



The Ombudsman

Summary of the Report to Parliament for 2005
June 2006



Complaints to the Spanish Ombudsman Rose 37.1% in 2005, Compared with 2004

Rise in Complaints Involving the Environment, Land Management, and Social Services

The total number of citizens who registered complaints with the Ombudsman's Office in 2005 was 39,750. Of these, 13,962 complaints led to individual cases being opened; 25,648 to the opening of group cases; and 140 of the Ombudsman's actions were formulated as complaints in ex-officio proceedings. Therefore, the total number of complaints rose 37.1% compared with the previous year, during which there were 28,990 complaints, also bearing in mind that the latter number represented a considerable annual increase, as well.

Pages 7, 8, and 9 provide a breakdown of the complaints registered from Spain, and the 354 that came from abroad. Regarding the different sectors encompassed by the activities of the Public Administration, worthy of note is the impressive 'take-off' in citizens' complaints involving land management, and specifically, the environment; those involving economic administration; those in the realm of education and culture; and those regarding health and social affairs.

Processing Stages

Of all the complaints presented, 26,693 were admitted for processing, or 71.42%; another 10,682 were not admitted for different reasons, representing 28.58% of the total. There were 1,556 complaints from previous years, but which were opened or reopened in 2005, and of these, 982 were regarding the decision to admit the complaint, 539 were petitions to reopen a closed case, and 45 were to repeat a suspended complaint.

Supervisory Efficiency

The Ombudsman's office presented 396 resolutions to Public Administrations as a consequence of complaints investigated during 2005, which included 139 recommendations, 156 suggestions, 96 reminders of legal duties, and five warnings (see pp. 18, and 26-29). The resolutions *attended to* by the Public Administrations, i.e. those that received a response, whether admitting

them on their own terms or presenting adequate reasons for disagreement with the proposal, are, in percentage terms, similar to former years (Tables 23, 24, and 25). In the summary of actions involving each area, it is striking that there are several which, due to different circumstances (number of persons affected, media impact, a type of complaint hitherto unseen), had a higher profile.

Civil Servants and Employment

Generally speaking, especially noteworthy were complaints regarding the **retirement benefits** of full-time mayors and city council members who served their terms after Spain's first municipal elections following the restoration of democracy, but who had not been able to register with the Social Security system; or **deficiencies in**



The Ombudsman, Enrique Múgica, is sworn in for a second term, in the Conference Hall of the Spanish Parliament, in the presence of the Speakers of the Congress of Deputies, Manuel Marín (right), and of the Senate, Javier Rojo (left). Photo: Povedano.



On 7 July, during a ceremony held in the Conference Hall of the Spanish Parliament, the two Deputy Ombudsmen were sworn in for a second term, in the presence of the Speaker of the Congress, Manuel Marín, and of the Senate, Javier Rojo, as well as that of the Ombudsman. Previously, they had also been designated for a second term in their posts by Enrique Múgica, and were, on 4 July, unanimously confirmed by the Congress-Senate Joint Committee for the Ombudsman.

carrying out certain competitive exams (e.g., computer anomalies, refusal to provide copies of exam papers, delays in publishing the list of those named to posts, confusing or biased wording of exam conditions, collectibility of payment of exam fees), as well as issues involving employment mobility and **workplace harassment**, with the number of complaints remaining stable.

Looking at statutory categories, there were noteworthy complaints involving **health service personnel** (delays in job selection processes and availability of positions, equivalency of degrees and training of healthcare technicians with those of countries in the European Union, and development of the corresponding legal regulations); issues involving **public school teachers** (refusal to admit delegates at sessions prior to competitive civil service exams, **demands for recognition of co-official languages, transfer of civil servants from the corps of secondary school teachers of the Basque Country's Penitentiary Institutions, flexibility in time off for nursing in Extremadura, systems of transfer and evaluation of university professors**); **Justice Administration service personnel** (issuing identification cards in the Community of Madrid, fulfilling job offers, putting economic rights into effect); **personnel from Penitentiary Institutions** (overwork due to lack of human resources, internal promotion system); **Military Administration personnel** (situation of military reservists, benefits for those on temporary military duty whilst on medical leave from the Civil Guard), and the **personnel in public administrations and organisations** (job selection and procurement, regulation of turns of duty for physicians, prolonged period on forced leave

after imprisonment due to a guilty verdict).

Defence and of the Interior

The number of prisoners –both serving sentences and in preventive custody– in penitentiary centres **continued to rise** during 2005, although the increase (2.7%) was

lower than the previous year (when it was 6.8%) in percentage terms. This trends towards overcrowding gives cause for concern, due to the constitutionally established purpose of 're-education and social reinsertion' for prison sentences, and guarantees the fundamental rights of those condemned to such sentences.

The supervision of the *Penitentiary Administration*, apart from the visits made

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during this year to 12 centres, has been aimed at investigating **deaths in prison**, with the purpose of preventing suicides and avoiding, as far as possible, the effects of drug consumption and achieving the highest possible health levels in prisoners, with a follow-up of actions of the Administration in this area (e.g. routine and specialised consultations, HIV-related illnesses, tuberculosis, STDs, and psychiatric disorders).

Regarding **citizen security**, the Ombudsman's Office has expressed its favourable opinion of the draft version of the 'Law for the Protection of Victims of Terrorism', at the request of the High Commissioner for Support to Victims. It has also opened up an ex-officio investigation of the so-called '**Roquetas Case**', and has studied the problems raised by the proliferation and intensification of the activity of juvenile gangs and the so-called 'Latin gangs'.

Issues involving **automobile traffic** generate complaints regarding the viability and necessary formalities of regulating parking, above all in the big cities, which has originated a recommendation to the Spanish Federation of Municipalities and Provinces in order to promote guarantees in sanctions processes.

The **Military Administration** has been the object of supervision in certain specific cases of complaint (including the legal category of wounds received by a sergeant in Iraq, proceedings regarding firing ranges, and the right to economic aid due to illness contracted during military service).

Justice and Domestic Violence

Once again, complaints were registered regarding **delays in judicial procedures** (in tribunals and courts), in spite of the measures that have been taken to try to avoid these dysfunctions.

Regarding deficiencies of public judicial services, several investigations have looked into certain cases that generated complaints, due to the possible added damages for victims of especially violent crimes in the event of lack of information or inadequate communication, as well as the lack of co-ordination between the police and judicial authorities.

Special cause for concern during 2005 has been the situation in certain **detention centres for juvenile delinquents**, which has generated a number of complaints. Visits have been made to many of them and, consequently, some actions carried out, noteworthy among them the opening of an

ex-officio complaint making it possible to request the means necessary for the judges and district attorneys involved to be informed of the existence of places for therapeutic internees. Regarding **domestic violence**, investigations have been carried out to confirm the establishment and efficiency of protective measures aimed at guaranteeing the security of possible victims.

Another major area of activity was the situation of **Spanish prisoners abroad** (consular actions, managing transfer requests, relations with foreign administrations), especially those involved in certain cases in Venezuela, Morocco, the Philippines, and Bolivia.

Finally, although most importantly and seriously, due to their now 'chronic' situation, there are noteworthy difficulties and adverse consequences stemming from the **overworked General Register Office**, which is an obstacle to providing adequate citizen services. For example, there are cases of delays of seven or eight months for issuing an official copy of a birth certificate, after having achieved Spanish nationality following several years of paperwork, which causes easily imaginable complications for those involved.

Economic Administration

Complaints involving this sector were basically characterised by a common concern regarding appropriate and equal tax treatment, and there have been attempts to reflect this in the analyses and suggestions formulated by the Ombudsman's Office. This has been the case in the **differing tax treatment** regarding inheritances and donations between parents and children or between spouses, in Spain's 'common regime' Self-governing Communities, on the one hand, and those having a 'local regime' (the Basque Country, Navarre) on the other, an issue which has occasioned an ex-officio complaint. Using a rigorous comparison as a starting point, one can see various differences, with the most striking being limitations on deductions or discounts, material tax inequalities due to place of residence, or economic privileges associated with living in a certain place.

The study carried out regarding the Administration's '**Internet in the Classroom**' project and the '**Connected Households**' initiative, which aim to promote family participation in the educational process through new technologies, but which could, however, have a negative impact on companies in the personal computers market sector.

Land Management

Regarding **the environment** itself, such issues as right of access to environmental information, the need for internal costs of productive activity to integrate the management of threatened resources, or caution in declaring a space to be protected, are all elements for reflection which very often must be taken into account. Specifically noteworthy are the investigations carried out regarding **water management** (sanctioning jurisdictions, scope of sanctions), water use (legal status of irrigation collectives), **waste management** and prevention (location of garbage dumps and recycling plants, regulation of livestock waste), and the growing problem of **noise pollution**, upon which a special report has been written, and which has had a large impact on administrations in charge of such infrastructures as airports, highways, and railroads.

As for **city planning and housing**, Spain's self-governing legislatures have adopted measures trying to put into practice the constitutional right to decent housing (e.g., increasing the supply of land for building, promoting rentals, controlling fraud in state housing projects, and rehabilitating old buildings in order to put them on the market), with the same purpose as that established for the Draft Bill on Land and Assessment. Regarding city planning, in general, an increasingly noticeable commitment can be seen regarding administrative protection of both urban and rural environments, and observance of constitutional values (e.g., the right to an adequate environment, cultural heritage protection, and the right to decent housing). During this year, there was a striking number of complaints presented regarding the role in urban planning of 'development agents' (i.e. high development costs), and which have to do with difficulties in access to state housing, whether publicly or privately built.

Health and Social Policy

Complaints regarding health matters reopen, once again, the issue of **universal access to the public health system**, which would involve wide-ranging legal reforms touching upon, for example, the General Laws of Health and Social Security. On another level, there have also been investigations of complaints regarding **assisted reproduction techniques; fibromyalgia and chronic fatigue syndrome**; care for those with **traumatic brain injury** (about which a special report was also written,



Co-ordinating Board of the Ombudsman's Office. Left to right: Second Deputy Manuel Ángel Aguilar Belda; the Ombudsman, Enrique Múgica; First Deputy María Luisa Cava de Llano I Carrió; and Secretary-General María del Mar España Martí, during one of the first meetings in their second term.

examining its epidemiological scope and impact on society and the healthcare system); **waiting lists** (the number of healthcare services with maximum times for access to care has grown, in accordance with the Ombudsman's recommendation); and **thalidomide victims**.

In other areas regarding social policy, there was a noteworthy volume of activity involving **lack of attention paid to certain groups of minors**, most especially those that involve a risk for their family circle, due to the behavioural disorders or because they need specialised treatment; **the situation of the elderly**, especially those who cannot take care of themselves, whose hopes have been raised so high by the so-called Dependency Law, soon to go into effect; the **calculation of retirement pensions**; the **regulatory vacuum regarding domestic partnerships**; the recognition of the **compatibility of widows' pensions with those of Compulsory Old-Age and Disability Insurance** (known by its Spanish initials, SOVI); **modification and expansion of maternity leave** (e.g., extending conditions for multiple-birth leave to cases involving adoptions) to promote **reconciling personal and professional life**; and the **investigation of complaints involving consumer rights**, especially those involving security controls on toys for sale in the variety discount shops known in Spain as *todo a cien*.

Immigration and Foreign Affairs

The importance of ex-officio complaints should be highlighted, due to the nature of the issues being investigated in this area, as well as the preparation of a

special report on 'Legal Assistance to Foreign Nationals in Spain'. During 2005, most noteworthy were those actions stemming from the *in situ* investigation carried out due to the **massive assaults on the security fences along the border between the Spanish city of Melilla and Morocco**, which gave rise to testimony at different Parliamentary sessions, and a number of resolutions. Other problems which generated a variety of actions involved the need, in the case of repatriating unaccompanied minors arriving in the Canary Islands, to analyse in detail the situation of the families, and of the minors themselves, before proceeding to repatriate them; the appropriateness and **functioning of detention centres for aliens**; the investigation regarding possible cases of **abuse of women illegal aliens**; and the recommendation that special assistance be given to those who, having collaborated with Spanish authorities in tracking down human trafficking rings, were then not granted legal residency.

Another notable issue is the **urgent need for substantially modifying Spain's consular system to improve its services** (e.g. telephone lines, direct attention to the public, cutting red tape), as well as to change the **legalisation process, using other criteria and proofs than those mentioned specifically in the current regulations**, and not expelling anyone from the country during said process. This also involves adopting **standard criteria for family reunification** (e.g., economic requirements, adequacy of family housing).

There has been a noticeable **drop in asylum-seeking**, due, it is believed, to the development of false stereotypes on the part of mafias and human traffickers, as

well as the lack of legal orientation upon reaching Spanish territory, or the fact that the different procedure involved in cases of asylum-seeking could actually delay the applicants' access to Spanish territory. Those actions stemming from massive entrances of aliens over the borders at Ceuta and Melilla also represented an opportunity to focus on certain questions affecting the right of asylum.

This area also touched upon the **issuing bar-code passports with digitalised photographs (for those visiting the USA)**; services for **Spanish residents at the consular office in Havana**; the **elimination of delays in the pension payments**, above all in the case of Argentina; or the extension of compensations for the so-called **'Spanish Civil War children'** to other situations not specifically mentioned in the regulations.

Education and Culture

Special attention has been paid to the need to reach a basic agreement on education, above any kind of political or ideological discrepancy, with the aim of consolidating a system which would enable everyone—administrators, teachers, and other educational professionals—to carry out their educational and evaluative work with an eye to the long run, thus promoting a stability that would make it possible to fully develop our educational resources.

Another issue that has aroused particular interest is that of **violence in the schools**. This is a serious problem, and the Ombudsman already issued a special report between 1999 and 2000. The perception of certain symptoms of worsening has determined the decision to update this analysis to confirm to what extent the situation has changed.

Regarding complaints received during 2005, there has been a drop in those regarding school installations. The most frequent complaints have involved **lack of places in preschool education** (mostly in large cities with a high number of new immigrants); for the concentration of immigrant children; for accreditation of family income in the admission process; for recognition of certain diplomas and equivalencies; for the lack of personal and other resources in special education; for delays in processing diploma equivalency recognition requests; for the characteristics of television programming; and, most especially, for the practical problems in implementing **co-official languages**.

Institutional Relations

Following the clear upward trend observed in recent years, in 2005 there has been a large number of meetings and activities involving the Ombudsman's presence. Generically, all of these have been grouped under the title of 'Institutional Relations'.

Besides the usual events included under this heading, in this year's report it was considered opportune to add a selection of meetings and interviews with persons and organisations interested in investigating certain complaints, or involving representatives of the Public Administrations involved in them.

Due to its relevance and future interest, this year the full version of the report has included a number of documents resulting from these institutional meetings. The full report includes the conclusions of the 20th Co-ordination Seminar for Ombudsmen, held in Alicante (Spain), focusing this year on the problems of children and adolescents; the so-called 'Asuncion Declaration' signed by the Ombudsmen who met in that Paraguayan city, to mark the 10th Annual Meeting of the Ibero-American Federation of Ombudsmen (known by its Spanish initials, FIO), and the resolution of the Ibero-American Network of Women's Rights Offices, approved at the corresponding meeting, which was held during the 10th FIO Conference.

All of these documents, and a detailed list of all the institutional activities, parliamentary relations, relations with Spanish autonomous ombudsmen, meetings involving complaint proceedings, international activities and travel, as well as documents resulting from the participation of the Ombudsman, or his Deputies, Secretary General, or other personnel, in symposia, seminars, conferences, workshops, or other kinds of events, may be consulted in full in the complete version of the report, published by the Spanish Parliament and the Ombudsman, and which may be accessed on the website www.defensor-delpueblo.es. These may also be consulted in the monthly magazine *El Defensor al día* (Ombudsman Update), which is posted every month within the website's Press Section.

Parliamentary Activities

During 2005, various special Parliamentary appearances were added to the routine appearances corresponding to the presentation of the 2004 Annual Report to the Presidents of Congress of Deputies and of the

Senate, on 7 April 2005. Shortly thereafter, on 20 April, there was an appearance at the Congress-Senate Joint Committee for the Ombudsman. And on 19 May, the Ombudsman appeared before the plenary session of Congress, followed by an appearance before the Senate on the 24th, on both occasions to elaborate on the content of the Annual Report.

Other institutional parliamentary appearances by the Ombudsman's Office included:

— Appearance of the Second Deputy before the **Non-Permanent Committee for Following Up and Assessing the Toledo Pact Accords**, to inform on dependence regulations, held at Congress of Deputies on 24 February.

— Appearance of the Ombudsman, before the **Joint Committee on Relations with the Ombudsman, to inform on the special study 'Noise Pollution'**, held in the Senate, on 8 March.

— Appearance of the Ombudsman before the **Committee on Justice, Public Security, Outside Relations, and the Governor's Office**, of the Assembly of the Principality of Asturias, within the informative hearings regarding the **Draft Bill for the Public Prosecutor of the Principality of Asturias**, under art. 67.1.f. of the Regulations of the Assembly, held in the Assembly Palace, Oviedo, on 15 September.

— Appearance of the Ombudsman and the First Deputy before the **Joint Committee for Relations with the Ombudsman** regarding the **'Report on Legal Assistance to Foreign Nationals in Spain'** and **'Available Data and Reports on the Situation of Immigrants in Border Areas between Morocco and Spain'**, held in the Congress of Deputies, on 22 November.

— Appearance of the Ombudsman before the **Joint Committee for Relations with the Ombudsman** on **'Traumatic Brain Injury in Spain: An Epidemiological and Social Health Approach'**, held at the Congress of Deputies on 22 December.

Re-election of Enrique Múgica-Herzog and His Deputies for a Second Term

To mark the re-election of Enrique Múgica-Herzog for a second term as Ombudsman, the following events were held in Parliament:

— **Swearing in of Enrique Múgica-Herzog as Ombudsman**, at the Congress of Deputies, on 30 June.



The Ombudsman, Enrique Múgica, presents the 2004 Annual Report to the Speaker of the Congress, Manuel Marín, on 7 April 2005. Photo: Povedano.

