institution was matched (281). On the other hand, queries, which numbered over 10,000 last year, have remained around 9,000 this year, which results in the total

number of case files opened in 2017 being lower than in 2016.

**Once again, for the third year running, 2017 saw the opening of over 10,000 complaints**

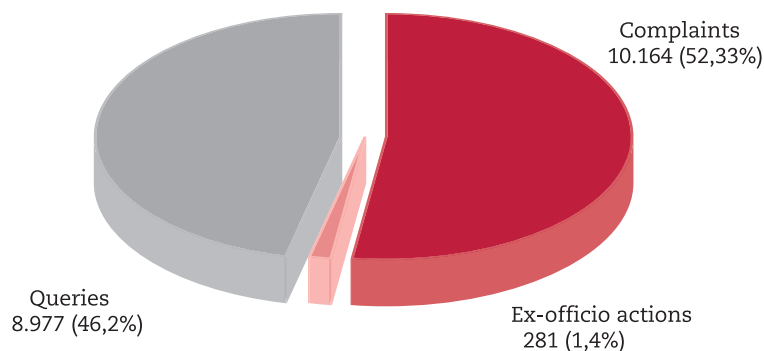
The figures presented clearly confirm two phenomena first suggested in the 2016 Report. On one hand, the impact of the financial and social crisis has caused a structural weakening of social rights. On the other, the incipient economic recovery and the consequent increase in economic activity are having a negative impact on the environment, especially regarding noise pollution and territorial sustainability, with increased, and possibly speculative, urban development activity.

### 1. Actions initiated in 2017

	N	%
■ Complaints	10.164	52,33
■ Ex-officio actions	281	1,45
■ Queries	8.977	46,22
<b>Total</b>	<b>19.422</b>	<b>100</b>

### 2. Actions processed in 2017

	N	%
Complaints	16.415	63,01
Ex-officio actions	659	2,53
Queries	8.977	34,46
<b>Total</b>	<b>26.051</b>	<b>100</b>



## 2.1. FIGURES BY SUBJECT MATTER

For the first time in a decade, the complaints regarding territorial policies have surpassed (slightly) those received on social matters. Without any doubt, the number of ex officio actions opened in the social realm, and especially the queries received this year in this area have meant that the overarching actions of the Catalan Ombudsman continue to fall mainly into the area of social policies, reaching up to 29% of the total actions begun in 2017. It is also true that this percentage is lower than that of social policies as a subject matter for activity of the Catalan Ombudsman in recent years. With reference only to complaints and ex officio actions launched by the Catalan Ombudsman, the equality between social and territorial policies is practically complete. Just three years ago, the complaints and ex officio actions regarding territorial policies made up 17% of those opened by the institution. This year, this figure has risen by 10 points. Therefore, it would appear that, though they have diminished, the

effects of the social crisis are still evident, and that at the same time, the economic recovery of some parts of the economy generates potential risks for individual and collective rights, to which special attention must be paid in coming years.

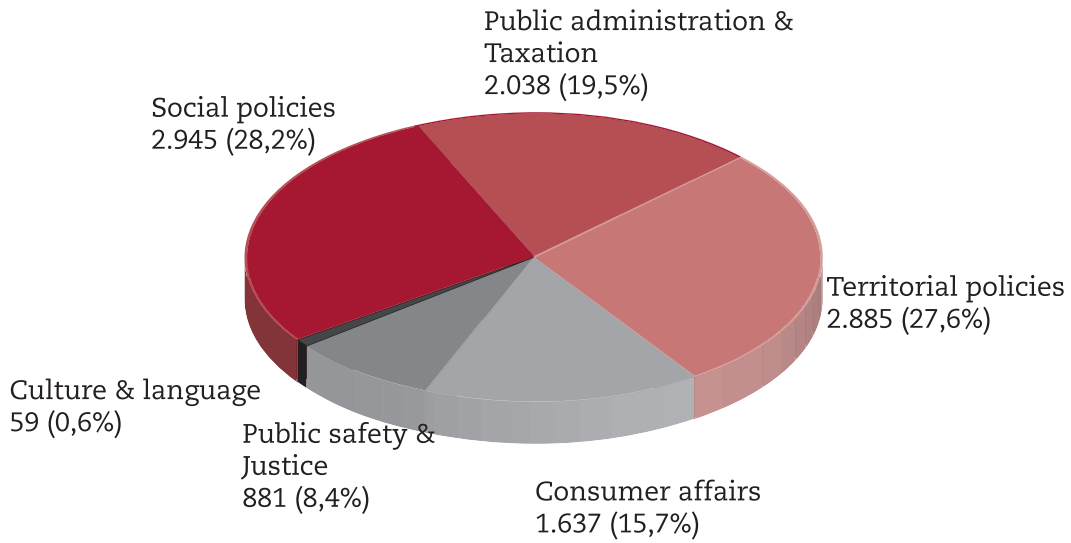
**Equality between social and territorial policies actions launched by the Catalan Ombudsman, is practically complete**

On another note, after several years of ongoing growth (from 5% 20 years ago, until surpassing 20% in 2014 and 2015) the complaints on consumer affairs have again finished the year standing for some 16% of the institution's total. On the other hand, for the third consecutive year, the complaints and ex-officio actions on administrative procedures and taxes, as well as public safety and justice, have risen, while those relative to culture and language remain quite low.

