



REPORT ON
TRANSPARENCY,
ACCES TO
PUBLIC INFORMATION
AND GOOD
GOVERNANCE

JULY 2019

SÍNDIC

EL DEFENSOR
DE LES
PERSONES

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EXECUTIVE SUMMARY

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On July 30th, 2018, the Catalan Ombudsman submitted the fourth Annual Report on Transparency, Access to Public Information and Good Governance, corresponding to 2018, since the passing of the Law 19/2014, which grants new powers to the ombudsman institution.

In general terms, there are not substantial changes in comparison with the previous year. A certain slowdown in the deployment of the Law is confirmed.

Certainly, the measures already targeted in 2018 to overcome this stagnation can hardly be specified and give results in a short period of time. However, the Catalan Ombudsman wishes to point out that, at the local level, the beginning of a new mandate in local corporations in June 2019 must be an opportunity to address this need and assume the commitment to analyse needs and plan actions to comply with the Law in the immediate future.

The Catalan Ombudsman is aware that this is a complex law to comply with and it is a challenge of great proportions, but it is also worth noting that it is a necessary and indispensable step to recover the confidence of the citizens in the institutions and that, therefore, it must be a political priority for public authorities.

The obligations of active publicity and the exercise of the right of access to public information concentrate much of the work of analysis on which this evaluation report is based, given that they are the two basic pillars on which the model of governance set out by the Law is based. And in these two areas there are practically the same shortcomings that were already mentioned in the previous report.

Regarding active publicity, the evaluation task has been focused once again on directly verifying the content of the transparency webpages. From the analysis of the published information, following in line with what was already stated in the previous report, it is found that the differences in the level of compliance with the Law between the territorial administrations and those dependent continue to be very marked. The same thing happens with the distance between the administrations of greater size and those of less.

The analysis globally evaluates the level of general compliance with the fundamental elements of active publicity by categories of obligated subjects. Of this analysis, it should be noted that they comply generally with publicity obligations most of the departments of the Administration of the Catalan Government (Generalitat) (84.6%), but only 34.8% of city councils with populations with more than 50,000 inhabitants. In municipalities of less than 50,000 inhabitants, widespread compliance is very limited or practically non-existent. Also worth noting is that, four years after the entry into force of the Law, a total of 787 town councils present a serious (165) or wide non-compliance (622) with the publication of the essential contents of the Law.

Regarding the right of access to public information, besides its lack of awareness, very remarkable shortcomings remain, such as the unacceptable number of lack of answer (in almost 35% of the requests access to the information was not granted nor denied). It is important to assess the causes of this situation and to take measures to reverse it. In this regard, it is recommended that the administrations with a structure that allows it create a unit responsible for processing the applications.

Another remarkable element is the absence of a regulation of the implementation of the Law. Although preparatory work has begun to draw up this regulation and a first draft

was obtained, this deployment has not yet been made, and this means that the difficulties detected in the application of the Law remain because they are not sufficiently specified in the Law. In this sense, one of the aspects that should be tackled primarily is the establishment of homogeneous criteria on the periodicity of updating information and the determination of reusable formats.

A significant part of the information on which the report is based is obtained from the answers to the questionnaire sent to the administrations and entities required by the Law. In this regard, it should be noted positively that the level of response has been successively higher and for this report it has reached 89%, in relation to 78% of the previous year. However, it is still far from full compliance. The report includes an annex with the list of administrations that did not answer the questionnaire and a second appendix with which they have not answered the requests raised through the hidden citizen's test. In both cases there are municipalities of more than 20,000 inhabitants.

The report also highlights the need to make a greater effort to spread the right of access through a joint action of all administrations that could have a substantial impact on the whole of the population, and also the need to facilitate the accessibility of the citizens as a whole to the formulation of requests by electronic means, with channels of consultation and information, and the elaboration of explanatory guides.

It should also be taken into account that the Public Access to Information Guarantee Commission is a key instrument in the defence and consolidation of the right of access, but does not have the necessary resources to carry out its function and the appointment of members until the legal minimum required continues to be pending.

As more singular matters, the report indicates that it does not seem justifiable that a relevant part of town councils do not have an ethical code when they have a good model available in collaboration between the Catalan Administration and the local one. There are also no significant improvements in the development of service letters adapted to the requirements of the Law, although in this case there is a specific difficulty, such as the obligation to set binding minimum quality standards for the administration.

It should also be noted that the provisions of the Law on regulatory quality are far from being fulfilled: the Catalan Administration has a consolidated experience in the evaluation of standards before approving them, but has not made any evaluation of already approved items (ex post). In the local administration, the evaluation of regulations is almost non-existent.

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