— **Swearing in of María Luisa Cava de Llano as First Deputy Ombudsman, and of Manuel Ángel Aguilar Belda as Second Deputy Ombudsman, at the Congress of Deputies, on 7 July 2005.**



The Ombudsman, Enrique Múgica, accompanied by the Co-ordinating Board of the Ombudsman's Office, presents the 2004 Annual Report to the Speaker of the Senate, Javier Rojo. From left to right: Secretary-General of the Ombudsman's Office, María del Mar España Martí; the Ombudsman, Enrique Múgica; the Speaker of the Senate; First Deputy Ombudsman María Luisa Cava de Llano i Carrió; and Second Deputy Manuel Ángel Aguilar Belda. Photo: Povedano.

A Notable Rise in Group Complaints

Throughout 2005, a total of 39,750 complaints was received, including both ex-officio complaints generated by the Ombudsman's Office and those presented from outside—a 37.1% increase over 2004. Group complaints rose notably, 75.1%, compared with a slight drop of 2.1% in individual complaints. Also striking is the rise in ex-officio complaints, to 25% of the total (see Table 1).

The number of complaints received from men rose 56.1%, whereas complaints from women rose only 17.4%. Consequently, there is still a notable difference between genders, with men making nearly 10,000 more complaints (see Table 2).

Distribution of Complaints by Self-governing Communities

Complaints received from Spain (39,256) accounted for 99.11% of the total, with 354 (0.89%) from abroad.

TABLE 1. Number of complaints during 2004 compared with 2003

	Number of complaints registered during 2004	Number of complaints registered during 2003
Ex officio	112	25,648
Individual...	14,264	13,962
Collective....	14,614	140
TOTAL.....	28,990	39,750

TABLE 2. Complaints received, by gender

	1997	1998	1999	2000	2001	2002	2003	2004	2005
Women	6,504	7,176	4,905	11,568	4,164	7,292	6,539	11,932	6,539
Men	10,161	15,337	7,589	14,194	7,873	12,879	9,854	15,355	23,971
Unclassifiable*	1,352	1,451	1,057	1,112	1,149	868	831	1,591	1,625
TOTAL	18,017	23,964	13,551	26,874	13,186	21,039	17,224	28,878	39,610

*Consisting of entities

FIGURE 1. Distribution of complaints by Self-governing Communities, 2005



TABLE 3. Complaints from Spain, by Provinces and Self-governing Communities, 2004 and 2005

Self-governing Community and provinces	Number		% over Community		% over total	
	2005	2004	2005	2004	2005	2004
Basque Region						
Alava	49	104	16.07	17.22	0.12	0.36
Guipuzcoa	84	182	27.54	30.13	0.21	0.64
Vizcaya	172	318	56.39	52.65	0.45	1.12
TOTAL.....	305	604	100.00	100.00	0.78	2.12
Catalonia						
Barcelona	1,328	2,017	78.62	77.87	3.38	7.09
Gerona	131	202	7.76	7.80	0.33	0.70
Lerida	101	133	5.98	5.14	0.26	0.47
Tarragona.....	129	238	7.64	9.19	0.33	0.84
TOTAL.....	1,689	2,590	100.00	100.00	4.30	9.10
Galicia						
Corunna	354	525	49.65	51.17	0.90	1.85
Lugo	81	85	11.36	8.29	0.21	0.30
Orense.....	59	81	8.27	7.89	0.15	0.28
Pontevedra.....	219	335	30.72	32.65	0.56	1.18
TOTAL.....	713	1,026	100.00	100.00	1.82	3.60
Andalusia						
Almeria.....	100	160	5.98	6.53	0.25	0.56
Cadiz	295	370	17.65	15.10	0.75	1.30
Cordoba.....	152	242	9.10	9.88	0.39	0.85
Granada.....	179	224	10.71	9.14	0.46	0.79
Huelva.....	130	160	7.78	6.53	0.33	0.56
Jaen	142	125	8.50	5.10	0.36	0.44
Malaga.....	345	496	20.65	20.24	0.88	1.74
Seville.....	328	673	19.63	27.47	0.84	2.36
TOTAL.....	1,671	2,450	100.00	100.00	4.26	8.60

TABLE 3. Complaints from Spain, by Provinces and Self-governing Communities, 2004 and 2005 (cont.)

Self-governing Community and provinces	Number		% over Community		% over total	
	2005	2004	2005	2004	2005	2004
Asturias						
TOTAL	374	730	100.00	100.00	0.95	2.57
Cantabria						
TOTAL	288	276	100.00	100.00	0.73	0.97
La Rioja						
TOTAL	80	147	100.00	100.00	0.20	0.52
Murcia						
TOTAL	385	608	100.00	100.00	0.98	2.14
Valencia						
Alicante.....	1,339	832	46.88	32.90	3.41	2.92
Castellón.....	1,315	1,467	46.05	58.01	3.35	5.16
Valencia.....	202	230	7.07	9.09	0.52	0.81
TOTAL	2,856	2,529	100.00	100.00	7.28	8.89
Aragon						
Huesca.....	105	167	23.70	22.72	0.27	0.58
Teruel.....	36	40	8.13	5.44	0.09	0.14
Zaragoza.....	302	528	68.17	71.84	0.77	1.86
TOTAL	443	735	100.00	100.00	1.13	2.58
Castilla-La Mancha						
Albacete.....	104	306	18.28	22.27	0.26	1.08
Ciudad Real.....	159	202	27.94	14.70	0.41	0.71
Cuenca.....	44	122	7.73	8.88	0.11	0.43
Guadalajara.....	75	237	13.18	17.25	0.19	0.82
Toledo.....	187	507	32.87	36.90	0.48	1.78
TOTAL	569	1,374	100.00	100.00	1.45	4.82
Canary Islands						
Las Palmas.....	357	324	55.43	49.32	0.91	1.14
Santa Cruz de Tenerife.....	287	333	44.57	50.68	0.73	1.17
TOTAL	644	657	100.00	100.00	1.64	2.31
Navarra						
TOTAL	153	397	100.00	100.00	0.39	1.40
Extremadura						
Badajoz.....	3,330	234	95.77	55.98	8.48	0.82
Caceres.....	147	184	4.23	44.02	0.38	0.65
TOTAL	3,477	418	100.00	100.00	8.86	1.47
Balearic Islands						
TOTAL	313	360	100.00	100.00	0.80	1.27
Community of Madrid						
TOTAL	24,092	11,595	100.00	100.00	61.37	40.75
Castilla y León						
Avila.....	52	100	4.67	5.47	0.13	0.35
Burgos.....	153	181	13.76	9.90	0.39	0.64
León.....	282	395	25.36	21.60	0.72	1.39
Palencia.....	108	309	9.71	16.89	0.28	1.09
Salamanca.....	150	172	13.49	9.40	0.38	0.60
Segovia.....	70	105	6.29	5.74	0.18	0.37
Soria.....	27	56	2.43	3.06	0.07	0.20
Valladolid.....	207	430	18.62	23.51	0.53	1.51
Zamora.....	63	81	5.67	4.43	0.15	0.28
TOTAL	1,112	1,829	100.00	100.00	2.83	6.43
Ceuta						
TOTAL	37	30	100.00	100.00	0.09	0.11
Melilla						
TOTAL	55	99	100.00	100.00	0.14	0.35
GRAND TOTAL	39,256	28,454	—	—	100.00	100.00

TABLE 4. Individual and group complaints, by Self-governing Communities, 2004 and 2005

Self-governing Communities	Individual complaints				Group complaints			
	Number		% of total		Number		% of total	
	2005	2004	2005	2004	2005	2004	2005	2004
Basque Country.....	253	314	1.86	2.26	52	290	0.20	1.99
Catalonia.....	1,598	1,484	11.74	10.70	91	1,106	0.36	7.58
Galicia.....	654	629	4.80	4.54	59	397	0.23	2.72
Andalusia.....	1,394	1,396	10.24	10.07	277	1,054	1.08	7.23
Asturias.....	342	387	2.51	2.79	32	343	0.13	2.35
Cantabria.....	233	196	1.71	1.41	55	80	0.21	0.55
La Rioja.....	75	95	0.55	0.69	5	52	0.02	0.36
Murcia.....	344	371	2.53	2.68	41	237	0.16	1.62
Valencia.....	1,620	1,650	11.90	11.90	1,236	879	4.82	6.02
Aragon.....	337	379	2.48	2.73	106	356	0.41	2.44
Castilla-La Mancha.....	411	497	3.02	3.58	158	877	0.62	6.01
Canary Islands.....	538	528	3.95	3.81	106	129	0.41	0.88
Navarre.....	115	104	0.84	0.7538	293	0.15	2.01	
Extremadura.....	278	319	2.04	2.30	3,199	99	12.47	0.68
Balearic Islands.....	288	267	2.12	1.93	25	93	0.10	0.64
Madrid.....	4,154	4,162	30.52	30.02	19,938	7,433	77.75	50.95
Castilla y Leon.....	891	973	6.55	7.02	221	856	0.86	5.87
Ceuta.....	32	29	0.24	0.21	5	1	0.02	0.01
Melilla.....	55	86	0.40	0.61	—	13	—	0.09
TOTAL.....	13,612	13,866	100.00	100.00	25,644	14,588	100.00	100.00

As in other years, a large proportion of complaints, both individual and group complaints, came from the Madrid, followed by Valencia, Catalonia, and Andalusia.

Complaints from Abroad

The total number of complaints from abroad was 354. This figure is a slight drop from 2004, reversing the rising trend that began in 2002 (see Table 5).

Distribution According to Source of Complaints

Another way to classify complaints is according to how they were channelled, as shown in Tables 6, 7, and 8.

TABLE 4. Complaints coming from abroad distributed by country. Years 2002-2004

Country	2005	2004	2003	2002
Algeria.....	7	5	1	1
Andorra.....	—	3	—	4
Argentina.....	40	62	83	158
Australia.....	3	1	5	4
Austria.....	1	3	—	4
Belgium.....	10	13	17	3
Benin.....	—	—	—	1
Bolivia.....	6	2	3	2
Brazil.....	13	16	9	13
Bulgaria.....	1	2	—	—
Cameroon.....	—	—	1	—
Canada.....	1	4	3	9
Cape Verde.....	—	1	—	—
Chile.....	6	11	5	11
Colombia.....	24	14	8	48
Costa Rica.....	2	3	4	8
Cuba.....	18	14	5	5
Czech Republic.....	—	6	4	—
Denmark.....	1	—	2	—
Dominican Republic.....	3	1	5	4
Ecuador.....	5	11	6	8
Egypt.....	—	1	2	1
El Salvador.....	—	1	—	1
Equatorial Guinea.....	4	—	—	1
Finland.....	1	2	1	1
France.....	38	32	43	30
Germany.....	12	25	26	25
Ghana.....	38	—	1	—
Greece.....	—	—	1	—
Guatemala.....	—	1	—	2

Country	2005	2004	2003	2002
Honduras.....	1	3	8	—
Hungary.....	1	—	—	—
India.....	1	—	—	—
Indonesia.....	—	1	—	—
Ireland.....	4	1	2	2
Israel.....	1	2	1	1
Italy.....	6	9	13	14
Ivory Coast.....	—	—	1	—
Japan.....	—	—	—	1
Lebanon.....	1	—	—	—
Lithuania.....	2	—	—	—
Luxembourg.....	1	—	1	—
Malta.....	—	2	—	—
Mauritania.....	1	—	—	1
Mexico.....	14	12	16	214
Morocco.....	26	27	20	28
Namibia.....	—	1	—	—
Netherlands.....	5	3	8	12
New Zealand.....	1	—	—	—
Nicaragua.....	4	—	3	—
Norway.....	—	1	—	—
Oman.....	—	1	—	—
Pakistan.....	1	—	—	—
Panama.....	—	—	3	1
Paraguay.....	—	—	1	—
Peru.....	11	8	6	28
Philippines.....	—	1	—	—
Poland.....	—	—	2	2
Portugal.....	11	9	4	16
Puerto Rico.....	—	1	1	3

TABLE 4. Complaints coming from abroad distributed by country. Years 2002-2004

Country	2005	2004	2003	2002
Russia.....	1	—	1	—
Sao Tome & Principe	—	1	—	—
Senegal	1	—	—	—
Serbia & Montenegro	—	1	1	1
Slovenia	—	1	—	—
South Africa	—	1	2	—
South Korea.....	—	—	1	—
Sweden.....	6	3	3	2
Switzerland	7	12	4	6

Country	2005	2004	2003	2002
Thailand.....	—	—	1	1
Turkey.....	—	1	—	—
Ukraine.....	1	—	—	—
United Kingdom.....	15	32	24	39
Uruguay.....	7	7	5	38
USA.....	15	26	20	27
Venezuela	13	17	14	104
Zambia.....	—	—	1	1
TOTAL.....	354	424	401	875

TABLE 6. Complaints classed according to how they were channelled, 2005

Channel	Number	% total
Directly (individuals and groups)	37,573	94,85
Via Ombudsmen of Self-governing Communities...	2,011	5,08
Via different entities and organisations of the Administration	26	0,07
TOTAL.....	39,610	100,00

TABLE 7. Complaints received via Ombudsmen of Self-governing Communities, 2004 and 2005

Ombudsmen of Self-governing Community	2005	2004
Arateko. Basque Country	82	84
Sindic de Greuges, Catalonia	277	282
Valedor de Pobo, Galicia	60	40
Defensor del Pueblo, Andalusia	330	295
Sindic de Greuges, Valencia	328	261
Justicia de Aragón	143	112
Defensora del Pueblo, Castilla-La Mancha.....	56	28
Diputado de Común. Canary Islands	263	183
Defensora del Pueblo, Navarre	53	36
Procurador del Común, Castilla y León	419	363
TOTAL.....	2,011	1,684

TABLE 8. Complaints from different entities and organisations, 2004 and 2005

Enties	2005	2004
Bar Association	1	1
Commission for Petitions and Citizens' Defence	—	2
European Ombudsman.....	9	3
Office of the Citizens' Defender	—	2
Municipal Consumer Information Office	—	17
Foreign Ombudsman	—	1
Organisations of the Administration	9	4
Constitutional Tribunal	3	5
Juvenile Defender	2	2
Parliamentary Deputies	1	—
Galician Consumer Institute	1	—
TOTAL.....	26	37

Distribution of complaints by sector

Table 9 provides a detailed breakdown on the complaints registered with the Ombudsman during 2005, divided into the eight management areas into which the office divides its operations; within these, there is a further breakdown by subjects which generated the highest number of complaints. Taking into consideration the number of individual complaints received, for the sake of better representativity, the most significant

TABLE 9. Distribution by sectors of complaints processed in 2005

Sectors	Individual	Group	Ex-officio	Total
Immigration and Foreign Affairs.....	1,297	54	24	1,375
Residency and Immigration	948	—	20	968
Economic Administration.....	2,577	1,109	7	3,693
Taxation issues	515	1	—	516
Information Society.....	78	254	1	333
Justice.....	1,897	133	16	2,046
Justice Administration.....	851	—	—	851
General Register Office.....	422	—	2	424
Defence and Home Affairs.....	1,455	73	25	1,553
Roads security.....	471	72	1	544
Penitentiary Administration.....	322	—	12	334
Citizen security.....	141	—	—	141
Education and Culture.....	1,928	1,336	4	3,268
Co-official languages.....	501	—	—	501
Education	471	—	3	474
Mass media.....	110	—	1	111
Health and Social Affairs.....	2,152	445	39	2,636
Health.....	518	386	35	939
Social Security	574	—	—	574
Consumer Affairs	162	59	1	222
Land Management	1,490	22,007	15	23,512
Environmental issues.....	406	21,206	8	21,620
Zoning	369	53	6	428
Housing.....	316	67	1	384
Civil Servants and Employment	1,160	491	10	1,661
Personnel issues	121	352	2	475
Civil servants from the Central Administration, Social Security, and Autonomous and Local Administrations	289	75	1	365
Other.....	6	—	—	6
TOTAL.....	13,962	25,648	140	39,750

number involved Economic Administration, followed by those concerning Health and Social Affairs.

Regarding group complaints, the highest number, by far, were in the realm of environmental

affairs, motivated by the cutting down of trees in the city of Madrid, certain electrical installations in the city of Arroyomolinos (Community of Madrid), and the installation of a refinery in Tierra de Barros (Extremadura).

The most numerous ex-officio complaints were regarding such issues as health, residency and immigration, and the rights of prisoners and their treatment by the Penitentiary Administration.

State of Complaints Processing at the End of 2005

The data in Table 10 reflect the situation of complaints being processed on 31 December 2005.

Complaints that were not investigated because they failed to meet the admission criteria established in General Act of Parliament 3/1981 which regulates the Ombudsman's Office, were classified as **not admitted**, although citizens were duly informed about them, in keeping with the provisions of art. 17 in the aforesaid General Act of Parliament.

Although the number of complaints not admitted in 2005 was lower compared with previous years, it remains quite high. This could be due both to a certain lack of information provided to citizens regarding the Ombudsman's mandate, as well as the confidence that this institution inspires, which leads citizens to present complaints beyond its scope of action, especially when they request assistance regarding how to better resolve their problems.

On the other hand, it should be noted that there has been a remarkable rise in group complaints in recent years. Given their very nature, such collective ventures make a large number of people depend on the resolution of the same proceedings.

This circumstance would explain, in part, the drop in the total number of complaints concluded in 2005, compared with other years.

It seems that the number of complaints not admitted for processing continues to be quite high year after year, and this could be due as much to a certain erroneous perception on the part of the citizens regarding the Ombudsman's jurisdiction, as to the high level of trust that this institution inspires, which means that they trust it with their problems, or ask for assistance in order to focus on the best way to resolve them. The motives for **non-admission** of individual complaints in 2005 are reflected in Table 11.