## 3. Evolution of complaints and ex officio actions over the years

	2013		2014		2015		2016		2017	
	N	%	N	%	N	%	N	%	N	%
<b>Social policies</b>	<b>3.075</b>	<b>33,3</b>	<b>3.115</b>	<b>31,3</b>	<b>3.329</b>	<b>30,7</b>	<b>3.486</b>	<b>33,9</b>	<b>2.945</b>	<b>28,2</b>
Education and research	734	7,9	685	6,9	587	5,4	1.081	10,5	641	6,1
Children and adolescents' affairs	560	6,1	674	6,8	925	8,5	704	6,8	632	6,1
Health	394	4,3	628	6,3	747	6,9	814	7,9	696	6,7
Social services	1.099	11,9	948	9,5	921	8,5	745	7,2	643	6,2
Labor	288	3,1	174	1,7	135	1,2	91	0,9	112	1,1
Discrimination	-	0,0	6	0,1	14	0,1	51	0,5	221	2,1
<b>Public administration &amp; taxation</b>	<b>3.287</b>	<b>35,6</b>	<b>2.302</b>	<b>23,1</b>	<b>1.809</b>	<b>16,7</b>	<b>1.894</b>	<b>18,4</b>	<b>2.038</b>	<b>19,5</b>
Public administration and rights	2.704	29,3	1.828	18,4	1.383	12,7	1.443	14,0	1.460	14,0
Taxation	583	6,3	474	4,8	426	3,9	451	4,4	578	5,5
<b>Territorial policies</b>	<b>1.207</b>	<b>13,1</b>	<b>1.701</b>	<b>17,1</b>	<b>2.395</b>	<b>22,1</b>	<b>2.370</b>	<b>23,0</b>	<b>2.885</b>	<b>27,6</b>
Environment	539	5,8	1.053	10,6	1.245	11,5	824	8,0	813	7,8
Urban planning, mobility & housing	668	7,2	648	6,5	1.150	10,6	1.546	15,0	2.072	19,8
<b>Consumer affairs</b>	<b>1.023</b>	<b>11,1</b>	<b>2.210</b>	<b>22,2</b>	<b>2.651</b>	<b>24,4</b>	<b>1.778</b>	<b>17,3</b>	<b>1.637</b>	<b>15,7</b>
Public safety & justice	608	6,6	593	6,0	614	5,7	709	6,9	881	8,4
Culture & language	43	0,5	34	0,3	54	0,5	57	0,6	59	0,6
<b>Total</b>	<b>9.243</b>	<b>100</b>	<b>9.955</b>	<b>100</b>	<b>10.852</b>	<b>100</b>	<b>10.294</b>	<b>100</b>	<b>10.445</b>	<b>100</b>





**2.2. STATUS OF ACTIONS**

The number of cases in which the Administration or company that is the object of the complaint totally or partially accepts the suggestions made to it by the Catalan Ombudsman is quite high. Of all of the cases in which the Catalan Ombudsman has concluded the action with one or more recommendations, they have been totally or partially accepted in 98.6% of the cases. This high degree of acceptance underscores the positive cooperation between the Catalan Ombudsman and the supervised public administrations and companies. On a

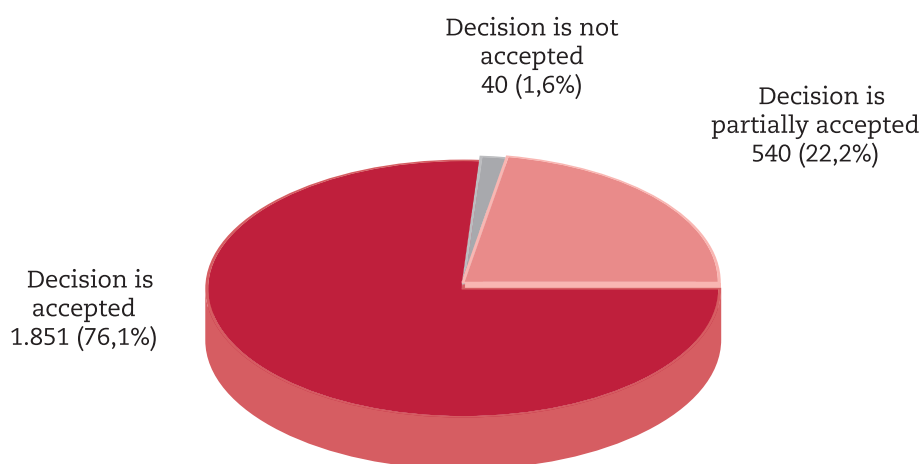
negative note, the number of decisions only partially accepted has increased (from 15% to 22%), which has made the percentage of full acceptance of the Catalan Ombudsman’s decisions go down to 76%.

Although it is still a high percentage, this regression is alarming in terms of what it means for the deviation, even if partial, from the Catalan Ombudsman’s recommendations, which are always based on rigorous analysis and the defense of rights.

