



CONFLICTS
REGARDING THE
ENVIRONMENTAL
AND URBAN
PLANNING
MANAGEMENT
IN CATALONIA

JUNE 2018

SÍNDIC

EL DEFENSOR
DE LES
PERSONES

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Síndic de Greuges de Catalunya (Catalan Ombudsman)

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Conflicts regarding the environmental and urban planning management in Catalonia. June 2018

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CONCLUSIONS OF THE REPORT (submitted by the Catalan Ombudsman on June 5)

1. In order to make the participation in the planning process effective and real, the procedures for public information and audience should not include holiday periods. All information must be made available to everyone clearly and comprehensively, and the necessary technical support must be provided to facilitate the understanding of the texts, whose content, in addition, cannot be either contradictory, ambiguous or imprecise.

2. One of the limits of municipal discretion in matters of urban planning is the preservation of the environment.

3. Environmental assessment is designed not to achieve a declaration of environmental viability of plans and projects, but to avoid damage in nature.

4. Urban planning must comply with the precautionary principle to preserve the environment from damages that are difficult or impossible to repair.

5. In spite of the sectorial legislation and the political impregnation of the culture of the participation, the conflicts related to the urban planning and the planning of the territory have not been solved.

6. If procedural equity was achieved, that is, if transparency was improved and access to information, intervention in decision making and territorial consensus were attempted, many of the focuses of conflict would be resolved.

7. By means of mediation tools that facilitate access to information, transparency, participation, territorial consensus, access to environmental justice and, ultimately, to environmental equity, an effective solution to environmental conflicts could be achieved.

MAIN RECOMMENDATIONS

1. In the urban and environmental projects the administrations must guarantee the preservation and the sustainability of the

territory as they affect people's rights. The assessment of the zero alternative in urban and environmental projects must be claimed, as a way of ensuring the preservation of the common heritage against unjustified actions.

2. The action of public authorities in the field of landscape must be guaranteed to harmonize its evolution according to the concepts of rational use of the territory, sustainable urban development and the functionality of ecosystems. And, to the extent possible, the new plans have to be analysed and compensation should be sought for existing irregularities, if any.

3. It must be remembered that the territory is a common good that must be protected for future generations.

4. Before deciding the general urban planning, the administrations should take into account the opinions and criteria of the people particularly affected, so the project should be explained, and also foresee the possibility of the zero alternative.

5. The administrations should not consider the process of public information as an administrative act to which they are obliged. On the contrary, they should see the process as the possibility for citizens to exercise their rights. Therefore, in the process of public information, the competent administration must be more active in ensuring the maximum information to citizens and to respond clearly and concretely to the doubts or objections they submit. Therefore, the following elements should be taken into account:

- In procedures for public information and hearing, it must be ensured that the people directly affected by them are informed.

- Public information procedures must be publicized, through all the means available so that anyone interested is informed.

- Information mechanisms on a territorial scale must be taken into account to guarantee the general interest throughout Catalonia.

- They should not be done during holiday periods, since, while complying with the

procedure, it seems that the project is hidden from society.

- The information must be clear, understandable and accurate, and the necessary technical support must be provided.

6. It is urgently necessary to pass a new territorial law that is an integral framework in the area of urban planning and landscape.

7. The processing of this law was a priority of the Government in 2013. But in 2018 the bill has still not been passed. Meanwhile, bad practices meant to be corrected by means the new law continue to occur.

8. It would be necessary to incorporate in the new territorial law the criterion of equity and geographical equity, as a principle to solve the territorial imbalances existing in Catalonia, the origin of many of the territorial conflicts.

9. Municipal discretion cannot be an obstacle to a joint environmental preservation policy when it comes to municipal planning.

10. In the planning of agricultural and industrial uses, besides from seeking a rebalancing of the territory, the environmental costs must be taken into account. A balanced territory and a sustainable environment also benefits the society.

11. In the municipal planning, the precautionary principle must be respected in order to preserve the environment from damages that are difficult or impossible to repair.

12. Consideration should be given to the cost or benefit that the execution of a certain project may entail for the territory and its inhabitants.

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