Complaints Presented to Public Administrations

Regarding individual and ex-officio complaints presented to public administrations,

TABLE 10. Situation of complaints registered in 2005, as of 31 December

Situation	Ex-officio		Individual		Group		Total	
	Number	%	Number	%	Number	%	Number	%
Admitted for processing	140	100.00	4,895	41.14	21,658	85.48	26,693	71.42
Suspended	—	—	9	0.08	—	—	9	0.02
Being processed.....	134	95.71	3,462	29.10	21,637	85.40	25,233	67.51
Concluded.....	6	4.29	1,424	11.97	21	0.08	1,451	3.88
Not admitted for processing.....	—	—	7,003	58.86	3,679	14.52	10,682	28.58
TOTAL.....	140	100.00	11,898	100.00	25,337	100.00	37,375	100.00

TABLE 11. Motives for non-admission of individual complaints, 2005

Motive for non-admission	Number
Administrative authority regarding issues within its own jurisdiction.....	68
Lack of basis	91
Inexistence of claim.....	43
Judicial intervention.....	487
Bad faith.....	3
No previous administrative action	925
No action involving public authorities.....	667
No answer to resolvable defects	15
No answer to requests for information	143
No formal complaint, information sent	193
No formal complaint, information requested.....	277
No evidence of administrative irregularity	2,527
No legitimate interest.....	28
Other motives for non-admission	1,053
Period over a year	16
Anonymous complaint.....	3
Resolved without Ombudsman's intervention.....	133
Irreversible sentence	323
Damage to third parties.....	8
TOTAL.....	7,003

the most numerous have been those aimed at the General State Administration (Table 12).

Tables 13 and 14 break down complaints in 2005 presented to the General State Administration and bodies dependent on Self-governing Communities. Regarding Table 13, it can be seen that once again, the highest number of complaints processed corresponds to the Ministry of the Interior, whose mandate includes the penitentiary system, as well as the lower number of complaints presented to the Prime Minister's Office and the Ministries of Housing and of Culture.

'Correct action' means that, after the investigation carried out by the Ombudsman, it is shown that the Administration acted in accordance with the regulations in force. The expression 'solution provided' indicates that the Administration modified an incorrect action after the Ombudsman intervened. When the Administration maintains an incorrect action, or one not in keeping with the regulation that has been pointed out by the Ombudsman, then it is considered a situation of 'no solution provided' (see Tables 15, 16, and 17).

TABLE 12. Individual and ex-officio complaints presented to the Administration, 2005

	Being processed	Concluded	Suspended	Total
General State Administration	1.342	406	3	1.751
Self-governing Community Administration	418	200	—	618
Local Administration.....	569	139	3	711
Attorney General's Office.....	161	31	—	192
Other public entities	122	49	—	171
Miscellaneous administrations	121	22	—	143
Investigation unnecessary	863	583	3	1.449
TOTAL	3,596	1,430	9	5,035

TABLE 13. Breakdown of complaints presented to the General State Administration, 2005
Individual and ex-officio complaints

Ministry	Being processed	Concluded	Suspended	Total
Prime Minister	—	1	—	1
Prime Minister's Office	2	1	—	3
Ministry of Public Administrations.....	14	10	—	24
Ministry of Agriculture, Fishing, and Food.....	5	—	—	5
Ministry of Foreign Affairs and Co-operation.....	112	26	—	138
Ministry of Culture	3	2	—	5
Ministry of Defence	34	4	—	38
Ministry of Finance	105	27	—	132
Ministry of Education and Science.....	49	43	—	92
Ministry of Public Works.....	136	26	1	163
Ministry of Industry, Tourism, and Trade.....	44	6	—	50
Ministry of the Interior	245	91	1	337
Ministry of Justice	221	48	—	269
Ministry of the Environment.....	32	1	—	33
Ministry of Health and Consumer Affairs.....	16	7	—	23
Ministry of Labour and Social Affairs.....	84	51	—	135
Ministry of Housing.....	1	1	—	2
Peripheral administrations.....	209	50	1	260
Miscellaneous administrations	30	11	—	41
TOTAL	1,342	406	3	1,751

TABLE 14. Breakdown of complaints presented to Self-governing Community Administrations, 2005
Individual and ex-officio complaints

Self-governing Community	Being processed	Concluded	Suspended	Total
Catalonia.....	55	8	—	63
Basque Country.....	3	—	—	3
Galicia	15	11	—	26
Cantabria.....	11	4	—	15
Asturias.....	18	16	—	34
Andalusia.....	24	7	—	31
Murcia	17	5	—	22
Aragon	9	4	—	13
Castilla-La Mancha.....	11	5	—	16
Valencia	26	17	—	43
La Rioja.....	6	2	—	8
Extremadura	17	49	—	66
Canary Islands.....	12	3	—	15
Castilla y Leon.....	20	9	—	29
Balearic Islands	15	2	—	17
Madrid.....	148	54	—	202
Navarre	4	—	—	4
Ceuta.....	3	1	—	4
Melilla	3	2	—	5
Miscellaneous Administrations.....	1	1	—	2
TOTAL	418	200	—	618

TABLE 15. Conclusion of individual and ex-officio complaints, by administration, 2005

Administration	Correct action	Solution provided	Solution not provided	Other	Total
General State Administration.....	261	128	5	12	406
Self-governing Community Administrations.....	131	49	3	17	200
Local Administrations.....	89	45	—	5	139
Attorney General's Office.....	28	1	—	2	31
Investigation unnecessary.....	91	58	26	408	583
Other public entities.....	43	2	—	4	49
Miscellaneous administrations.....	16	4	1	1	22
TOTAL.....	659	287	35	449	1,430

TABLE 16. Breakdown of conclusions for individual and ex-officio complaints presented to the General State Administration, 2005

General State Administration	Correct action	Solution provided	Solution not provided	Other	Total
Prime Minister.....	1	—	—	—	1
Prime Minister's Office.....	1	—	—	—	1
Ministry of Public Administrations.....	6	4	—	—	10
Ministry of Foreign Affairs and Co-operation.....	16	10	—	—	26
Ministry of Culture.....	—	2	—	—	2
Ministry of Defence.....	3	1	—	—	4
Ministry of Finance.....	20	7	—	—	27
Ministry of Education and Science.....	13	29	—	1	43
Ministry of Public Works.....	14	10	2	—	26
Ministry of Industry, Tourism, and Trade.....	5	1	—	—	6
Ministry of the Interior.....	80	10	1	—	91
Ministry of Justice.....	29	14	—	5	48
Ministry of the Environment.....	1	—	—	—	1
Ministry of Health and Consumer Affairs.....	4	3	—	—	7
Ministry of Labour and Social Affairs.....	29	19	2	1	51
Ministry of Housing.....	—	1	—	—	1
Peripheral administrations.....	36	12	—	2	50
Miscellaneous administrations.....	3	5	—	3	11
TOTAL.....	261	128	5	12	406

TABLE 17. Breakdown of conclusions for individual and ex-officio complaints presented to Self-governing Community Administrations, 2005

Self-governing Community	Correct action	Solution provided	Solution not provided	Other	Total
Catalonia.....	5	2	—	1	8
Galicia.....	8	2	—	1	11
Cantabria.....	2	2	—	—	4
Asturias.....	8	4	—	4	16
Andalusia.....	4	2	—	1	7
Murcia.....	3	1	1	—	5
Aragon.....	1	2	—	1	4
Castilla-La Mancha.....	2	1	1	1	5
Valencia.....	9	8	—	—	17
La Rioja.....	2	—	—	—	2
Extremadura.....	46	3	—	—	49
Canary Islands.....	2	1	—	—	3
Castilla y Leon.....	6	3	—	—	9
Balearic Islands.....	1	1	—	—	2
Madrid.....	31	15	1	7	54
Ceuta.....	—	1	—	—	1
Melilla.....	1	1	—	—	2
Miscellaneous administrations.....	—	—	—	1	1
TOTAL.....	131	48	3	12	406

25,648 Group Complaints

The total of group complaints processed in 2005 was 25,648, which can be divided into two categories, featuring a total of 40 groups, which are summarised below.

Complaints Registered and Opened in 2005

- 386 people requested public use for the specialities centre of the former Air Force Hospital in Madrid.
- 3931 residents of Arroyomolinos (Madrid) registered their concern for the high-tension electrical towers in the town.
- 59 citizens denounced the situation in which a member of the Consumer Council continues to hold his post although his term ended five years ago.
- 44 of those affected complained about the future problems for their homes due to the public works to put part of Madrid's M-30 ring-round underground, as well as the construction of its southern expansion.
- 72 persons demanded that their driving licenses from the Bolivarian Republic of Venezuela be recognised in Spain, which was agreed by the governments of both countries in September 2005.
- 899 citizens requested that the Ombudsman present an appeal of unconstitutionality against Law 13/2004, of 27 December, on Hunting in the Valencia Region.
- 60 residents of Congosto (Leon) expressed their disagreement with the construction in their town of a combined-cycle electrical power station.
- 38 members of a housing co-operative in Fuensaldaña (Valladolid) presented a complaint against the Municipal Administration for refusing to give initial approval to the Partial Plan affecting them.
- 54 complaints against the Kingdom of Morocco were sent by e-mail for transferring illegal aliens from Sub-Saharan Africa to desert regions.
- 28 residents of the Carabanchel and Usera districts of Madrid, and an ecological association, presented complaints for the elimination of a green area within the Emperatriz María de Austria Park, and the cutting down of trees.
- 296 administrative officials from the Ministry of Defence rejected the job categories assigned to them.
- 41 citizens expressed their concern regarding a statement by Pope John Paul II regarding freedom of religion in Spain.

- 51 of those affected by an expropriation complained that they were not relocated.

- 56 workers from the Ebro Waterworks Confederation registered a complaint for being classified as water technicians for general services.

- 16 applicants for state housing in Parla (Madrid) expressed their disagreement with the maximum sales price for a square metre of living space.

- 29 civil servants from the State Peripheral Administration complained at not being allowed to access to vacant posts in the Central Administration.

- 70 owners of homes in a development in Puig (Valencia Region) reported the deficiencies in public services provided by the City Council.

- 28 civil servants registered a complaint for delays in assuming their posts as administrators within the General State Administration.

- 16 citizens manifested their disagreement with the supposed radicalism of a political party towards the Roman Catholic Church.

- 23 persons considered that a certain political party was attacking the freedom of worship and religious freedom recognised by the Spanish Constitution.

- 254 persons manifested their concern for the traces that could be left by personal communications related to controls of a judicial nature, which could become known by third parties.

- 3,188 residents of Tierra de Barros (Extremadura) expressed their disagreement with the installation of an oil refinery in the area.

- 15 residents of San Glorio (Leon) expressed their concern regarding the environmental impact of building ski slope installations.

- 853 workers from financial companies registered a complaint for the outsourcing of pension commitments assumed by their companies.

- 18 civil servants working at the Social Security Financial Office in Tudela (Navarre) registered a complaint regarding lack of job mobility.

- 1,265 citizens registered a complaint regarding the increase in advertising for phone-sex hotlines.

- 13,660 residents of Madrid complained about trees being cut down due to different public works carried out by the City of Madrid.

- 20 workers with jobs as auxiliary nurse-midwives expressed their disagreement with the application of an improvement in their retirement conditions established in the

Statute of Non-Physician Healthcare Personnel.

Group Complaints Registered in 2004 which Determined the Opening of Dossiers in 2005

- 47 persons expressed their disagreement with the judicial authorisation to have an abortion granted to a pregnant medically handicapped woman.

- 15 residents of Benicassim (Castellon) joined their complaint to another regarding a development to be built around a golf course, which they did not consider to be in the general interest.

- 1 group complaint against the possible application of a canon or some other kind of fee for library loans, in application of Directive 92/100/EEC.

- 1 person seconded previously received complaints regarding the declarations of a political leader criticising the Roman Catholic Church.

- 5 citizens added their complaints to others previously received opposing reforms in the Civil Code introducing same-sex marriage.

- 31 persons joined their complaints to others previously received, considering illegal the maximum price for state housing fixed by the Madrid Self-governing Administration.

- 39 motorcyclists added their complaints to other previous ones, regarding national and legislation involved limitations on the access of such vehicles to natural parks.

- 1 citizen seconded a previously registered complaint requesting the Ombudsman's intervention regarding street signage, especially the delimitations of pedestrian crossings due to the dangers they pose to motorcyclists, bicyclists, and even pedestrians, because they are so slippery.

- 1 person joined others who had previously requested that the Ombudsman register an appeal of unconstitutionality against the Law of the General Budget for 2004.

- 4 civil servants added their complaint to a previous one, for the non-approval of a list of jobs at the Ministry of Defence.

- 1 worker from an insurance agency joined others who had previously expressed their disagreement with the outsourcing of pension commitments assumed by their company.

• 40 persons joined others who had previously asked the Ombudsman to present a recourse against the Resolution of the Secretary of State for Universities and Research, which established the procedures and deadlines for presenting applications for the assessment of research activities to the National Assessment Committee.

As expressed in the section pertaining to individual complaints, Tables 19, 20, and 21 present a breakdown of group complaints registered in 2005 and presented to the different public administrations, specifying the different public entities and bodies to which they were presented. Here, the majority of the cases has been presented to Autonomous and Local Administrations.

TABLE 18. Breakdown of group complaints processing, 31 December 2005

Situation	Number	%
Non-admitted complaints..	3,679	14.34
Complaints being processed	21,637	84.36
Complaints pending processing	311	1.21
Closed complaints.....	21	0.09
TOTAL	25,648	100.00

TABLE 19. Group complaints received in 2005 and presented to the Administrations

Administrations	In process	Concluded	Total
General State Administration	481	19	500
Autonomous Administration.....	3,233	—	3,233
Local Administration.....	13,874	—	13,874
Investigation Unnecessary	59	2	61
Miscellaneous administrations	3,990	—	3,990
TOTAL	21,637	21	21,658

TABLE 20. Breakdown of processing of group complaints presented to the General State Administration in 2005

Administrations	In process	Concluded	Total
Defence	300	—	300
Public Administrations	113	—	113
Interior.....	68	—	68
Labour and Social Affairs	—	18	18
Finance	—	1	1
TOTAL	481	19	500

TABLE 21. Breakdown in processing of group complaints presented to Self-governing Community Administrations in 2005

Autonomous Administration	In Process	Concluded	Total
Murcia	20	—	20
Extremadura.....	3,189	—	3,189
Castilla y Leon.....	15	—	15
Madrid	9	—	9
TOTAL	3,233	—	3,233

140 Ex-Officio Complaints

During 2005, the Ombudsman's Office has acted ex officio on 140 occasions. As their name indicates, these are actions carried out by the Ombudsman's Office on its own initiative, after receiving information regarding an event which should be investigated. A good source of information are the mass media. These actions, which occur under the aegis of art. 12.1 of General Act of Parliament 3/1981, of 6 April, are broken down in Table 22, showing the situation of these investigations on 31 December 2004, and the Administration before which they had been presented.

These ex-officio complaints cover a wide variety of current events, events which have created some kind of public concern, or when it is considered that fundamental rights could presumably be breached or misapplied.

Deaths of Prisoners in Jail

For example, when, at dawn on Friday, 14 January 2005, members of the National Police's Special Forces repeatedly struck a

TABLE 22. Ex-officio complaints presented to different Administrations in 2005

Administrations	In process	Concluded	Suspended	Total
General State Administration	41	3	—	44
Autonomous Administration	48	1	—	49
Local Administration	8	1	—	9
Public Prosecutor	2	—	—	2
Investigation Unnecessary	18	—	—	18
Other public entities.....	2	—	—	2
Miscellaneous administrations	15	1	—	16
TOTAL	134	6	—	140

citizen whom they had confused with a Colombian criminal; in the series of transfers of illegal aliens from the Canary Islands to the Spanish mainland, and in the assistance they received after arriving; and whenever there is a death in prison, as occurred on 5 January 2005 at a penitentiary for the criminally insane in Fontcalent (Alicante), resulting from smoke inhalation after a mattress caught on fire; in the case of a prisoner at the Zuera (Zaragoza) penitentiary who appeared hung in his cell on 26 Novem-

ber 2004; another prisoner from the same centre who died on 24 February 2005; another also died after having been transferred from the Zuera centre to Miguel Servet Hospital in Zaragoza; and two other prisoners from the same centre died on 5 April and 14 October of 2004; as well as the incident of another prisoner found hung at the San Sebastian Penitentiary Centre on 10 November, 2005.

After each of these deaths, ex-officio complaints were put into effect, as well as for another incident also occurring at the

Zuera Penitentiary Centre, resulting in the injury of various prisoners and civil servants.

A dossier for an ex-officio complaint was also opened when a group of prisoners from the **Nanclares de la Oca (Alava) Penitentiary Centre** presented an oral complaint regarding sexual harassment on the part of a civil servant, or when at the same penitentiary centre two prisoners appeared dead in their cells, one from hanging; and after the death by suicide of two prisoners at the **Soria Penitentiary Centre**.

Moreover, an investigation was launched regarding the death of another prisoner, on 18 January 2005, at the **Huelva Penitentiary Centre**, and when women prisoners from the **Tenerife II Penitentiary Centre** complained of discrimination compared with male prisoners; and in the cases in which the media denounced that, between 2001 and 2004, at least 239 persons died in custody in Spain; or when news reports appeared according to which abuses may have occurred at the penitentiary for the criminally insane in **Fontcalet (Alicante)**; after the aggression suffered by a prisoner at the **Castellon Penitentiary Centre**; and subsequent to the death of a citizen at the **Civil Guard post in Roquetas del Mar** (Almeria), after being taken into custody.

Other dossiers for ex-officio complaints regarding the situation in prisons were opened after the visit of civil servants from the Ombudsman's Office to the **penitentiary centres in San Sebastian, Bilbao, Nanclares de la Oca (Alava) and Gerona**.

The Functioning of Public Services

Ex-officio complaints were also registered regarding the functioning of certain public services: to investigate the **situation of the Murcia Juvenile Court**, or the **Register Office of Fuengirola** (Malaga), closed for 12 days due to lack of personnel; or inquiring after why **surgery was suspended at the Paediatric Intensive Care Unit of Doce de Octubre Hospital**, Madrid; to confirm that **Madrid's commuter trains lack reserved seats for the elderly, pregnant women, and the physically handicapped**, whilst other public transport, and trains in other cities, do have these kinds of reserved seats, which are duly marked.

Another such complaint involved the **actions of those in charge of Barajas Airport**, when a handicapped woman flew on 20 February 2005 from New York to Madrid, where she had to change planes to reach her destination in Valencia, and found that the wheelchair she needed to move about had been completely destroyed during her

transatlantic flight. The airport failed to attend to her protest, informing her that she had to present her complaint upon arrival in Valencia, where she was given a provisional wheelchair that did not meet her needs, to use whilst her own was being repaired. Moreover, she had to deal with rude treatment from an airport employee.