**4. Complaints and ex officio actions admitted for processing and in process**

	< 2017	2017	Total	%
Admission to process	-	418	418	9,4
Waiting for more information provided by complainant	5	127	132	3,0
Waiting for more information from the Administration	201	1.095	1.296	29,1
Pending Ombudsman decision	84	438	522	11,7
Awaiting acceptance of decision by the Administration	1.314	452	1.766	39,7
In process of completion	132	184	316	7,1
<b>Total</b>	<b>1.736</b>	<b>2.714</b>	<b>4.450</b>	<b>100</b>

### 5. Acceptance of the ombudsman's suggestions in complaints and ex officio actions processed in 2017



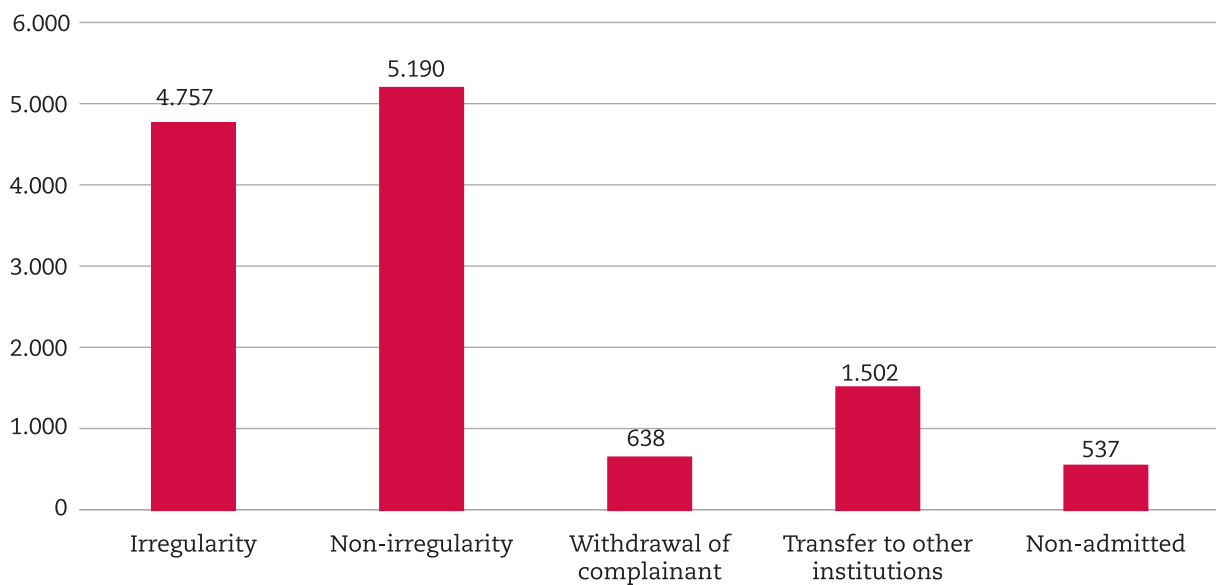
**Catalan Ombudsman's decisions totally or partially accepted amount to 98,3%**

Not all complaints received by the Catalan Ombudsman are admitted for processing, nor do all of those admitted conclude that an irregular action has been committed by the public administration. A low percentage of complaints (4.3%) cannot be allowed because of provisions established by law. Of those allowed, the complaint must be finalized before it can be determined whether there has been any irregularity in the public administration or company's action. In fact, in 41.1% of the complaints and ex-officio actions concluded over 2017, no irregularities were found in the activity

of the public administration once the investigation concluded. In another low percentage of cases (5.1%), the interested party has withdrawn the complaint. In 11.9%, the complaint was transferred to other entities, such as the Spanish Ombudsman, the Superior Court of Justice of Catalonia, or the Prosecutor's Office. Additionally, it must be highlighted that nearly half of the complaints do not conclude with a formal decision because they are resolved in the citizen's favor during their processing, usually thanks to the Catalan Ombudsman's intervention.

## 6. Complaints and ex officio actions finalized

	< 2017	2017	Total	%
Irregularity	2.974	1.783	4.757	37,7
Non-irregularity	1.724	3.466	5.190	41,1
Withdrawal of complainant	102	536	638	5,1
Transfer to other institutions	42	1.460	1.502	11,9
Non-admitted	51	486	537	4,3
<b>Total</b>	<b>4.893</b>	<b>7.731</b>	<b>12.624</b>	<b>100</b>



Acceptance of the suggestions is a necessary, but not sufficient, condition for resolution of the problem. That is why the Catalan Ombudsman also works to guarantee an effective resolution. This is carried out through specific follow-up of every case, both with the person who filed the complaint and the public administration or company, once three to nine months have transpired following acceptance of the suggestions.