Another action **in defence of the rights of with limited mobility** was in reaction to the news that the Mayor of Las Palmas de Grand Canary had ordered the eviction of a family comprising six members, three of them children, and one of the adults a paraplegic forced to remain permanently in a wheelchair. Likewise, the Ombudsman acted ex-officio in the case of a **handicapped person** who needed a wheelchair to move about, but **could not use the daily train between Orihuela and Elche**, since those train stations lacked the elevating platforms enabling wheelchairs to enter trains.

Yet another ex-officio complaint was filed against **Ibiza's airport**, due to an electrical malfunctioning that caused discomfort and delays to the passengers.

Other ex-officio complaints have been brought against public services, involving such events as the **chaotic traffic in Madrid's Chamberí district, after the Windsor Building fire; or the forest fire within the municipalities of Riba de Saelices, Santa María del Espino, Luzón, Luzaga, and Molina de Aragón (all in Guadalajara province), in which eleven forest rangers lost their lives**.

Cell Phone Services

Actions of the Secretary of State for Telecommunications and the Information Society, under the Ministry of Industry, Tourism, and Trade, have also sparked ex-officio complaints, regarding **control of cell phone service**, as well as the existence, in Las Palmas de Gran Canaria (Canary Islands), of various **cell phone installations** (antennas and power stations) which apparently, in spite of lacking municipal licenses and that City Hall had confirmed this three years before, continued to operate **on the rooftops of various buildings**.

Repeated complaints were presented before the Secretary of State for Telecommunications and the Information Society regarding **services provided by different operators within the telecommunications market**, and the precarious protection of users' consumer rights, as well as for the lack of awareness of the specific rights that should be brought to bear in this area.

Occasional ex-officio complaints have been registered over such events as the **escape of a stowaway** found in a ship in the port of



Many complaints are received regarding services provided by operators in the telecommunications market, whether involving cell phones, video, or television.

Sagunto (Valencia), who then entered Spanish territory and was detained by the police and brought back to the ship, without the guarantees required by such expulsion procedures.

Civil Servants

Regarding civil servants, ex-officio complaints were filed, amongst others, regarding the **extension of the 5-day deadline for presenting appeals in selection processes involving temporary personnel**; the situation of a **selection process in the City of Cambados (Pontevedra)** to cover certain firefighting jobs in which, according to one of the participants, the previously approved selection criteria were not respected; regarding the **suicide of a Civil Guard at the Fuencaliente (Ciudad Real) barracks**, who was alleged to have suffered workplace harassment; as well as the **number of those on sick leave due to psychological ailments, and the number of suicides, amongst members of the Civil Guard**.

Other such complaints were registered against the **City of Humanes (Madrid)** for it to **adjust its personnel selection processes to fulfil the constitutional principles of equality, merit, capacity, and publicity**; and due to the problem of lack of job security and the use of subcontracted services in the Community of Madrid. Other involved the **lack of locales for dressing rooms and bathrooms, especially for female personnel, of the Oviedo local police**.

Moreover, ex-officio complaints were filed due to the existence of well-grounded suspicions that many **applicants** taking part in the competitive exam for the **Penitentiary Institution's Assistants Corps**



Sick leave for psychological motives is on the rise in the Civil Guard.

had been previously informed of the questions on the test, and that the results were leaked out several days before the competent tribunal made them public; regarding the **standardised recognition of titles for certain health services professionals**; and the **mobility of these professionals within the National Health System**.

Situation in Juvenile Detention Centres

Over the course of the year, investigations were conducted regarding the situation in **juvenile detention centres in Gáldar and La Montañeta**, both in Las Palmas de Grand Canary (Canary Islands), as well as that of **Valle de Tabares**, in Tenerife; the **Cantalgallo** therapeutic juvenile detention centre for drug addicts, in Dos Hermanas (Seville); and the



Valle de Tabarés juvenile detention centre, in Tenerife, where the Ombudsman has lodged an ex-officio complaint regarding its functioning and housing conditions.

situation of the **San Jorge** juvenile detention centre in Zaragoza. The Ombudsman's Office visited the **Fuerteventura** detention centre for unaccompanied underage illegal aliens, and that of **La Isleta** in Las Palmas de Grand Canary.

Immigration

The major events related with immigration in Spain over the course of 2005 accounted for a large proportion of the ex-officio complaints that year, both regarding the legalisation process generally and specific events, including the **death of two Cameroonians**, one of them possibly a minor, along the border between Morocco and Melilla; and regarding the **events on the Melilla border on 15 September 2005**.

Another ex-officio complaint was lodged regarding the **situation of a family** including a **Pakistani, an Indonesian, and their two minor children**, who were living illegally in Spain, after Germany decided not to concede the asylum status they sought, after trying to deport them to one of their respective countries, neither of which would accept the entire family.

Health

Regarding events related to public health services, the following ex-officio complaints, amongst others, were presented: after the **heart attack suffered by a patient during a cardiological exam** at the Doce de Octubre Hospital in Madrid, when he had been waiting 19 months for this exam; due to the **waiting lists** for mammograms at different hospitals in Madrid; due to the finding of **clinical histories** and medical reports from Madrid's Gregorio Marañón Hospital in a dumpster; regarding the prerequisites and procedures making possible joint treatment and reciprocal processing of information contained in the **personnel lists of different health services**; and regarding the resources available in the health services of the Andalusia for the treatment of persons with **eating disorders**.

Moreover, dossiers for ex-officio complaints were opened to investigate the **resources for the treatment of persons with eating disorders** in Aragon, Asturias, the Balearic Islands, the Canary Islands, Cantabria, Castilla-La Mancha, Castilla y Leon, Catalonia, Valencia, Extremadura, Galicia, Murcia, Navarre, La Rioja, and the Basque Country.

The Ombudsman's Office also investigated the resources of the public health system for **persons with borderline personality disorder** in Aragon, Asturias, the Balearic Islands, the Canary Islands, Cantabria,

Castilla-La Mancha, Catalonia, Valencia, Extremadura, Galicia, Murcia, Navarre, La Rioja, Madrid, Andalusia, and the Basque Country.

Public Education

Regarding education, an ex-officio complaint was opened regarding the **lack of places for children between 0 and 3 years of age in the City of Madrid** in public preschool centres, which have places for barely 7% of those under three years old in Madrid.

The Ombudsman's Office was also following the apparent cases of **school bullying** suffered by two children, 6 and 7 years old, at public schools in Estepona and San Pedro de Alcántara (Malaga), whose parents had opted for taking them out of school due to the competent educational administration's failure to adopt measures able to guarantee immediately the psychological security of these children, after their situation had been reported.

Another ex-officio complaint was lodged regarding the low level of funding available to Spanish students studying abroad with an **Erasmus Programme grant**, which barely reached 150 euros a month, an amount covering only 8-12% of their total expenses. The Ombudsman's Office also found that this grant money was made available to the students with considerable delay after they had begun their stay abroad, so that the entirety of their early expenses had to be borne by the students.

Land Management

Amongst the ex-officio complaints lodged within the realm of Land Management and the Environment, a noteworthy case is that of the **construction of a hotel on El Algarrobo beach within the Cabo de Gata Nature Park (Almeria)**; the **cutting down of approximately 100 trees, many of them more than a century old, in the town of Pelayos de la Presa (Madrid)**; for the **construction by Paradores de Turismo de España, S.A. of a hotel, on the grounds of Lorca Castle**, which in 1985 was declared a cultural monument. Those apposed to the construction allege that its impact on the landscape would alter the physiognomy of the city, as well as its impact on 11th-century archaeological findings. The hotel takes up 18,500 m² of land.

Another ex-officio complaint was registered regarding the **a 600-ton spill of crude oil on Nueva Umbria beach (Huelva)**, near El Rompido; the repeated requests presented to the City of Ronda, over the course of more than a year, by a resident of the area affected

Special Reports

One of the activities taking up a great deal of the Ombudsman's Office efforts are its special reports, some prepared at the Ombudsman's own initiative, others commissioned by Parliament's Joint Committee for Relations with the Ombudsman. One of the special reports written during 2005 was **'Legal Assistance to Foreign Nationals in Spain'**.

This report includes various recommendations for the Ministry of the Interior regarding **legal guarantees in the detention of immigrants**, regulations regarding **appeals to denial of entrance**, and **making public inter-administrative instructions**.

Recommendations regarding the **organisation and supervision of free legal assistance services** were also made to the Department of the Governor's Office, Public Administration and Justice of Galicia; the Department of Justice and the Interior of Madrid; the Department of the Governor's Office, Justice, and the Interior of Navarre; and the Department of Justice, Employment, and Social Security of the Basque Country.

In this same special report on legal assistance to foreign nationals, recommendations were also made to the Secretary of State for Immigration and Emigration,

regarding **guaranteed access to records**, **making public inter-administrative instructions and regulations regarding stowaways**; to the Director-General of the Police, regarding different aspects of the **asylum-seeking and legalisation processes**; to the Directorate General for Interior Policy, regarding the **material conditions of detention and detention centres where legal assistance work is carried out**; to the Ministry of Justice; the General Council of the Judiciary; Spain's Attorney General; the Departments of Justice and of Public Administration of Andalusia; the Department of the Governor's Office and Justice of the Canary Islands; the Department of Justice of Catalonia; the Department of Justice and Public Administrations of the Valencia Region; and the Spanish Lawyers Council.

Another ex-officio investigation referred to the processing of a complaint to the Register Office of Santander about the **declaration, on the basis of a simple assumption, regarding the Spanish nationality of a minor**.

A report was also written regarding the **visit to the Autonomous City of Melilla**, in order to supervise the administrative actions being carried out regarding the Sub-Saharan Africans who entered Spanish



Rescuing immigrants arriving to the Canary islands in a makeshift boat. Photo: A-3

soil by climbing over the fence along the Moroccan border.

Other reports were drawn up on the **visits made to the Geneto and El Portezuelo centres for unaccompanied underage aliens** in San Cristóbal de la Laguna (Tenerife), and the centres for the detention and internment of aliens in **Fuerteventura, Las Palmas de Grand Canary, Santa Cruz de Tenerife, Madrid, and Barcelona**.

by a handicap that kept her from moving about autonomously, to the city's Padre Jesús District Council, whose head is also responsible for the municipal Social Affairs Department.

Ex-officio complaints were lodged with the Under Secretary of Health and Consumer Affairs of the Ministry of Health and Consumer Affairs, and the Secretary of State for Telecommunications and the Information Society of the Ministry of Industry, Tourism and Trade, regarding the studies and work carried out by different groups regarding the **impact of electromagnetic fields on health**, fields created by the broadcasts of telephone stations and other telecommunications and energy networks.

An ex-officio complaint was lodged with the Department of the Environment and Land Management of the Community of Madrid, and the Department of the Environment of Castilla y Leon for **delays in approving their Natural Resource Management Plans for the Sierra de Guadarrama** on both the Madrid and the Segovian sides of the mountain range.

Another ex-officio complaint was registered regarding the functioning of a **temporary shelter for the homeless run by the City of Madrid** during the winter 2005/06 campaign.

An ex-officio complaint regarding **problems in mail delivery** was lodged in the Sistollo and Ríoaveso parishes of Cospeito (Lugo), as a consequence of the changes of the names of streets by the Town Council and the lack of flexibility on the part of mail carriers who apparently returned to their senders all correspondence bearing the old addresses, making no effort to deliver them.

Other ex-officio complaints in this area involved **trafficking in centuries-old Spanish olive trees in the Valencia Region**; possible **changes in the use and demolition of the Beti Jai jai-alai installations**, which had been declared a protected cultural monument; and the serious problems faced by some thirty families in El Rompido, Cartaya (Huelva) after they were given the keys to their **state-subsidised flats, which had no water or electricity services**.

Driving Licenses

Within the scope of the Department of the Interior, ex-officio complaints were lodged to deal with the generalised problem of the **expiration of driver's licenses** four years after the



The Ombudsman's Office opened an investigation regarding the construction of a hotel on El Algarrobico beach, in Cabo de Gata Nature Park, on a public coastal area. The Andalusian Administration decided to order that it be torn down. Photo: Los Verdes Indymedia.

finalisation of the period for which they had been issued, given that there could be humanitarian reasons for which, exceptionally, it could be possible to **renew the driver's licence more than four years** after the finalisation of said period of duration.

Another ex-officio complaint in this area was regarding **the marketing of a video game which could induce players to commit crimes.**

The **Mayor of San Cugat del Vallés (Barcelona)** was presented with an ex-officio complaint for **his opposition to the creation of a residence for the handicapped.**

The **lack of security controls in toys sold in the variety discount shops known as *todo a cien*** originated an ex-officio complaint.

Regarding the Barcelona Metro, an ex-officio complaint was presented to the City of

Barcelona because the underground was apparently not properly adapted to meet the criteria in Decree 135/1995 of 24 March.

Finally, an ex-officio complaint was lodged against the Department of Labour and Industry of Catalonia due to **citizens' opposition to the installation of very high tension electrical towers and lines (400 kV) between France and Spain.**

42 Recommendations and 56 Suggestions Admitted

As part of the processing of the complaints investigated throughout 2005, the resolutions detailed in Table 23 were presented to different public administrations.

Reminders regarding legal duties are not listed as accepted, rejected, or pending, due to their very nature.

In Tables 24, 25, and 26, there are breakdowns of the results of recommendations and suggestions sent by the Ombudsman, according to type of resolution and the Public Administration involved.

TABLE 23. Resolutions presented to Public Administrations, by type and situation on 31 December 2005

Resolutions	Accepted	Rejected	Pending	Total
Recommendations.....	42	35	62	139
Suggestions.....	56	39	61	156
Reminders of legal duties.....	—	—	—	96
Warnings.....	—	—	—	5

TABLE 24. Recommendations, by Public Administration to which they were presented, situation on 31 December 2005

Administrations	Presented	Accepted	Rejected	Pending
General State Administration.....	80	26	21	33
Autonomous Administration.....	34	6	8	20
Local Administration.....	19	6	5	8
Other organisations.....	6	4	1	1
TOTAL.....	139	42	35	62

TABLE 26. Reminders of legal duties sent in 2005, by Public Administration to which they were presented

Situation	%
General State Administration.....	40
Autonomous Administration.....	22
Local Administration.....	33
Other organisations.....	1
TOTAL.....	96

TABLE 25. Suggestions, by Public Administration to which they were presented, situation on 31 December 2005

Administrations	Presented	Accepted	Rejected	Pending
General State Administration.....	69	24	21	24
Autonomous Administration.....	25	11	6	8
Local Administration.....	61	21	12	28
Other organisations.....	1	—	—	1
TOTAL.....	156	56	39	61

PROVISIONAL OMBUDSMAN'S OFFICE: ZURBANO, 42



Presentation of complaints:

- By Internet:
www.defensordelpueblo.es
registro@defensordelpueblo.es
- By telephone: (+34) 900101025 (free) and (+34) 914327900 / Fax: (+34) 913081158
- Complaints may also be lodged in person at Zurbano, 42, corner of Eduardo Dato, from Monday to Thursday, from 9 a.m. to 2 p.m. and 4 p.m. to 6 p.m., and Friday from 9 a.m. to 2 p.m. Closest underground stop: Rubén Darío, line 5; buses 40 and 147
- Complaints lodged by mail should be sent to the above address, postcode 28010, Madrid.

139 Recommendations, 156 Suggestions

The Ombudsman formulated a total of 139 recommendations and 156 suggestions in 2005, of which, at the closing of this report, 42 recommendations had been accepted, and 56 suggestions, as reflected in Tables 24, 25, and 26. Moreover, 96 reminders of legal duties and five warnings were issued (see Table 23).

The following is a summary of the accepted recommendations and suggestions. The complete list of those rejected and pending may be found in the full report, published on the Ombudsman's website, *www.defensordelpueblo.es*.

In the summaries of the resolutions included in this report, no personal data that could enable anyone to identify those involved in investigation procedures is included, in accordance with the confidentiality conditions specified in the General Act of Parliament that regulates Ombudsman's Office.

List of Accepted Recommendations

General State Administration

Ministry of Public Administrations

Under-Secretary: Regarding **job mobility of civil servants**. Recommendation for establishing better use of resources, bearing in mind both the number of years since it had been possible to convoke 'targeted competitive selection', and the existence of other instruments for achieving a more rational distribution of civil servants.

Secretary General for Public Administrations: Regarding the **international promotion system of the Special Corps of Penitentiary Institutions**, when civil servants are stationed in positions of the General State Administration by virtue of inter-administrative mobility agreements.

Ministry of Foreign Affairs and Co-operation

Directorate General for Consular Affairs and Assistance: Regarding the possibility of **adequately informing interested parties being denied residence visas for the purpose of family reunification**.

To the Consulate-General of Spain in Shanghai, to **cease to require applicants for residency and work visas to present a job offer from an employer**.

Ministry of Defence

Institute for Armed Forces Housing: Regarding the need to **control, on the part of the competent Administration, the execution of consulting contracts for appraising housing being put on sale, and regarding the illegality of one of the clauses included in these sales contracts**.

Ministry of Finance

Under-Secretary: Regarding the need to adequately fulfil the **necessary requirements to decide which is the competent body to resolve matters presented by citizens**.

Ministry of Education and Science

Directorate General for Territorial Co-operation and the High Inspector: For **study scholarships and grants to allow the deduction of 2255 euros from the family's base income for each family member affected by a disability of 65% or higher**.

Directorate General for Universities: For the selective processes held to determine postgraduate research grants, within the framework of the National University Professors Training Programme, to **respect the timeframes established in the corresponding application conditions**.

Ministry of Industry, Tourism, and Trade

Minister: To **promote, in the fight against child pornography, a standardisation of penal legislation on a European level and within all international organisations**.

Ministry of the Interior

Secretary of State for Security: Regarding the convoking of ordinary plenary meetings of the Police Council, so that in future **the timeframe established in the norms regarding routine activities of the Police Council may be respected**.

Directorate General for the Civil Guard: To avoid inducing citizens to commit errors by

indicating erroneous appeals channels to them.

So that **in the event that modifications be proposed regarding a vacancy in the catalogue of job positions, the same not be published in the Official Bulletin of the Civil Guard until it be confirmed by the Inter-ministerial Salaries Committee whether the proposed modification be accepted or no, and the date on which the aforesaid may be put into effect, in order to avoid false expectations on the part of the interested parties, as well as family and professional complications**.

Directorate General for Infrastructures and Security Materiel: Regarding the **material conditions in the detention or internment centres where public defenders must carry out their work**.

Directorate General for Penitentiary Institutions: Regarding the system of internal promotions, in order to adopt **specific measures so that civil servants in the Special Technicians Corps of the Penitentiary Services may have access to the selection processes convoked by the Ministry of the Interior through the internal promotional system in the speciality of Special Corps of Penitentiary Institutions, when the aforesaid civil servants are posted within the General State Administration by virtue of inter-administrative mobility agreements**.

Directorate General for the Police: Regarding the imparting of **instructions to police stations, to guide the actions of civil servants intervening in the detention of minors**.

Regarding the adoption of **measures to resolve the dysfunctions found in the installations of the department of National Identity Cards and Passports of the Cantabria Police Headquarters**.

Directorate General for Traffic: To provide **opportune instructions in those cases in**

which interested parties present to agents a photocopy of the document required, so that the agent may make note of this in the citation, in the event that this documentation is not considered valid for some reason.

Regarding the modification of the **computer program** for creating drivers licenses, so that it can admit all of the punctuation marks necessary in order to correctly write the name and surnames figuring on the national identity card of any person.

Ministry of Justice

Minister: To create a **second Juvenile Court in the city of Murcia, and to adopt measures to expand the existing one.**

To promote the necessary legislative initiatives in order to **avoid that minors who are victims of crimes need appear in oral hearings.**

Regarding legislative reforms involving traffic accidents, in order for **events derived from traffic accidents to receive in the Penal Code the appropriate sanction based on their seriousness, specifying this in said text based on the circumstances appearing in each case, whether such imprudence is severe, very severe, or slight.**

Secretary of State for Justice: Regarding the need to adopt the **necessary measures to improve the deficiencies found at the General Register Office**, regarding both the inadequacy of the building itself, insufficient personnel, lack of space for archives, and inappropriate location of the installations.

Ministry of Labour and Social Affairs

Secretary of State for Immigration and Emigration: Regarding the **admissibility of other means of proof, other than a census certificate, to prove one's time living in Spain in order to meet the requirements of the legalisation process.**

Under-Secretary: Regarding **coverage of vacancies in the commission of services.**

Directorate General for Immigration: To promote the **promulgation of specific regulations regarding the accreditation of economic requirements for family reunification, and to expand the existing regulations regarding adequate housing requirements.**

Directorate General for Public Services for State Employment: Regarding **automatic recognition of benefits, in those cases in which there is evidence that those requesting them meet all of the**

requirements for receiving them, and the only unknown data are the base salaries to be applied in calculating the benefit involved.

Self-governing Community Administrations

Canary Islands

Department of Employment and Social Affairs: For **approval of the necessary budget increases to prioritise policy actions in the realm of juvenile justice.**

Madrid

Department of Education: Regarding the need to **provide instructions to educational centres regarding the observance of certain regulatory requirements regarding the accreditation of family income levels in determining student admissions processing.**

Department of Justice and the Interior: Regarding the **advisability of reforming the existing zoning for the Firefighting Corps to be activated in the event of emergencies in Madrid.**

Department of Health and Consumer Affairs: Regarding the need to **investigate the incident that occurred in the CAID laboratory in the Tetuán district of Madrid**, which led to a patient's ingesting a urine sample instead of a dose of methadone at said centre, and for the opportune measures to be adopted in order to avoid the repetition of such an event.

Directorate General for the Madrid Health Services: Regarding the advisability, in **cases in which it is decided to transfer patients from their hospital of reference**, should they require immediate hospitalisation, **to previously verify whether the centre to which they are being sent is able to accept them and provide quality health care at that time.**

Regarding the advisability of adopting measures aimed at **reducing the delay for carrying out bone density tests at the Rheumatology Department of the Speciality Centre in the Argüelles district of Madrid.**

Local Administrations

City of Barcelona: In order for the City of Barcelona to adopt measures to provide free information services to taxpayers, and, in particular, to do away with the charges for using the 807 public information line, which involved charging money to citizens

for fulfilling their tax obligations, which is not authorised by law.

Town of El Espinar (Segovia): Regarding the **modification of the Regulations regarding the Motor Vehicles Tax, so that the handicapped**, who due to the severity of their disability are unable to drive are not required to provide a drivers license nor the insurance policy of a vehicle bought in their name.

City of Granada: Regarding prevention of and sanctions for noise pollution in the city, **generated by the recent *botellón* phenomenon (young people drinking alcohol on the street), and to avoid an undesirable institutionalisation of this behaviour.**

City of Madrid: Regarding **including on traffic citations the name and surnames that appear on the official documents provided by the interested parties, and if said names are not Spanish, to avoid translating them.**

Town of Torrejón de Ardoz (Madrid): Regarding the **need to adapt the procedures followed for towing away abandoned vehicles to those specified in the general legislation for administrative procedures**, so that, in any case, before towing away a vehicle, its owner be notified via the corresponding citation.

Town of Siero (Asturias): Regarding the **resolution of specific appeals** presented by citizens.

Others

General Council of Spanish Lawyers: Regarding **forms of acting, organising, and co-ordinating legal services for foreign nationals in Spain.**

Spanish Federation of Municipalities and Provinces: Regarding the **problems citizens face in using the system of regulated motor vehicles parking in municipalities where such systems exist**, with a recommendation to the Spanish Federation of Municipalities and Provinces to assess the advisability, given the sanctions generated by regulated parking, to promote in those municipalities affected the strictest respect for guarantees in the sanctions process.

Attorney General's Office: Regarding the actions on the part of the Attorney General's Office involving **legal assistance to foreign nationals in Spain.**

Cervantes Institute: Regarding **personnel selection processes**, so that the application of the principles of equality, merit, capacity, and public information may be fully guaranteed, and to evaluate, within the selection process, solely the merits involved in the aforesaid and which form part of the published selection criteria.

Accepted Suggestions

General State Administration

Ministry of Public Administrations

Under-Secretary: Regarding **sending communiqués intended for the Ombudsman.**

Government Delegation in Extremadura: Regarding **returning the quota of the Rural Real Estate Tax for the year 1997**, under Royal Decree Law 24/1997, of 12 December.

Regarding **urgent measures for the damages caused by floods in the Town of Azuaga** (Badajoz) on 5 and 6 November 1997.

Government Delegation in the Community of Madrid: For the **interested party to be notified in the case of a resolution regarding a request for a self-employed work permit**, in order for said party to exercise the right to appeal, if appropriate.

To **revoke the expulsion order for an individual being held at Malaga's Alien Detention Centre, since the Administration had yet to resolve his request to be included within the legalisation process.**

Government Delegation in the Valencia Region: To **revoke the resolution denying an application for a residence and work permit, for failure to meet the requirements in the Royal Decree on the rights and freedoms of foreign nationals in Spain.**

National Institute of Public Administrations, Permanent Selection Committee: Regarding **specifically answering a question presented in writing.**

Ministry of Foreign Affairs and Co-operation

Directorate General for Consular Affairs and Services: Regarding the **express resolution of the appeal for reversal** against the negative resolution regarding a tourist visa requested at the Consulate-General of Spain in Havana.

In order to **permit the wife and daughter of an Iraqi citizen, with a Spanish residence permit, to request the corresponding visas for family reunification at the Spanish Consulate in Damascus** to avoid having to go to Baghdad.

To **revise the dossier regarding a number of residence visas for family reunifications processed at the Spanish Embassy in Pakistan, in order to proceed, should the**

existence of error be confirmed, to the revocation of their denial.

Ministry of Defence

Directorate General for the Armed Forces Housing Institute: Regarding **the interested party's access to the dossier of the declaration of new construction and horizontal division.**

Ministry of Education and Science

Technical Secretary General: Regarding **delays in the resolution of a request for granting equivalency to a foreign university degree.**

Ministry of Public Works

Secretary of State for Infrastructures and Planning: Regarding the **beginning of a current evaluation of the noise level on a state highway, and the consequent necessary maintenance work.**

Ministry of the Interior

Directorate General for the Civil Guard. Regarding the **need to provide correct and courteous treatment in relations with citizens, and to prevent any abusive, arbitrary, or discriminatory practice.**

Regarding the **need, should a citizen be cited to appear before the Guardia Civil at its installations, to apply the instructions of 13 September 2000, reiterated on 6 June 2001, regarding voluntary appearances of citizens at official Civil Guard installations.**

Directorate General for the Police: Regarding the **opening of a disciplinary investigation of two members of the National Police Corps, suspending the aforesaid pending the judicial resolution to be handed down in future.**

Regarding the transfers of civil servants assigned to the police station of Quart de Poblet (Valencia), due to a series of considerations involving the **rules of action that should be respected when civil servants proceed to intervene in the detention of a minor, with the aim of guaranteeing respect for the higher interests of the same**, avoiding actions and behaviours that could have a negative impact on the minor.

Regarding the **opening of a disciplinary investigation based on the content of that which was established in point one of the legal grounds in Sentence nº 112/05 of 13 April, of the Second Penal Court of Valladolid.**

Regarding the **opening of a disciplinary investigation of a civil servant to the National Police Corps, suspending the same until a final judicial decision is handed down**, in order to avoid the expiration of disciplinary responsibility.

Commissioner-General for Aliens and Documentation: In order to **permit the entrance into Spain of a Cuban citizen, married to a Spanish woman, who was entrance since he had been denied a card of the family member of a Community resident**, and for having been forbidden to enter the Schengen area.

Directorate General for Interior Policy: Regarding the **revocation of a sanction imposed upon a citizen who had refused to identify herself within the framework of an action of the local Zaragoza police**, since her identity was not duly accredited.

Directorate General for Traffic: Regarding the **adoption of the opportune measures so that the Provincial Head of Traffic in Madrid may offer citizens efficient telephone services**, avoiding their having to visit its offices unless this is absolutely necessary.

Ministry of Environmental Affairs

Guadiana Waterworks Confederation: Regarding the **expropriation and compensation for damages produced, in the execution of the second phase of the project to improve water supplies to Badajoz and the surrounding town.**

Prime Minister's Office

Chairman of the Board of Administration for National Heritage: Regarding the **exclusion of the list of candidates for contracting temporary personnel.**

Ministry of Labour and Social Affairs

Regarding the **revocation of a resolution declaring an authorisation of residency to be null and void**, and suspending an expulsion order.

Self-governing Community Administrations

Andalusia

Department of Justice and Public Administration: Regarding the **selection of a system for entering the Andalusia Administrations corps of auxiliary administrators.**

Castilla-La Mancha

Department of Education and Science: Regarding **supervision by educational inspectors of the documentation involved in the dossiers regarding the admissions process for students in the 2005-05 school year** at a certain public school in Guadalajara.

Department of Public Works: Regarding **installation of a fire escape.**

Extremadura

Department of Rural Development: Regarding the obligation to **carry out inspections to confirm trespassing upon a live-stock route and adopting**, if necessary, measures tending to repossess said route and to re-establish its proper use.

Department of Education, Science, and Technology: Regarding **lack of response to claims lodged.**

Galicia

Department of Fishing and Maritime Affairs: Regarding the **importance of providing documentary proofs in sanctions processing involving infractions against the environment.**

Community of Madrid

Department of Environmental Affairs and Land Management: Regarding **an express response to the communiqués sent by the interested party.**

Region of Valencia

Department of Territory and Housing, Directorate General for Environmental Quality: Regarding the intervention of the **Regional Administration in the area of noxious**

and dangerous activities, when the Municipal Administration does not act.

Autonomous City of Melilla

The Governor's Office: Regarding **undue demands for requisites (i.e. a residency permit) to register with the local census.**

Miscellaneous

Cantabria (Department of Industry, Labour, and Technological Development) and **Madrid** (Department of the Economy and Innovation): Suggestions regarding **rehabilitation of a vehicle and requiring its antecedents.**

Local Administrations

Town of Arucas (Las Palmas de Grand Canary): Regarding **noise measurement and adoption of cautionary measures**, urging, in this case, the co-operation of the Regional Administration.

City of Atienza (Guadaljar): Regarding a **request for collaboration with other administrations in order to fulfil its duty of proceeding to review its municipal planning.**

Town of Camariñas (Corunna): Regarding the **closure of an illegal garbage dump.**

City of Castellon de la Plana: Regarding the **opening of a dossier to sanction, and if necessary, close down the installations of a petrol station operating without respecting the norms** proposed in the project presented to obtain its license, failing to meet the conditions imposed when conceding the aforesaid.

Town of Fuente Álamo de Murcia (Murcia): Regarding the **need to review an expropriation order** and to emit a report on it, due to the appearance of certain omissions of interest for the determination of a fair price.

City of Guadalupe (Caceres): Regarding the **obligation to carry out inspections and other actions within the scope of the obligations involving city planning that are the mandate of the Municipal Administration.**

Town of Higuera de Calatrava (Jaen): Regarding a **specific response to the request** contained in a communiqué presented by the interested party.

City of Madrid: Regarding **commencement of sanctions procedures, if the possible infraction has not lapsed**, against the owner of a discotheque whose noise levels exceed the legal limit.

Regarding **information to the public and participation of residents** in dealing with the problems appearing after building and opening Madrid's Municipal Ice Rink.

Regarding the **immediate suspension**, and if necessary, imposition of sanctions, in **activities that generate environmental damages** and lack an operating license, as in the case of a pizzeria.

Regarding the **municipal order to adopt correction measures applicable to the owner of industrial facilities for textiles and shoemaking.**

Madrid Municipal Transport Company: Regarding the **right to travel for free on buses of the Municipal Transport Company, due to being the wife of a civil servant working for the aforesaid.**

City of Merida (Badajoz): Regarding the **constitution of an Anti-Fire Consortium.**

City of Paterna (Valencia): Regarding the **works that a property owner should be ordered to undertake, due to damages being caused to the neighbouring property.**

Town of Santa María de Cayón (Cantabria): Regarding its **personnel selection system.**

Town of Siero (Asturias): Regarding the **express resolution of an appeal for reversal** presented by the interested party.

Town of Siruela (Bajajoz): Regarding **personnel selection.**

Town of Tabernes Blanques (Valencia): Regarding the **application of legislation against noise pollution** during local festivals and other events organised on public streets.

City of Valencia: Regarding the **adoption of opportune measures to proceed to the installation of bollards in Río Duero Plaza, Valencia**, in order to avoid repeated incidence of undue parking there.

To proceed **suspend the traffic fine imposed on a citizen**, since the sanctioning procedure brought against her had expired.

City of Zaragoza: Regarding the onset of a **current evaluation of the noise level on a state highway**, and the consequent necessary maintenance work.

Reminders of Legal Duties

During the year 2005, the Ombudsman sent 10 reminders of legal duties to the General State Administration, 12 to the Self-governing Community Administrations, and 31 to Local Administrations and others.

General State Administration

Ministry of Public Administration

— **To the Government Delegation in Melilla**, regarding its legal duty to respect, in its actions involving underage foreign nationals, the Spanish legal regulations currently in effect, as well as those included in international agreements ratified by Spain; as well as regarding the legal duty within its mandate to dictate the pertinent administrative resolutions in the processing of applications for residency permits, requiring the interested parties, if necessary, to present documents or correct any errors found in them.

— **To the Subdelegation of the Government in Valencia**, for it to process proceedings regarding the deportation of foreign nationals in those cases in which there are attempts at flight on the part of stowaways from the ships where they are found, whenever they reach or try to reach land.

Ministry of Foreign Affairs and Cooperation

— **To the Directorate General for Consular Affairs and Assistance**, regarding its legal duty to dictate the pertinent instructions for those actions of Spanish representatives abroad so that they may fulfil the stipulations of the Law on the Legal Regime of Public Administrations and Common Administrative Procedures and, consequently, to dictate express resolutions regarding those appeals for reversals formulated by interested parties.

Ministry of Defence

— **To the Secretary of State for Defence**, regarding the legal duty incumbent upon that body to adopt measures to prevent and reduce noise pollution and to cover damages, avoidable or not, regarding the Air Force Bases of Cuatro Vientos (Madrid), Rota (Cadiz), San Javier (Murcia), Torrejón (Madrid), and Zaragoza.

— **To the Under-Secretary of Defence**, regarding the legal duty to provide an express response to the requests presented to that office.

Ministry of Finance

— **To the Directorate General for Personnel Costs and Public Pensions**, regarding the legal duty incumbent upon it to remit, in a proper and timely manner, the opportune responses to whatever requests citizens may present.

— **To the Regional Economic-Administrative Tribunals of Castilla y Leon, Catalonia, Madrid, and Valencia**, regarding the legal duty incumbent upon them to resolve, in a proper and timely manner, the appeals and applications sent presented to them.

Ministry of Education and Science

— **To the Technical Secretary General**, regarding the duty to resolve appeals and reclamations within the legally established timelines.

Ministry of Public Works

— **To the Secretary of State for Infrastructures and Planning**, regarding the duty to adopt those measures to prevent and reduce noise pollution and to cover damages, avoidable or not, which are the obligation of the Public Administrations; and regarding the excessive level of acoustic impact of a highway, imputable to highway information broadcasting activities, which confers upon the owners of the affected housing the right to obtain financing in order to be provided with supplementary soundproofing, as well as to fulfil the legal duty of public bodies of giving sufficient responses to the requests presented by citizens, and to adopt measures of noise pollution prevention and reduction and covering damages, avoidable or no, involving the airports of Madrid-Barajas and Sabadell, and the Air Force Bases of Cuatro Vientos (Madrid), San Javier (Murcia), and Zaragoza.

Ministry of the Interior

— **To the Technical Secretary General**, regarding the office's legal duty to regulate its actions in according with criteria of efficiency and service to the public.

— **To the Directorate General for Penitentiary Institutions**, that it provide a person

sitting a competitive civil service exam with the data requested, due to which, in spite of having obtained the highest score according to the ranking of merits, was finally not selected.

— **To the Technical Secretary General**, regarding the office's legal duty to regulate its actions in according with criteria of efficiency and service to the public.