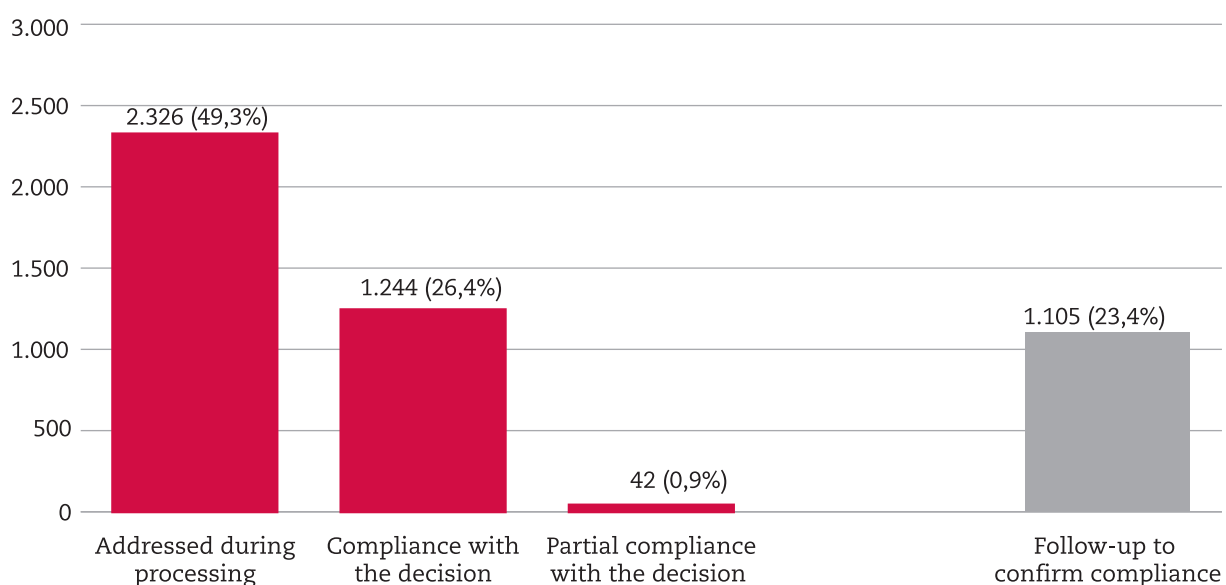
At December 31, 2017, there were 4,717 cases for which a decision had been handed down. Of them, 23.4% were still being followed-up to confirm compliance. Of the cases in which follow-up has concluded, it must be noted that in no case has there been a breach of the decisions previously accepted. In nearly half of the cases, the problem was solved

between the time at which the public administration or company became aware that the Catalan Ombudsman was beginning his investigation and before he handed down a decision. In the rest of the cases (27.5%) compliance was confirmed in the months following acceptance of the decision. It is worth noting that decisions have been partially complied with in only 0.9% of the cases: therefore, the norm is for decisions to be thoroughly observed.

The high percentage of solutions that the administrations and companies eventually implement shows once again the strong ties of cooperation that generally exist between the supervised organizations and the Catalan Ombudsman, with the shared goal of consolidating the principles of good administration.

## 7. Compliance with the ombudsman suggestions in 2017

	Addressed during processing		Compliance with the decision		Partial compliance with the decision		Non-compliance		Follow-up to confirm compliance		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
<b>Social policies</b>	721	34,0	732	34,5	31	1,5	-	-	636	30,0	2.120	100
Education and research	126	16,5	367	48,2	17	2,2	-	-	252	33,1	762	100
Children and adolescents' affairs	120	25,2	140	29,4	12	2,5	-	-	205	43,0	477	100
Health	298	69,3	97	22,6	-	-	-	-	35	8,1	430	100
Social services	156	48,1	124	38,3	2	0,6	-	-	42	13,0	324	100
Labor	11	91,7	1	8,3	-	-	-	-	0	0,0	12	100
Discrimination	10	8,7	3	2,6	-	-	-	-	102	88,7	115	100
<b>Public administration &amp; taxation</b>	464	54,1	160	18,7	6	0,7	-	-	227	26,5	857	100
Public administration and rights	332	49,6	128	19,1	6	0,9	-	-	204	30,4	670	100
Taxation	132	70,6	32	17,1	-	0,0	-	-	23	12,3	187	100
<b>Territorial policies</b>	494	50,3	301	30,6	5	0,5	-	-	183	18,6	983	100
Environment	200	46,5	125	29,1	3	0,7	-	-	102	23,7	430	100
Urban planning, mobility & housing	294	53,2	176	31,8	2	0,4	-	-	81	14,6	553	100
<b>Consumer affairs</b>	520	90,1	31	5,4	-	-	-	-	26	4,5	577	100
<b>Public safety &amp; justice</b>	109	71,7	16	10,5	-	-	-	-	27	17,8	152	100
<b>Culture &amp; language</b>	18	64,3	4	14,3	-	-	-	-	6	21,4	28	100
<b>Total</b>	2.326	49,3	1.244	26,4	42	0,9	0	0	1.105	23,4	4.717	100



## 8. Evolution of processing of complaints and ex officio actions during 2010-2017

	2010	2011	2012	2013	2014	2015	2016	2017
In process	4.545	5.148	4.826	4.837	6.006	7.471	6.365	4.450
Finalized	6.094	7.821	8.626	9.517	9.337	10.059	11.714	12.624
<b>Total</b>	<b>10.639</b>	<b>12.969</b>	<b>13.452</b>	<b>14.354</b>	<b>15.343</b>	<b>17.530</b>	<b>18.079</b>	<b>17.074</b>