— **To the Ministry of Environmental Affairs**, regarding the legal duty incumbent upon it to answer the written requests presented by the citizens in general, and the interested parties in particular; regarding the right to access to environmental information, since the law requires said Ministry to provide any information in its custody.

— **To the Guadalquivir Waterworks Confederation**, regarding the duty incumbent upon it to commence, process and resolve with due diligence the corresponding sanctions procedures.

— **To the Segura Waterworks Confederation**, regarding the administration's legal duty to act in a co-ordinated manner, the constitutional principle underpinning all administrative activity.

Ministry of Health and Consumer Affairs

— **To the Director of the National Consumer Institute**, regarding the legal duty incumbent upon the Public Administration to resolve, in a proper and timely manner, those appeals and requests that citizens may present.

Ministry of Labour and Social Affairs

— **To the Directorate General for Social Security**, regarding the legal duty for resolutions handed down regarding Social Security benefits to be not only well grounded, but also to include an appeals note that should summarise the possibility for interested parties to formulate the corresponding appeal, the body to which it should be presented, and the deadline for doing so.

Self-governing Community Administrations

Andalusia

— **To the Department of the Environment, Andalusian Water Agency of Malaga**,

regarding the duty to resolve expressly, in a proper and timely manner, whatever requests and proceedings are presented to it or initiated by interested parties.

Aragon

— **To the Department of Agriculture and Food**, regarding the legal duty to hand down a resolution in appeals to higher courts presented by those involved.

Asturias

— **To the Department of the Environment, Land Management and Infrastructure**, regarding the legal duty to resolve the appeals for reversal presented by the interested party.

Canary Islands

— **To the Department of Employment and Social Affairs**, regarding the legal duty to act in accordance with the principle of efficiency and full compliance with the current legal regulations, in order to avoid producing problems in the processing of residence permits for unaccompanied underage minors which impede their obtaining proper identification.

Castilla-La Mancha

— **To the Department of the Economy and Finances**, regarding the duty of proper custody of the documents collated in the exercise of the functioning of public entities.

Castilla y León

— **To the Department of the Environment**, regarding the legal duty to resolve expressly, in a proper and timely manner, the requests and appeals presented to them.

— **To the Department of Health**, regarding the legal duty, when an administrative body considers itself hindered in the resolution of an issue, it must directly transfer the matter to the body which it considers competent should the aforesaid belong to the same Public Administration.

— **To the Territorial Delegation in Burgos of the Assembly of Castilla y León**, regarding the own Administration's legal duty to exercise, in substitution, municipal authority in case of inaction on the part of City officials.

Extremadura

— **To the Department of Education, Science, and Technology**, regarding the legal duty to resolve expressly, in a proper and timely manner, the requests and appeals presented to them.

— **To the Department of Health and Consumer Affairs**, regarding the legal duty to resolve issues within the established time limits.

Galicia

— **To the Galician Ports Authority of the Department of Land Management, Public Works, and Housing**, regarding the legal duty to resolve the requests and appeals presented to them.

Madrid

— **To the Department of Economic Affairs and Technological Innovation**, regarding its legal duty to conserve and restore, in a diligent and efficient manner, the traditional *Cañada Real* livestock pathways.

— **To the Department of Education**, regarding the legal duty to carry out the requirements in force within its management scope, which guarantee students' right to continue studying, in the second year of their non-compulsory secondary school studies (*bachillerato*), the same foreign language they had chosen as an optional course in their first year.

— **To the Department of Transportation and Infrastructures**, regarding the legal duty to resolve the requests and appeals presented to them.

— **To the Directorate General for Architecture and Housing**, regarding the legal duty to agree ex officio on putting into practice the means of obtaining pertinent proofs tending to demonstrate the moment in which an infraction occurred, determining the person or persons responsible, so that the resolution body may put an end to the procedure with an action conforming fully to the law.

Murcia

— **To the Department of Industry and the Environment**, regarding the duties involved in regulations of the right to access environmental information, to provide those requesting it with the information at their disposal, under the required terms and legal requisites; as well as regarding the legal duty to process the complaints received and to act with efficacy and speed, removing the obstacles impeding such processing.

— **To the Directorate General for Land and Coastal Management**, regarding the duty to respect citizens' rights to receive notifications at the address which the interested party has indicated to that effect, and not at another; as well as to receive information and orientation regarding the legal or technical requirements that the current regulations place upon proposed projects.

— **To the Department of Public Works, Housing, and Transportation**, regarding the legal duty to process the complaints received and to act with efficacy and speed, removing the obstacles impeding such processing.

— **To the Regional Governor's Office**, regarding the legal duty to adjust its actions to the law, insofar as its obligation to respond to the written communications of interested parties is concerned.

Valencia

— **To the Department of Land Management and Housing**, regarding the legal duty to inform consumers quickly, sufficiently, and appropriately, via the appropriate media.

Ceuta

— **To the Department of Public Works**, regarding the legal duty to provide the environmental information at its disposal, without requiring the party making the request to accredit any particular interest.

Local Administrations

— **The Town of Águilas (Murcia)**, regarding the legal duty to process the complaints received and to act with efficacy and speed, removing the obstacles delaying their processing.

— **The Town of Alpedrete (Madrid)**, for it to resolve, according to the established manner and time limits, the petitions and appeals that it receives.

— **The City of Badajoz**, regarding the legal duty to expressly resolve all complaints and appeals presented by interested parties.

— **The Town of Benifaió (Valencia)**, regarding the legal duty to respond to all requests for information sent by residents.

— **The Town of Bullas (Murcia)**, regarding the legal duty incumbent upon the Public Administrations to resolve, in a proper and timely manner, the complaints and requests presented by citizens.

— **The Town of Burón (Leon)**, regarding the legal duty incumbent upon it to expressly dictate resolutions regarding whatever requests or appeals are presented by interested parties.

The Ombudsman Issues Five Warnings

Besides recommendations, suggestions, and reminders regarding their legal duties sent to Public Administrations, the Ombudsman's Office may issue warnings, in accordance with art. 30 of the General Act of Parliament that regulates its functioning. In 2005, the Ombudsman issued five warnings:

To the Directorate General for the Civil Guard (Ministry of the Interior) for it to carry out its functions (art. 11 of General Act of Parliament 2/1986, of 13 March, on the State Security Forces), in accordance with the basic principles that should govern its actions (art. 5 of the aforesaid General Act of Parliament), for which a minimal **follow-up of the environmental complaints that it receives** is necessary, which may be carried out through the Government Delegation or the Ministry of the Interior.

The Department of the Environment of Cantabria was warned regarding the need to take direct interest in the problem of **dumping into rivers**; although it has no decisive mandate, it does have a mandate—as an environmental body—to procure data and request other bodies to obtain them, and to act in consequence.

The Land Management Service of the Industry, Commerce, and Tourism Department of Segovia, Castilla y Leon, was warned that, if this institution persisted in its lack of co-ordination, its **attitude would**

be declared obstructive, for not providing the appropriate response to our demand for a report.

The Office of the Governor of Extremadura was warned of the need for this Administration to become more intensely involved in the **problem of noise pollution, which goes back a number of years**, as well as requiring the competent Departments to make sure that Municipal Administrations act on reports by the Self-governing

Communities Commission on Classified Activities.

The City of Madrid was warned not to fail to take into account, as it has in the past, the need to consider, among other circumstances, that the option of carrying out **public works at night** (M-30 South Ring Road by-pass) involves, or could involve, making it impossible for to sleep at night, a basic and vital need for the immense majority of the population.



Public works on the M-30 South Ring Road.

— **The Town of Cabanas de Bergantiños (Corunna)**, regarding the legal duty to assist the Ombudsman in his investigations, providing, preferentially and urgently, appropriate and complete information regarding the issues raised.

— **The Town of Cacabelos (Leon)**, regarding the legal duty incumbent upon Public Administrations to resolve, in a proper and timely manner, the appeals and requests presented by citizens.

— **The City of Caceres**, regarding the legal duty incumbent upon it to supervise the legality of city planning, and the correct functioning of activities classified as such, within its municipal boundaries.

— **The City of Cartagena (Murcia)**, regarding the legal duty of Public Administrations to act in a co-ordinated manner, which is the constitutional principle of all administrative activity (art. 103, Spanish Constitution).

— **The Town of Coslada (Madrid)**, regarding its legal duty, in issues involving noise pollution, to consider the telephone as a

valid means of denouncing actions constituting an infraction or the norms, exercising *de officio* the control and vigilance of bothersome activities without the need for residents to register complaints or go to the police, and without demanding that citizens present documents not required by applicable norms.

— **The Town of Cox (Alicante)**, regarding the legal duty incumbent upon it, regarding bothersome, unhealthy, noxious, or dangerous activities, to sanction the non-observance or violation of the regulations contained in the laws or municipal ordinances which constitute administrative infractions.

— **The Town of El Berrueco (Madrid)**, regarding its legal duty to respond to the written communications received from citizens, in general, and from interested parties, in particular.

— **The Town of El Boalo (Madrid)**, regarding the legal duty incumbent upon it to expressly dictate resolutions regarding whatever requests or appeals are presented by interested parties.

— **The City of Madrid**, regarding its legal duty to respond to the written communications

received from citizens, in general, and from interested parties, in particular, as well as to expressly respond to those requests presented to it, and to promote the necessary conditions to make effective the right to appropriate and decent housing.

— **The Town of Marina de Cudeyo (Cantabria)**, regarding the legal duty incumbent upon it to adopt the necessary municipal agreements, in which it expressly sets forth the reasons for which the selection process for filling a position is not carried out via a competitive civil service exam, but rather an exam with the possibility of gaining extra points for one's résumé, seniority, or other factors.

— **The Town of Métrida (Toledo)**, regarding the legal duty to resolve whatever procedures it has in the processing phase regarding environmental protection.

— **The Town of Moncada (Valencia)**, regarding the legal duty incumbent upon it to resolve, in an efficient and timely manner, the appeals presented to it.

— **To the Town of Naquera (Valencia)**, regarding the legal duty to inform consumers

quickly, sufficiently, and appropriately, via the appropriate media.

— **The City of Oviedo**, regarding its legal duty to serve the general interest objectively, acting in accordance with the principles of efficiency, hierarchy, decentralisation, and co-ordination, fully respecting the rule of law.

— **The Town of Pinto (Madrid)**, regarding its legal duty to use Municipal Informative Committees for the purpose for which they were created.

— **The Town of Rota (Cadiz)**, regarding the legal duty incumbent upon it in the realm of public entertainments and recreational activities, including the mandate to impose sanctions in the event of possible infractions.

— **The Town of San Javier (Murcia)**, regarding the legal duty to respect citizens' right to receive notifications in the place where the interested party has indicated to that effect, and not in another; as well as to receive information and orientation regarding the legal or technical requirements that the current regulations place upon proposed projects.

— **The Town of San Martín del Rey Aurelio (Asturias)**, regarding its legal duty to fulfil the regulations and requirements in competitive exams to fill posts for public employees.

— **The City of Santa Cruz de Tenerife**, regarding its legal duty to fulfil the applicable regulations in the realm of city planning, and to expressly resolve a dossier involving patrimonial responsibility.

— **The Town of Torrejón de Ardoz (Madrid)**, regarding its legal duty to act with efficiency and speed, removing the obstacles delaying the implementation of any action.

— **The Town of Torrevieja (Alicante)**, regarding its legal duty to attend directly to resident's complaints when they involve areas under its mandate, or indirectly when they do not, by offering sufficient indications regarding the legal requisites of the issues raised.

— **The Town of Valdescorriel (Zamora)**, regarding its legal duty to obey the regulations in force at all times and, consequently,

to carry out the necessary actions and proceedings necessary in order to redress the legal situation, reminding it that city planning is a public function belonging to the Public Administrations, which are responsible for it within the scope of their respective mandates.

— **The City of Vigo (Pontevedra)**, regarding the legal duty incumbent upon it to expressly resolve whatever requests and appeals are presented by interested parties.

— **The Province of Leon**, regarding its legal duty to apply art. 20g. of the Regulations for Spanish Ski Areas, which establish the obligation of the installations' employees to treat users politely.

Miscellaneous

— **The Cejancas (Cantabria) Residents Association**, regarding the legal duty incumbent upon it to expressly resolve whatever requests and appeals are presented by interested parties.

Appeals for unconstitutionality and legal protection

The Ombudsman has the right to present appeals for unconstitutionality and legal protection, in accordance with the Spanish Constitution and the General Act of Parliament regarding the Constitutional Tribunal. The Ombudsman's Office either did not find sufficient evidence of unconstitutionality in the eleven cases presented, which requested that the Ombudsman present an appeal for unconstitutionality against different laws or specific precepts of norms, or it was determined that such appeals had already been presented by other bodies constitutionally legitimated to do so.

All of those presenting cases to the Ombudsman were informed of the bases for decisions made in each case, and these communiqués may be consulted in full in the complete version of the present report published by the Ombudsman's Office on its website (www.defensordelpueblo.es) and also by the Spanish Parliament.

The norms regarding which the Ombudsman was requested to present an appeal for unconstitutionality were the following:

1) Law 11/2004 of 29 October of Navarre, updating the local regulations in Navarre.

2) Law 13/2004 of 27 December of Valencia, regarding hunting.

3) Law 13/2004 of 29 December of Galicia, regarding Galicia's budget for 2005.

4) General Act of Parliament 1/2004, of 28 December, regarding Integrated Means of Protection against Gender Violence.

5) Law 2/2005 of 2 March of the Balearic Islands, regarding the marketing of tourist stays in houses and apartments.

6) Law 6/2005 of 3 June of the Balearic Islands, regarding the co-ordination of local police forces in the Balearics.

7) Law 9/2005 of 6 June, making pensions from the Compulsory Old-Age and Disability Insurance (known by its Spanish initials, SOVI) system compatible with widows' pensions from the Social Security System.

8) Law 9/2005 of 16 June of Cantabria, creating the Professional Association of Jewellers, Goldsmiths, Watchmakers, and Gemologists of Cantabria.

9) Law 15/2005 of 8 July, modifying the Civil Code and Law of Civil Trials regarding

issues involving marital separation and divorce.

10) Law 17/2005 of 19 July, regulating driving permits and licenses with a penalty points system, and modifying the text of the Traffic, Motor Vehicles and Road Security Law.

It should be noted that two different requests were considered regarding an appeal for unconstitutionality against the aforesaid law, which consequently originated two resolutions by the Ombudsman's Office, printed in full in the complete version of the present report and the publications cited therein.

11) Law 13/2005 of 1 July, modifying the Civil Code regarding the right to contract matrimony.

Five different writs presented to the Ombudsman's Office—four from private citizens and one from a trade union—requested that the Ombudsman present an appeal for unconstitutionality against Law 13/2005 of 1 July, which modified the Civil Code regarding the right to contract matrimony. The reasoning behind the Ombudsman's decision may be found in the complete version of the present report and on the website of the Ombudsman's Office, www.defensordelpueblo.es.

Administrations Which Have Failed to Respond to the Ombudsman or Have Been Blatantly Tardy in Doing So

As usual, the present section features the list of bodies and departments of the different Public Administrations which have not responded adequately to requests or summons from the Ombudsman's Office, thus failing to fulfil public authorities' obligation to collaborate with this institution in an 'urgent and preferential manner', as established in art. 19 of the General Act of Parliament 3/1981, which regulates it.

Under such circumstances, art. 18.2 of the aforesaid General Act of Parliament empowers the Ombudsman to declare such an administrative body or department to be 'hostile or a hindrance to [the Ombudsman's] functions', immediately informing Parliament of such conduct and including it in the present Annual Report, or, if appropriate, in a Special Report.

In application of these precepts, the following list makes manifest such actions of a negative nature that occurred over the course of 2005.

Obstructive Administrations

General State Administration

— In the Ministry of Public Works, as has become the norm in recent years, the complaints processed through the Secretariat of State have to be repeated two or three times in order to obtain the issuing of the corresponding report regarding **delays in payment of a fair price for forced expropriations**.

— The Directorate General for Civil Aviation, regarding recognition of an air traffic controller license issued by a foreign country.

Self-governing Community Administration

— The Department of Public Works of the Autonomous City of Ceuta, regarding **difficult access to the Príncipe Alfonso shanty town**.

Local Administration

— The Town of Caravaca de la Cruz (Murcia), regarding the **lack of a resolution on an appeal for reversal**.

— The Town of Las Ventas de Retamosa (Toledo) regarding a **septic tank**.

— The City of Logroño, regarding a **complaint as a consequence of a zoning infraction**.

— The City of Merida (Badajoz), regarding **laxity in its conservation duties** on the part of the Municipal Administration.

— The Town of Morón de la Frontera (Seville), regarding its **conservation duties**.

— The Town of Noja (Cantabria), regarding **disturbances from a bar**.

— The Town of Peñíscola (Murcia), regarding **noise pollution produced by a hotel**.

— The Town of Torrevieja (Alicante), regarding **occupying the street without paying**.



The Ministry of Public Works is tardy in paying compensation for expropriations.

Complaints that Received No Reply in 2005, After Three Reminders

General State Administration

Ministry of Public Works

— **The Secretary of State for Infrastructures and Planning**, due to the **works on the new access highway to the Port of Vigo**, between Castrelos and Bouzas, due to which lot number 160-1, within the city limits of Vigo, was affecting, without having received, to date, the fair price determined by mutual agreement on 12 January 2000.

— Due to **public works project CN-620, the Castilla Highway, from Burgos to Portugal via Salamanca, at kilometric point 74.4/86.6, between Magaz and Venta de Baños**, which affected lot number 117-4, property of the interested party, within the town limits of Venta de Baños (Palencia). Although the fair price was paid in 1995, the interest due for late payment has yet to be received, despite repeated requests for such payment.

— Due to the **Levante Highway public works project: at kilometric point 19.6 to 42.0, on the Arganda and Perales de Tajuña alternative route, key T3-ÇM-4800, which affected lots number 137 P, 229 P, and 231 P, within the town limits of Perales de Tajuña (Madrid)**, whose fair price, determined by the Provincial Expropriations Jury, was determined on 28 October 1992, paid on 6 July 1994, and then late-payment interest paid on 18 July 1995, although this lengthy delay generated interest on the interest, which was approved by a resolution dated 29 September 1998, which to date has not been paid.

— Due to the **public works project 31-PO-501, improvements on the CN-640 platform between Vegadeo and Vilagarcía, which resulted in the expropriation of lot number 060**, with the interested party being paid the fair price established by the Provincial Expropriation Jury of Pontevedra via a resolution 14 February 1998, although the late-payment interest due has yet to be paid.

— Due to the appeal to a higher court of 25 February 2003 against the agreement reached by the Demarcation of State Highways in Aragon which declared that the overall amount decided by mutual agreement included every aspect of the total payment, including the interest which may have generated from the legal determination date to the date of signing, having **passed the legal deadline for resolving this type of appeal**.

— Due to **disagreement on the assessments made by the Town of Casas del Castañar (Caceres) for various lots which were**

affected by public works project 31-CC-505, as well as disagreement on the fair price established by the Provincial Expropriations Jury, which has been appealed.

Ministry of the Interior

— **The Directorate General for Traffic** received a reiteration of the recommendation of 14 September 2004, regarding **modification of the criteria used when it is found that the data appearing in the files of the Directorate General for Traffic do not coincide with those appearing on a citizen's National I.D. Card** (known by its Spanish initials, DNI), and a civil servant considers that there could have been an error in the issuing of said document.

Self-governing Administrations

— **The Department of Public Works and Transportation of Andalusia** was asked for a report on the **elimination of a railway crossing in La Palma del Condado (Huelva)** and the elimination two railway crossings in Gádor (Almería).

— **The Department of Education and Science of Asturias** was asked for a report on a **property of cultural interests affected by a construction project**.

— **The Department of the Environment, Land Management, and Infrastructures of Asturias** was asked for a report regarding **dumping on a beach**.

— **The Provincial Agrarian Chamber of Ciudad Real** was asked for a report on the **adjudication of a locale resulting from an exchange for a lot in Puertollano (Ciudad Real)**, belonging to a farmworkers association.

— **The Department of Agriculture and the Environment of Extremadura** was asked for a report regarding the **lack of response to a complaint presented by an animal welfare association** regarding the illegal slaughtering on hogs in Barquilla de Pinares (Caceres).

— **The Department of Environmental Affairs and Land Management of Madrid** was asked for a report on **planning modifications**.

— It was asked, on 1 October 2004, for a report regarding the **lack of response to a request for the annulment of fencing licenses**.

— **The Department of Education and Culture of the Murcia Region** was asked for a report on the **elimination of a unit and**

subsequent bundling together of these students in the public school in the town of Rincón de Beniscornia which, together with similar actions taken in previous school years, had led to some parents taking their children out of the schools because they felt that these measures ended up lowering the quality of teaching, all of which could lead to the closing of the school.

— **The Department of Education, Universities, and Research of the Basque Country**, was given recommendations regarding interim personnel working as civil servants in this Self-governing Community.

— **The Department of Land Management and Housing of the Valencia Region** was asked to provide a report on **complaints regarding illegal construction**.

— All of the above bodies were sent a third summons.

Local Administrations

— **The City of Alicante**, regarding the **impossibility of obtaining residence card**, given the cost and inconvenience involved for those persons who do not have their own parking space.

— **The Town of Altea (Alicante)**, regarding the **poor state of conservation of a housing development in the town**, as well as the lack of any kind of services.

— **The Town of Alzira (Valencia)**, regarding a complaint for the **situation of abandonment of a shanty town**, and another summons due to **hydrocarbons pollution**.

— **The City of Barcelona**, regarding the **refusal to adjudicate the interested party a stand at the artisans fair in Reis de Santa Lucía**.

— **The Town of Brruelo de Santullán (Palencia)**, regarding the **lack of running water in a home** in the town, despite the fact that the owner had made repeated requests for such service in the last few years.

— **The Town of Becerril de la Sierra (Madrid)** was asked to provide a report (and expanded information) on the **problems suffered by a resident in the town due to having her water cut off**.

— **The Town of Benalmádena (Malaga)** was asked for a report on the **installation of a vertical awning on a public street without a license**.

— **The City of Benidorm (Alicante)** was asked to report on the motives due to which it had yet to **return the fee paid for a vehicle being towed**, after the sanction leading to this action had been filed.

— **The Town of Beteta (Cuenca)** was asked to report on the lack of response to two complaints involving the **sale of certain communal goods without their being previously rezoned**, and regarding the adjudication of hunting grounds.

— **The Town of Boceguillas (Segovia)** was asked to report on the **refusal to authorise access from a state highway to a house**.

— **The Town of Cabañas del Castillo (Caceres)** was asked to report on the **alleged rude treatment received from the Secretary of the aforesaid Municipal Administration**.

— **The Town of Calpe (Alicante)** was asked to report on the **lack of response on the part of the Calpe Joint Municipal Water Company to the appeal** regarding bills from the year 2003.

— **The Town of Camargo (Santander)** was asked to report on a **concrete warehouse blocking access to a plot of land**.

— **The Town of Canencia de Carracedelo (Leon)** was asked to report on **unlicensed construction failing to meet technical regulations**.

— **The Town of Canencia de la Sierra (Madrid)** was asked to report on the fact that the interested party had requested, on 26 June 2001, **economic information and the budgets from recent years, without receiving any reply**.

— **The Town of Carballo (Corunna)** was asked to report on an **excessive delay in processing a sanction**.

— **The Town of Cehegín (Murcia)** was asked to report on the **deficient state of an adjoining roof**.

— **The Town of Cilleros (Caceres)** was asked to report on a **preliminary project for building an animal feed warehouse**, about which no information had been received.

— **The Town of Deltebre (Tarragona)** was asked to report on the **conditions under which a licence was granted for building a kennel**.

— **The Town of El Molar (Madrid)** was asked to report on **water damage caused by the general system**.

— **The Town of Finestrat (Alicante)** was asked to report on the **order to stop the fencing of a piece of property**.

— **The Town of Fuente de Piedra (Malaga)** was asked to report on the **Municipal Government's inactivity regarding fulfilment of city planning norms**.

— **The Town of Getxo (Biscay)** was asked to report on the **sacking of personnel from the municipal political group belonging to the Popular Party**.

— **The Town of Guadalupe (Caceres)** was asked to report on the **demolition of a building**.

— **The Town of Hoyocasero (Avila)** was asked to report on **alleged zoning**

irregularities in the construction of a building on highway C-500, in an urban area and at a distance of 7.4 m from the edge of the road pavement.

— **The Town of Liendo (Cantabria)** was asked to report, on 12 May 2004, regarding the **refusal to authorise access from a state highway to a private home**.

— **The Town of Llanes (Asturias)** was asked to report on the **lack of agreement regarding the zoning classification of a lot**.

— **The Town of Marbella (Malaga)** was asked to report on a **complaint regarding zoning irregularities**.

— **The Town of Mérida (Toledo)** was notified of a **recommendation, on 18 November 2004, regarding inappropriate use of data included in the municipal census**.

— **The City of Merida (Badajoz)** was asked to report on its **inactivity regarding a zoning sanction**.

— **The Town of Moralzarzal (Madrid)** was asked to report on **deficiencies in unfinished city planning works**.

— **The Town of Nalda (Logroño)** was asked to report on the decision to **declare a building a ruin**.

— **The Town of Peñíscola (Castellon)** was asked to report on the **noise in a nightlife district** in the historic centre.

— **The City of Pontevedra** was asked to report on its inactivity regarding a **complaint about unlicensed construction**.

— **The Town of Pozo Alcón (Jaen)** was asked to report on the **nuisance produced by a hog farm**.

— **The Town of Sa Pobla (Balearic Islands)** was asked to report on **complementary project number 2 of the public works to reopen the Inca-Sa Pobla-Alcudia line**, phase one, stretch between Inca and Sa Pobla.

— **The Town of San Vitero (Zamora)** was sent a reminder regarding its **legal duty to respect the Spanish Constitution and the hiring laws**, as well as to collaborate with the Ombudsman's investigations.

— **The Town of Santa María La Real de Nieva (Segovia)** was asked to report on the **requirement to pay, by court order, water and sewage fees, without having previously sent the bills during the voluntary payment period**.

— **The Town of Segura de la Sierra (Jaen)** was asked to report on the **bad state of the access road to a farm situated within the town limits**, which at certain times of year becomes unusable, since it is cut off by streams of water in three places, without any bridges.

— **The City of Seville** was asked to report on the **disturbances caused by an outdoor café-bar**.

— **The City of Toledo** was asked to report on the **de facto occupation of approximately 10,000 square metres of a farm next to Highway N-301 in industrial park 41, lot 504, due to a construction project promoted by the municipal authorities**, involving a one-way bridge as part of building an alternate route to Highway N-400 as it goes through the Town of Ocaña. Moreover, access to the farm has been cut off, and a completely unusable path has been built.

— **The Town of Torrevieja (Alicante)** has been asked to report on **construction within a public shore area**.

— **The Town of Valdestillas (Valladolid)** was asked to report on the **demand of payment of a price higher than that stipulated originally, in the acquisition of public housing**.

— **The Town of Valverde de la Virgen (Leon)** was asked to report on **construction deficiencies**.

— **The Town of Villamiel (Caceres)** was asked to report on a **request for a copy of a document which had not been provided by municipal authorities**.

— **The Town of Vinarós (Castellon)** was asked to provide a report regarding the **disturbances produced by a locale**.

— **The City of Zaragoza** was asked to report on a **complaint regarding unlicensed construction which affected the outside appearance of a building**.

— **The Residents Association of Terán, from the Town of Cabuérniga (Cantabria)** was asked to report on its **delay in resolving a complaint opening regarding the reopening of a public road between the La Torre and Sepoyo districts**.

Miscellaneous

— **The General Council of Spanish Lawyers** was asked to report on the **possible refusal on the part of the central Magistrates' Courts to provide copies of its rulings to the lawyers requesting them**, basing this refusal on agreements with the National Criminal Court.

— **The Council of Bar Associations of the Community of Madrid** was sent a **suggestion that it deal with a dossier**, which originated a complaint, according to the regulations in force.

Due to lack of space, we do not include here the list of those Administrations which answered the third summons from the Ombudsman in 2003 or 2004. The majority of these Administrations responded over the course of 2005. The list of Ministries, Self-governing Community and Local Administrations, and other public bodies included in this category may be found in the complete version of the present report.

Highlights of the Ombudsman's Budget for the Year 2005

The following aspects can be highlighted in the execution of the budget for 2005:

— **High budget execution index: 99.96%.** This is the highest percentage of the last four years.

— **Improvements of the Institution's head offices and other facilities:** In November 2005, the Directorate General for State Properties began the rehabilitation works at the **Ombudsman's Office headquarters on calle Eduardo Dato, 31**, which made it necessary to move some of the personnel to the offices nearby at Zurbano, 42, as well as rented premises at Zurbano, 71, having a surface area of approximately 1200 m², where some 65 persons are provisionally working.

— Constant efforts were made to **rein in everyday management costs.**

— **Culmination of Phase Two of the Ombudsman's Technological Renovation Plan:** In April 2005, a new system for complaints management was up and running, with the aim of improving processing, security, and service to the public. It was financed completely with the working budget, and has been adjusted according to the means and aims of the Ombudsman's Office.

— Regarding **institutional issues**, highlights include:

• **Mr Enrique Múgica-Herzog was re-elected as Ombudsman for a five-year term, from 2005-2010.**

• **Mr Múgica-Herzog was elected as President of the Ibero-American Federation of Ombudsmen (known by its Spanish initials, FIO), for a two-year term, from 2006 to 2007.**

• **The agreement with the University of Alcalá de Henares continued:** its most significant initiatives included the ceremony during which *TM the King and Queen of Spain gave the 1st King of Spain Human Rights Award to the Brazilian organisation Pastoral da Criança*, for its efforts involving more than 1.4 million children, to reduce malnutrition, which led to cutting the mortality rate in half. The finalists with the Mexican Red Cross and the National Widows Confederation of Guatemala. Moreover, the University collaborated on the *2nd Human Rights Master's Programme*.

• **Signing of the Third Protocol annexed to the agreement with UNICEF** for updating the study on violence in the schools and, more specifically, violence affecting students in compulsory secondary education (known as ESO in Spain). This study should be finished at the end of 2006.

• **Signing an agreement with Miguel Hernández University in Elche**, to organise a seminar on 'Humanitarian Action and Social Exclusion in Developed Countries', held 9-11 June 2005.

Various **summer courses were organised at different universities on issues involving human rights:**

— **Menéndez Pelayo International University**, a seminar on 'The Protection of Economic, Social, and Cultural Rights'.

— **University of the Balearic Islands (Ibiza)**, a course on 'Human Rights in Europe from the Ombudsman's Perspective'.



On the right, the Ombudsman's temporary headquarters on Zurbano, 42, during the renovation works at the old headquarters on Eduardo Dato, 31, on the left.

Citizens' Information Services

The Ombudsman believes that it is important to measure certain aspects reflecting the institution's activities,

such as services provided over the telephone, visits received by the Ombudsman's Office personnel at its headquarters,

and the telephone calls received via its free 900 number, mostly asking for information.

TABLE 27. Number of telephone calls and visits in 2005 which involved citizens' services

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Office visits.....	195	166	205	233	189	166	162	153	187	196	167	124	2,143
Telephone consultations.....	657	647	670	691	804	770	700	452	728	700	600	465	7,884
Free 900 number...	258	305	311	347	372	310	360	295	310	374	358	235	3,835

Updating Computer Applications

The Master Plan for Information Systems carried out at the Ombudsman's Office embarked on a project of **processing re-engineering and administrative streamlining** which would, in the end, determine our current organisation and the requisites of our main information system: the **Complaint Files Management System** (Spanish initials, **GEX**). This new system began operating in April 2004, and now encompasses nearly all of the Ombudsman's Office computer needs, being the cornerstone supporting 90% of its work.

Objectives of the GEX System

The main objectives of this project have been to simplify and optimise the working processes, improve information security and processing, and cut processing times, as well as encompassing the **Electronic Signature** project, based on certificates expedited by the **National Mint** (known by its Spanish initials, FNMT), covering two main aspects:

— The possibility of enabling citizens to sign complaints electronically, sending them from the Ombudsman's website; Electronically signing communiqués regarding complaints sent by the Ombudsman to citizens or the Administration.

Regarding the first point, there was a noteworthy rise in complaints sent from the website rather than via regular post: in 2005, 4 out of every 10 complaints were sent via the website.

Another important new development was the incorporation of electronic signatures into all of the communiqués sent by the Ombudsman's Office,

and to this end, all of its personnel were provided with a card incorporating a computer chip, which could carry out the following functions:

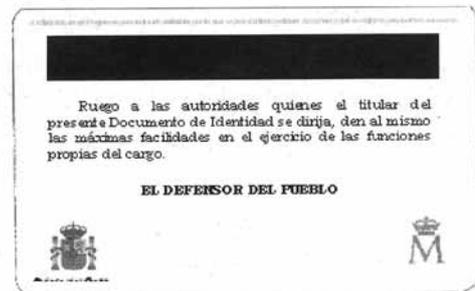
- Digital certificate of authentication and access to computer systems from workstations.
- Digital certification of electronic signature.
- Authorise entry to the Ombudsman's Office installations.
- Identification card for personnel outside of the office.

Advantages of the System

- Standardisation and systematisation in processing procedures.
- Changing the models of work organisation, from a batch approach to one of online processing.
- Cutting a significant volume of paperwork within the Ombudsman's Office, including the elimination of trolleys filled with complaint forms.
- Raising staff productivity, since they can devote their time to higher value-added tasks.
- Better control of complaints processing, steadily improving service.

The year 2005 has been one of consolidating and optimising this solution, basically working on training users in the new system, and systematically introducing improvements.

Above all, it has been a year for drawing conclusions, and reviewing the objectives of excellence that have been defined, and which we shall continue to pursue.



Digital ID card of the Ombudsman, like that used by the Office's personnel for acceding to their workplaces.

Rise in Complaints Received via the Website

Over the course of 2005, the use of the Ombudsman's website has become consolidated. During 2004, a total of 116,576 visits were made, with hits on 545,520 pages. This has become especially evident, for example, in

the steady rise in individual complaints made via the website's online form, now accounting for 40% of the total.

Nevertheless, it is worth noting that collective complaints, usually promoted

via associations or other kinds of organisations, continue to use the postal service, rather than the website. Table 28 details the types of complaints received.

TABLE 28. Complaints received via the Ombudsman's website and by post in 2005

2005 complaints	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Website complaints	658	614	724	496	387	403	432	343	404	687	596	450	6,194
Postal complaints	620	749	2,383	2,814	2,843	2,648	1,717	5,054	5,028	4,164	4,598	798	33,416
MONTHLY TOTAL	1,278	1,363	3,107	3,310	3,230	3,051	2,149	5,397	5,432	4,851	5,194	1,248	39,610

Complaints Regarding Selection Processes and Competitive Civil Service Exams

Fewer National Civil Servants, More Civil Servants of Self-governing Communities

The civil service corps has been undergoing a steady transformation in recent years, since the number of state employees belonging to the National Administration has fallen, whereas civil servants of self-governing communities, and to a lesser extent, municipal employees, have been on the rise, as Spain's decentralisation process continues apace.

Since 1998, Spain's Self-governing Communities Administrations have practically doubled their number of civil servants, currently 49.9% of the total, with 22.5% belonging to the National Administration, and 23.7% to municipalities. The remaining 3.9% are university personnel.

Throughout 2005, the Ombudsman's Office has received many complaints from this collective, which account for 5.45% of the total from residents in Spain; moreover, there were other complaints from citizens who had taken part in competitive exams for admission to the civil service corps.