## 9. Number of people concerned in the complaints and queries processed in 2017

	2017
Complaints	60.505
Queries	8.977
<b>Total</b>	<b>69.482</b>

### 2.3. USER PROFILES

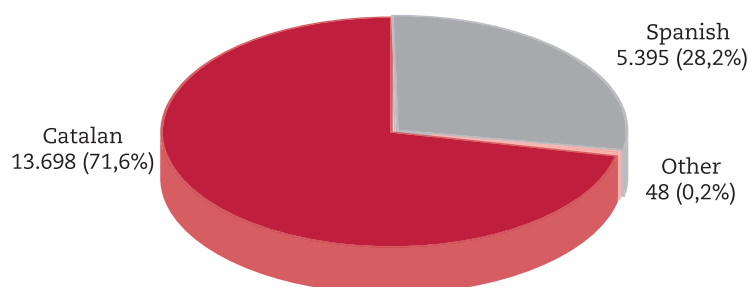
95% of the complaints received by the Catalan Ombudsman in 2017 were filed by natural persons. Among them, complaints have been presented equally by women and men (the difference in favor of the latter group is very small, 1.4 points, through it has increased over prior year). However, there are significant biases in this general parity by subject matters. For example, in prior years, women filed over 60% of the complaints in social matters (over 65% in

the realm of education and children's affairs, and nearly 80% in the area of discrimination), while the complaints on public safety (77%), and culture and language (69%) are markedly dominated by male citizens.

As for the language in which complaints are filed with the Catalan Ombudsman, the same distribution observed in other years continued in 2017, with a 70/30 Catalan-Spanish ratio.

## 10. Language of complains and queries in 2017

	Complaints		Queries		Total	
	N	%	N	%	N	%
Catalan	7.668	75,4	6.030	67,2	13.698	71,6
Spanish	2.478	24,4	2.917	32,5	5.395	28,2
Aranese-Occitan	1	0,0	1	0,0	2	0,0
Other	17	0,2	29	0,3	46	0,2
<b>Total</b>	<b>10.164</b>	<b>100</b>	<b>8.977</b>	<b>100</b>	<b>19.141</b>	<b>100</b>



**11. Complaints by gender in 2017**

	Women		Men		Total	
	N	%	N	%	N	%
<b>Social policies</b>	<b>1.599</b>	<b>60,4</b>	<b>1.048</b>	<b>39,6</b>	<b>2.647</b>	<b>100</b>
Education and research	374	66,4	189	33,6	563	100
Children and adolescents' affairs	358	66,2	183	33,8	541	100
Health	354	51,9	328	48,1	682	100
Social services	353	58,0	256	42,0	609	100
Labor	38	38,8	60	61,2	98	100
Discrimination	122	79,2	32	20,8	154	100
<b>Public administration &amp; taxation</b>	<b>818</b>	<b>43,6</b>	<b>1.056</b>	<b>56,4</b>	<b>1.874</b>	<b>100</b>
Public administration and rights	586	44,4	733	55,6	1319	100
Taxation	232	41,8	323	58,2	555	100
<b>Territorial policies</b>	<b>1.339</b>	<b>49,8</b>	<b>1.349</b>	<b>50,2</b>	<b>2.688</b>	<b>100</b>
Environment	328	45,6	391	54,4	719	100
Urban planning, mobility & housing	1.011	51,3	958	48,7	1.969	100
<b>Consumer affairs</b>	<b>757</b>	<b>50,0</b>	<b>757</b>	<b>50,0</b>	<b>1.514</b>	<b>100</b>
<b>Public safety &amp; justice</b>	<b>172</b>	<b>22,7</b>	<b>585</b>	<b>77,3</b>	<b>757</b>	<b>100</b>
<b>Culture &amp; language</b>	<b>16</b>	<b>30,2</b>	<b>37</b>	<b>69,8</b>	<b>53</b>	<b>100</b>
<b>Total</b>	<b>4.701</b>	<b>49,3</b>	<b>4.832</b>	<b>50,7</b>	<b>9.533</b>	<b>100</b>

**2.4. PROCESSING TIME**

The processing time for complaints and ex-officio actions completed in 2017 has again risen with respect to 2016, finishing at the same level as two years ago (2015). As discussed in section 2.6, for over half of the days of the average duration of the case file, the procedure has been in the public administration's hands. It is worth noting that, as has occurred in recent years, these time frames count working, not calendar

days, and cover those from the admission of the complaint until the issue by the Catalan Ombudsman of the relevant decision (or close of the case on the grounds of legal provisions). In any event, the Catalan Ombudsman remains committed to improving the procedures of his office, as well as those of supervised public administrations and companies, to keep reducing case handling time.

## 2.5. PROCESSING WITH ADMINISTRATIONS AND COMPANIES

This year, as regards the public administrations and companies targeted in the case files handled by the Catalan Ombudsman, there is practically a situation of equality between the complaints and ex-officio actions regarding autonomous ministries of the Catalan government (45%) and those that have to do with local administration (46%). In comparison to other years, the former have dropped slightly, and the latter have increased, so that, for the first time, the local world—in all its diversity—stands for the Catalan Ombudsman's first area of activity.

In relation with the Generalitat, and in keeping with the increase of actions in the area of territorial policies, the Autonomous Ministry of Territorial Affairs and Sustainability has again been the ministry with the highest number of complaints in process, although the number has gone down from the 2016 level. The other ministries with high volumes of complaints are those responsible for managing citizens' social rights: Health, Labor, Social Welfare and Families, and Education. Over the past year there has also been a significant volume of complaints aimed at the Ministry of Presidency, for group claims regarding pensions.

In 2017, the local administration has accounted for 56% of all cases. Among local administrations, the local councils have been the object of 90% of cases handled. Among the provincial governments, that of Barcelona has concentrated 80% of the complaints and ex-officio actions handled this year.

Private companies that provide services of general interest have received 4.6% of the complaints and ex officio actions handled in 2017, a percentage similar to that of the prior year, with complaints especially in the areas of telephone services and electricity. In any case, it is significant that the actions taken on companies are those that conclude with the highest percentage of decisions determining the non-existence of irregularities, with 40% of the cases. This is much higher than for local administrations

(no irregularity in 28% of cases) and the Autonomous Catalan Government (20%).

In the following tables, the status of the processing, and if completed, the outcome, are shown for every public administration or company that has been the object of supervision by the Catalan Ombudsman. The information gathered in the following tables shows in how many cases no irregularity has been detected for each public administration, the cases in which irregularities have been detected, and among them, the degree of acceptance of the decision handed down by the Catalan Ombudsman.

## 2.6. CATALAN OMBUDSMAN SERVICE EVALUATION

2017 has concluded with a number of functional and technological changes aimed at complying with the rules in force for electronic administration and improving the effectiveness and efficiency of the institution. This section aims to evaluate the impact of these measures in processing cases of complaints and ex officio actions by the Catalan Ombudsman, assess compliance with the Charter of Services and good administrative conduct and gather users' opinions on the service received from the institution.

### 1. Management of cases by the Catalan Ombudsman

As stated in the 2016 Report, the goals for 2017 were the publication of the Catalan Ombudsman's electronic platform and the implementation of all of the changes in electronic administration brought about by the entry in force of Law 39/2015 of October 1 on the common administrative procedure of public administrations, and of Law 40/2015, of October 1, on the legal regime of the public sector.

In relation with the electronic and secure processing of documents, as a consequence of the changes implemented as a result of compliance with the regulations in force, **42.5% of the Catalan Ombudsman's communications to interested parties are conducted by electronic notifications, doubling the figures of last year.**



Users' assessment of the institution is very positive, and the figures exceed the scores of other public administrations by an ample margin. Notwithstanding this, it should be noted that this implementation has meant a major effort to train stakeholders in electronic notification services. Along these lines, it would be advisable for the Open Government of Catalonia, with the support of other local and the autonomous administrations, to work to promote training in this area for all interested parties.

As regards the public administration, 88.5% of the procedures are carried out through the EACAT (Catalan Administrations Extranet), with an increase of three tenths of a point over last year's figure.

As for the electronic platform, the decision by which the Catalan Ombudsman's electronic platform was established was published in the DOGC (Official Bulletin of the Generalitat) on February 28, 2017. It came into force on March 1 (<https://seue.sindic.cat>).

The electronic platform allows interested parties to access their case files and consult the documentation, as well as requesting access to the documentation from the public administrations referred to in their cases. Additionally, the platform is not only open to the interested parties. In the same way, and with the same functions, the public administrations, service companies providing services of general interest and ombudsmen can access it. Therefore, all players intervening, or that are present in the Catalan Ombudsman's sphere of activity, can interact with the institution, with the guarantee of the transparency requirements as well as electronic administration.

Considering that the platform was opened in 2017, the figures cannot be compared to any other year at this time. Nonetheless, it can be confirmed that the electronic platform has been visited 5,146 times.

Although the platform has two main applications (being able to conduct procedures with the Catalan Ombudsman and access to information), a great difference has been observed between the possibility to process through the electronic platform

and the use made of it (especially interested parties and the public administration) for access to case files and the documentation generated.

Therefore, over 2017, 576 formalities have been completed, 64.1% of which focused on presentation of complaints, followed by the possibility to add documentation to the complaint (20.3%) and third, requesting access to the documentation (13.2).

As for the consultation of the entries of case files being processed with the Catalan Ombudsman, the "People's Space" has been accessed 3,089 times (60%); and the Administration Space on 2,011 occasions (39.1%), and last, on a more residual basis, the Ombudsman Space has been visited 46 times (0.9%). Last, as a final figure, individuals and public administrations have downloaded 2,292 entries.

This is mainly explained by the Catalan Ombudsman's constant effort to facilitate the filing of complaints and queries by any channel, which makes the electronic platform a more demanding system than other ways of presenting documents. Therefore, it is more difficult to access. That said, the electronic platform stands out as a relevant tool for consulting the documentation found in the case files.

The changes to be made to the Catalan Ombudsman's case file management will be based on two lines of action. First, implementation of the Via Oberta (Open Path) to access documents of the public administration and not having to request them from the interested parties. Second, the implementation of other electronic case files in the institution. For this reason, approval has been given for creation of a committee to draw up the Catalan Ombudsman's "Catalog of Processes" based on which an effort will be made to identify, systematize and improve the efficiency of the Ombudsman's management, regardless of how the complaint or query case evolves.

Last, moves will be made to further diversify the case files at the Catalan Ombudsman's office with the aim to incorporate them, in coming years, into the electronic archives of the Open Government of Catalonia Consortium (hereafter AOC).



This entire package of measures, which will be evaluated in the next annual report, will contribute to the provision of a service of reference from the standpoint of quality, efficacy, efficiency and especially, transparency, that this institution believes to be an essential building block for the operation of the Catalan public sector.

## 2. Average case handling time

This section features the time it takes the Catalan Ombudsman to process case files. As in prior years, the average case handling time has been calculated based on the number of working days.

Preparation of this figure involved a breakdown of the total time taken by all of

the case files handled by the Catalan Ombudsman over 2017 (17,074), in time for the Catalan Ombudsman (including the reception confirmation procedures, the request for further information from the interested party, the communication of the complaint to the public administration, the request for information from the public administrations and the resolution of the complaint addressed to the administration), the time taken for processing the case in the public administration (including communication of the complaint to the administration in accordance with Article 39 of Law 24/2009, the time taken to respond to the information request and, if relevant, communication of the decision) and time taken by the interested person to give their response to the requests for information.

### 32. Average case handling time of the Catalan Ombudsman by subject

	Catalan Ombudsman	Administration	Interested party
Actions	17.074	18.370	4.304
Days	40,38	87,14	27,15

As can be seen in the table, there has been a significant reduction in the time frames by the Catalan Ombudsman and the public administration that has not applied for the interested parties. Therefore, although over this year there have been some cases with significant delays that have conditioned the general case file average, most public administrations that have responded to the Catalan Ombudsman's requests have done so within time frames that were more reasonable than in 2016.

For the Catalan Ombudsman, the reduction of interventions has also allowed a reduction in the general time spent on each case.

The dynamic of prior years has been repeated among interested parties, between those who present the required information immediately in comparison to those whose complaints are closed due to their withdrawal, or who do not respond to the request for further information. Nevertheless, it would be advisable to generate a more efficient mechanism for earlier detection of cases in which the interested person shows no interest in

continuing the procedure to be able to close the case as soon as possible.

## 3. Charter of Services

The Charter of Services and Good Administrative Conduct of the Catalan Ombudsman aims to establish commitments with interested parties regarding processing and quality in the management of complaint cases and information queries.

It must be stated that one of the commitments found in this charter of services has changed in 2017, as a consequence of the modification in the institution's business hours to meet the work and family life conciliation goals, and the work schedule reform measures put forth by the Parliament of Catalonia. Therefore, the business hours for face-to-face service will be from 8:30 am to 6 pm, non-stop, and until 5 pm in the month of August.

On another note, a mechanism has been developed to more accurately quantify the average maximum waiting time for face-to-face consultations.

**33. Commitments established in the Charter of Services**

	Number of cases/year	Average	Level of compliance
The minimum business hours for face-to-face service is Monday to Friday, from 8:30 am to 6 pm.	-	-	100%
Face-to-face consultations are resolved on the same day on which the person has come to the offices, within a maximum waiting time of 15 minutes.	2.010	6 minutes	97,2%
The People's Services Unit (hereafter SAP) must respond to written queries in a period that will not exceed 3 working days following receipt of the information request.	2.546	2,8 working days	76,9%
The SAP must respond to telephone information queries the same day on which the information request is received.	4.614	0,08 working days	96,4%
Once the video conference request has been made, the SAP has 24 hours to arrange the date and time for the connection with the interested party. The video conference must be held within a period not to exceed seven days.	4	0 working days	
Confirmation of reception of a complaint must be sent in a period not to exceed two working days from the time the document is received at the Ombudsman offices.	8.344	0,64 working days	97,1%
The Catalan Ombudsman must request information in a period not to exceed 15 working days, depending on the complexity of the case.	7.236	11,4 working days	63,8%
Once the investigation deemed opportune by the Catalan Ombudsman has been completed, the interested party and the public administration must be informed of the decision in a period that will not exceed 30 days from the time of reception of the report.	7.256	40,3 working days	51,1%
Once the public administration has stated whether it accepts the Catalan Ombudsman's decision, the Ombudsman must notify as to the finalization of the case in a period not to exceed 15 working days.	2.248	40 working days	51,1%
The communication to the interested party of the rejection of the complaint on the grounds established by Law 24/2009 must be made in a period not to exceed 15 working days.	537	12,4 working days	73,8%

The data show that the negative trend for time frames has been reversed, and that the expediency of the Catalan Ombudsman is improving. This can essentially be explained by the closure of most case files (no irregularity) in which the need to request information, reach a decision and carry out follow-up is lesser or non-existent, leading to the shortening of time frames.

Along these lines, it is worth remembering that time frames have been shortened in all indicators analyzed, and the percentage of compliance has risen.

Nevertheless, it must also be recalled that the time frames for resolution of written queries, although within the commitments acquired in the Charter of Services and Good Administrative Conduct, have substantially increased over prior year.

**4. Catalan Ombudsman user satisfaction survey**

Over 2017, 5,971 individuals have received by post a satisfaction survey on the service offered by the Catalan Ombudsman. The survey is sent automatically to all citizens who have presented a complaint once the procedures carried out by the institution on their case have been completed.

Plans call for implementation of an electronic satisfaction survey system in 2018. Once a case has been processed, the interested party will receive an e-mail notification that will allow them to access the survey model to complete it electronically. This system aims to streamline the process, facilitate the task for the interested parties and increase the number of users who answer the questionnaire. Despite these advancements,

the hard copy survey system will continue to operate for individuals who do not have access to new technologies (elderly people, etc.).

Throughout 2017, 1,301 citizens have responded to the surveys, 22% of the total to whom they have been sent, the same percentage as in 2016.

The scores can be considered satisfactory: 91% say that filing the complaint was easy or very easy; 88% state that the attention and information received were good or very good and 75% were satisfied or very satisfied with the professionalism of the staff members who served them. These figures are practically identical to those of prior year.

The majority of citizens say they found out about the institution through the media (39%) and 19% say they had already filed a complaint in the past, and therefore, are repeating the action.

The most critical opinions are associated with the complaint processing times: 14% alluded to the need to make the process more expedient; 14% said that it was necessary to improve the information provided to users, and 20% emphasized the need to increase the frequency of visits to the territory or centers.

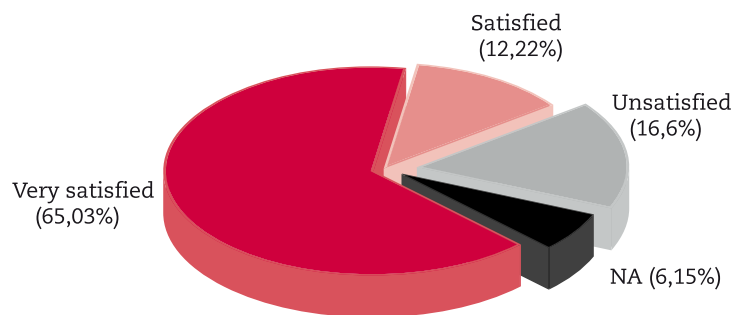
As for the expediency of the process, 60% found the time that had passed from the

filing of their complaint until reception of the Catalan Ombudsman’s first response to be short or very short, although the opinion is not as positive when users are asked about the time it took until a decision was given: only 40% considered it short or very short, while 25% thought it long or very long. It is important to remember in this regard that complaint resolution processes are often prolonged due to the slowness of the public administrations in responding to the Catalan Ombudsman’s information requests.

The average score obtained, on a scale of 0 to 10, was 7.1, similar to that of prior year (7.03), and 77% are very satisfied or satisfied with the overall service received from the Catalan Ombudsman’s Office. Citizens unsatisfied with the Ombudsman’s service make up 17% of all survey respondents.

When analyzing these results, as can be seen in the following table, it must be remembered that the degree of satisfaction among survey respondents can be related with the type of decision reached. In other words, the percentage of “very satisfied” opinions is significantly higher in cases in which the decision was favorable to the interested party. In the same way, unsatisfied opinions were nearly twice the average in cases in which the decision was not favorable to the interested party’s expectations.

**34. Degree of Catalan Ombudsman user satisfaction in relation to type of decision received**



Unfavorable: No violation

Favorable: problem is solved; violation: the decision is fully accepted, the decision is partially accepted, the decision is not accepted.

	Total		Very satisfied		Satisfied		Unsatisfied		NA	
Favorable	561	43,12%	442	33,97%	54	4,15%	39	3,00%	26	2,00%
Unfavorable	740	56,88%	404	31,05%	105	8,07%	177	13,60%	54	4,15%
<b>Total</b>	<b>1.301</b>	<b>100%</b>	<b>846</b>	<b>65,03%</b>	<b>159</b>	<b>12,22%</b>	<b>209</b>	<b>16,60%</b>	<b>80</b>	<b>6,15%</b>

## 2.7. TERRITORIAL PRESENCE OF THE CATALAN OMBUDSMAN'S OFFICE

The visits made by the Catalan Ombudsman's Office in 2017 have increased over prior years. This increase of visits to attend to individuals as close as possible to their homes was facilitated by the increased frequency of the traveling team's trips, which have risen from three to four per week. Therefore, over 2017, 145 visits have been made to 116 different municipalities. With the greater number of visits, it has been possible to visit more populous cities more than once, as has also been the case in some of the municipalities whose local councils have signed a unique follow-up agreement with

the Catalan Ombudsman. Overall, 1,592 appointments have been completed, giving rise to 1,149 complaints and 540 queries.

**In 2017 the Catalan Ombudsman office has made 145 visits**

The number of complaints collected by the traveling office stands for 11.3% of the total of those begun by the Catalan Ombudsman in 2017.





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