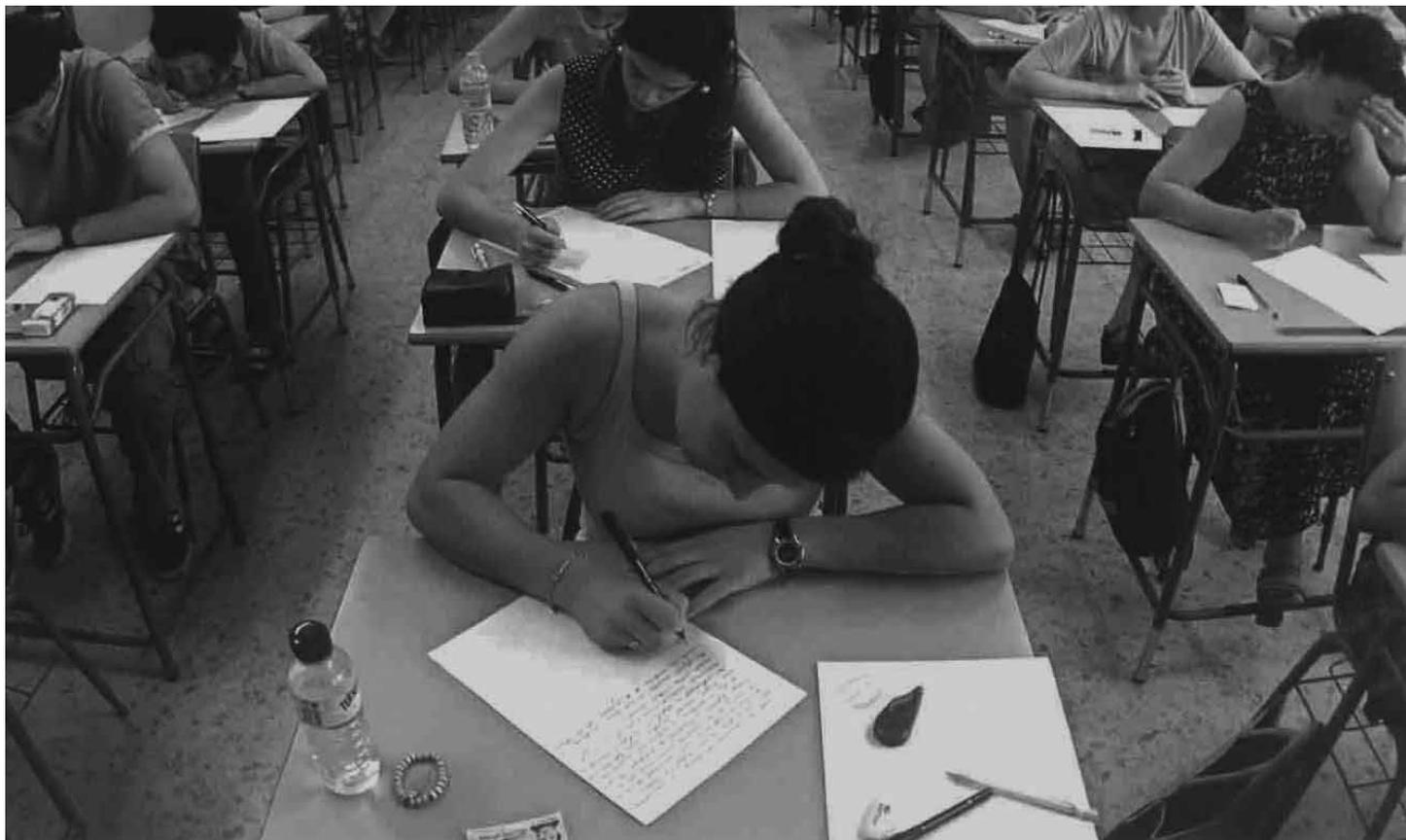
Noteworthy in this category are the complaints referring to the pensions of those who were elected mayors and city councilmen during the first local democratic elections, and who held their posts full-time without being able to enjoy the benefits of the National Social Security System, because the regulations in effect at the time did not contemplate this possibility.

Other complaints have referred, for example, to the anomalous functioning of the computers which were used for practical tests, or to certain candidates' disagreement

with the way in which exams were administered, because they were not allowed to see a copy of their own exam for an appeal, or due to the delays in publishing the destinations of successful candidates in the *Boletín Oficial del Estado* (Official Spanish Gazette), once they had passed the selection process.

Moreover, there were complaints that the requirements for certain selection processes were written in such a way that they gave the qualifying tribunal a great deal of leeway, since they failed to specify the points corresponding to each specific qualification,

or that extra points were given to those registered as living in the municipality where the selection process was held. Likewise, another citizen complained about the demand for payment in order to sit an exam, even in the case of unemployed persons; other complaints were registered against certain townships which, with the excuse of urgency or special needs, contracted privately personnel who, due to the functions to be carried out, should have been civil servants; or against townships which wrote up the requirements for a selection process specifically in order to favour those who



Incidents still occur in the different phases of the selection process for the civil service corps.

already had temporary positions in the local government.

Some of the complaints registered by civil servants brought up problems which should be solved through the new Basic Statute of Public Employment, a draft version of which is being drawn up by the Ministry of Public Administrations.

Mobility of Civil Servants

Regarding the mobility of public employees, given the difficulties existing until now for certain categories or geographical areas, in application of the stipulations in Royal Decree 121/2005 of 4 February, through the offers of public employment for 2005 was approved, a new focus has been given to the regulation of civil servants belonging to the General State Administration, doing away with the classification of departments and territories into having a personnel surplus or deficit, which has put an end to the exclusions for participating in competitive selection processes which were previously applied to civil servants in those ministries, bodies, or territories defined as having a personnel deficit.

During 2005, no relevant complaints, nor a significant number of complaints, were received which would confirm a notable rise in situations of workplace harassment within the public administrations, which the rise in previous years would have seemed to indicate —undoubtedly very good news.

However, given the importance of this issue, all of the cases have been studied with the greatest attention in order to determine more precisely the truth of the complaints received, although this is very difficult, due to the contradictory versions that appear in such situations.

Statutory Personnel in the Health Services

The need to develop a legal framework for these personnel, having a special relationship with the civil service corps —on the basis of the regulations established in the Law for Cohesion and Quality in the National Health System, in the Framework Statute, and in the Regulatory Law for the health professions— has led to the opening of three ex-officio investigations, currently underway, regarding the regulation and development of this legal framework, which is essential for the co-ordination and cohesion of the National Health System.

Due to its impact on the general problems involved in human resource management, mention should be made of the series of delays in concluding the selection process for statutory personnel positions established by Law 16/2001 of 21 November, which stipulated that a number of interim personnel

would be given fixed positions, an issue which has generated different complaints over the course of the year. Order 4034/2005 of 12 December, of the Ministry of Health and Consumer Affairs, once again modified the deadline for bringing this process to an end. In this case, by extending another 12 months the deadline established in the single article of Royal Decree 9/2004, so that it is now December 2006.

Another issue under study is that of the Health Technicians corps, due to a national strike called by the organisations representing these professionals, demanding that their certification and training be standardised in order to become equivalent to those in other European Union countries.

Public Schoolteachers

Amongst the issues raised in the complaints received in this area, noteworthy is the rejection of the request to act through a representative in the presentation prior to the competitive exam for access to the corps of secondary public schoolteachers in Andalusia.

Considering that the presentation is not included in the basic norms regulating access to the teaching corps, and during this event participants are merely informed of a series of guidelines, which require no contribution on the part of contestants aimed at obtaining any demonstration of their knowledge or skills, it was recommended that, as in other Spanish Self-governing Communities, Andalusia contemplate the possibility that candidates could be present at the event through a duly accredited representative.

Demands for Proficiency in Co-Official Languages in Self-governing Communities

Regarding the problems which continue to arise as to the accreditation of proficiency in the Basque language for civil servants in the Basque Country, a highlight is the visit to the Ombudsman by a group of interim teachers in the non-university public school system, who explained the impact on them of the Stability Agreement between the Administration and some trade unions of 5 July 2004, published as Decree 158/2004 of 27 July, which had introduced the requisite of accrediting proficiency in order to maintain one's position, without applying any system of exemptions, as included in previous agreements from 1998 and 2002, meaning that those who failed to meet this prerequisite would lose their jobs over time.

Even though, since this issue was in the midst of legal proceedings, the Ombudsman's Office had to abstain from intervening directly, it was considered necessary to advise these teachers that it would be desirable for them to make compatible their

seniority rights, so that guarantees could be obtained for students to be taught in Spanish and in Basque, as well as for the teachers who failed to meet the requisites of language proficiency to be able to keep their jobs, which had been agreed upon with the Basque Administration regarding its interim teaching personnel, seeking out conciliatory proposals able to avoid infringing on the principles that should always be utmost in the functioning of public administrations.

In the end, the process of decentralising the teaching corps for Basic General Education in the Penitentiary Institutions, transferring these employees to Aragon, Cantabria, and the Balearic Islands has ended or is about to end, so that now only the Basque Country remains, since this Government maintains that the process should include wider-ranging negotiations regarding the Penitentiary Administration, which the Central Government, for the moment, has not considered opportune.

Referring to time off for breastfeeding, the Educational Administration of Extremadura has announced that it intends to make the conditions for having such time off more flexible, adjusting them to the modifications carried out by the Central State Administration and other Autonomous Administrations, so that workers with infants under nine months of age could leave their workplace for an hour, divided into two fractions, or reduce the usual workday by half an hour at the beginning and half an hour at the end, or an hour at the beginning or the end, and that this measure was to be put into practice within the civil service corps.

Mobility of the Teaching Corps

Complaints are also still being received regarding the mobility of teachers, questioning the systems of competitive processes for transferring civil servants from the secondary school teaching corps, given the fact that the Autonomous Administrations offer more jobs, and more attractive ones, than those offered in competitive processes on a national level. Having compared the data regarding the national competitive processes in 2002-2003, and the Autonomous ones in 2003-2004, it appears that this trend has been reversed, and that overall, more vacancies have been available in the national competitive process.

Related to the right to free circulation of citizens of Member States of the European Union, it is noteworthy that there is a regulatory gap regarding article 89 of General Act of Parliament 6/2001 of 21 December, on Universities, which should establish the procedures and conditions under which professors from Member States of the European Union may receive equivalent status.

The Ministry of Education and Science has indicated that the procedure will be

applied only to those professors from universities of Member States of the European Union and the European Economic Space in which the faculty has been selected via publicly controlled proceedings comparable to those of the national selection process in the Spanish university system, and that applicants should accredit the fact that they have held a professorship equivalent to those of civil servants from the Spanish university teaching corps, during five years over the previous ten immediately prior to presenting their application, in a university within the European Union or the European Economic Space.

Evaluations of Teaching Personnel

Regarding the complaints related to the evaluation of university professors, the Secretary of State for Universities and Research has announced that it aims to adopt certain measures, as a consequence of the recommendations made by the Ombudsman last year as to the evaluation procedures for hiring teaching and research personnel, carried out by the National Agency for Quality Assessment and Accreditation (ANECA), and has committed itself to carrying out the necessary legal modifications, in order to mitigate the deficiencies indicated and to fulfil, at least partially, the recommendations expressed. The Directorate General for Universities has published its Resolution of 18 February 2005, regarding the procedures for presenting applications.

Regarding follow-up on previous actions related to the deficiencies observed in the actions of the National Committee for the Evaluation of Research (CNEAI), the



The differences in pay amongst different police forces is a constant source of complaints.

Ministry of Education and Science has announced that the greater or lesser success of these evaluations is strongly determined by the development over time and by the international parameters operative in each area of knowledge, and its homologation with the international standards of each discipline.

Insofar as the formalisation of these criteria is concerned, it was explained that the CNEAI is the party most interested in detailing these criteria more precisely, but that this is not easy to do in those areas in which research is not very active and which, if the Committee had only to judge in areas such as theoretical physics, organic chemistry, or molecular biology, the evaluations could be highly regulated, with a low degree of subjectivity.

The data provided have contributed to clarifying the situations under consideration, and have made it possible to acquire a global viewpoint regarding the evaluations made by the CNEAI and the results obtained.

Notwithstanding, it is important to bear in mind that, although the Supreme Court sentence of 5 July 1996 exonerates the CNEAI of handing down unjustified decisions, this legal decision should not be interpreted as an enabling clause justifying that the resolutions handed down in the evaluation processes lack a sufficiently detailed argumentation, so that the professors being evaluated are unable to know the process through which a certain decision has been made.

The Justice Administration

Regarding the management of personnel working for the Justice Administration in Madrid, a complaint has been registered regarding the expedition of the corresponding professional ID card, so that civil servants may identify themselves when entering the premises of judicial bodies, and which they are currently not being issued.

The mobility of personnel at the service of the Justice Administration is a right that cannot be guaranteed continuously through the corresponding competitive selection processes for transfers, in order to meet the expectations of these professionals regarding family reunification, as well as long-term planning for a stable personal and professional life, so that special attention has been devoted to observing the filling of job vacancy openings, given that some citizens have complained that, since 2003, the Ministry of Justice has not conducted any competitive processes for transfers in this civil service corps.

Regarding salaries, it is worth noting the difficulties that continue to arise in certain departments to fully implement the economic rights of their civil servants, generally due

to management problems—in the cases examined— involving the implantation of new computer applications.

Personnel from Penitentiary Institutions

Some workers stationed at the penitentiary installations in Valencia have registered complaints with the Ombudsman's Office, claiming that they are overloaded with responsibilities at their work centres due to lack of material and human resources, a situation which they consider to have an impact on their personal as well as their working life, and on the attention being given to the prisoners at the centre.

A situation of understaffing has also been reported in the surveillance area of the Teixero Penitentiary Centre (Corunna), accentuated by a notable rise in the number of inmates.

The system of internal promotion of civil servants has been questioned in penitentiary circles, given that a member of the corps of specialised technicians, from the group integrated into the penitentiary services of the Catalan Administration, stationed at the Castellon Penitentiary Centre, objected to the fact that they were not able to gain access, via internal promotion, to the special corps for Penitentiary Institutions of the Central Penitentiary Administration.

In keeping with the Ombudsman's recommendation, it has been agreed to create a working group involving the Directorate General for Civil Servants and the Directorate General for Penitentiary Institutions to deal with this issue.

Personnel Stationed in the Military Administration

Over the course of 2005, the Ombudsman's Office has continued its actions initiated with the Undersecretary of Defence regarding the situation of those commissioned officers, troops and seamen on short-term contracts who had ended their relationship of providing professional services, in keeping with the stipulations of Law 17/1999 of 18 May, regarding Armed Forces personnel.

The Military Administration accepted the recommendation made last year, in the sense that this should Department carry out, within the scope of its jurisdiction, the necessary actions to make it possible, in a minimal period of time, to approve a new set of norms, or modify the one in force, in order to enable those military personnel on temporary contracts, who were on medical leave for psychological or physical reasons, to finalise their commitment with the Armed Forces, and be able to receive the benefits to which they are entitled under the aforesaid Law 17/1999, and not be left, after years of providing their professional services, in a

situation of abandonment. The Military Administration pointed out that it is drawing up a draft Law on Professional Troops and Seamen which would stipulate that those who, at the moment of ending their commitment to the Armed Forces, were in a situation of occupational disability, due to an illness or accident arising from their service, would have their rights to unemployment benefits and health care guaranteed.

Security Forces and Corps

National Police Corps and Local Police. In keeping with the order from the Ministry of the Interior approving, provisionally, the regulations organising the internal functioning of the Police Council, it should hold ordinary plenary meetings at least once every two months; however, a complaint from the year 2004 stated that only one ordinary plenary meeting of the Police Council had been held, at an essential moment for the structural modification of the Directorate General for the Police, a possible modification of the catalogue of job categories, and study of raising salaries.

Once the opportune investigation got underway, the Ministry of the Interior indicated that, due to the fact that general elections had been held, leading to the formation of the current Government and restructuring of ministerial departments, it had been considered advisable to delay any new meetings of the Police Council, and therefore during 2004, only two ordinary plenary meetings had been held; however, in fulfilment of the Ombudsman's recommendation, the Directorate General for the Police set itself the goal of fulfilling, in the future, the number of meetings stipulated in the regulations in force.

Regarding the rights of petitioners, the City of Madrid has been informed that the fact that it does not give them an official receipt is a source of legal insecurity, and causes a sense of unease in the citizen making the complaint.

The obligation to provide a receipt in no way changes the consideration that should be given to the petition, but such a receipt would serve as a guarantee, to the petitioner, that the Administration has indeed received the written complaint, and that the opportune investigation is going to be carried out; it is also a guarantee that the local administration is acting transparently and efficiently at the service of its citizens.

For all of these reasons, it was recommended that the City of Madrid give the opportune instructions so that the competent bodies would provide, generally speaking, receipts for the written petitions received, so that the petitioners would have evidence that their petitions had indeed been received and that they were going to be

processed opportunely, thus upholding the principles of providing security and legal guarantees.

The Civil Guard. A petition was rejected from a civil guard who had asked that a Military ID Card be issued for his common-law partner, due to the understanding that the condition of spouse, required under the norms regulating the right to use this ID, could not be considered the equivalent, to all effects, of stable relationships involving cohabitation. The Ombudsman's Office expressed the opinion to the Civil Guard that it should adjust to new social realities, and recommended that the opportune instructions be made, to the effect that the right to a Military ID Card for family members of Civil Guard personnel should be extended to persons who cohabit in a marital fashion with the member of the corps who is source of that right, under the same terms stipulated for spouses, pensioned widows and widowers, and orphans, and that, consequently, the wording of the norms in force should be modified.

On another subject, the Ombudsman's Office has been following up on the actions first carried out in 1999, regarding medical leave for psychological motives, and suicides, on the part of Civil Guard personnel, since members of the Corps and their families continue to report that tensions with superiors and disciplinary sanctions are the principal causes of this.

Specifically, information was requested on the number of civil guards granted leave for psychological motives, and of those who had committed suicide, since the last figures were made public in 2001, which referred to the year 1999 and the first trimesters of 2000; and specially, on whether there had been an increase or decrease in such cases, as seemed to be the trend indicated by the latest report available. Moreover, it was asked that specific information be provided on the measures being adopted or planned with the aim of preventing these situations, as well as to determine in which zones the highest, or more significant, number of such incidents had occurred.

From the data provided by the Directorate General for the Civil Guard, it can be deduced that there has been a rise in the number of those given psychological leave during every year except for 2001. As to suicides, the number rose in 2000, 2001, and 2002; fell sharply in 2003; and then rose again in 2004 and 2005.

To prevent such situations, the 2nd Suicidal Behaviour Prevention Plan has been put into effect; regarding psychological leave, a working group has been created, whose conclusions and proposals will be analysed to determine their viability and, if appropriate,

the necessary measures for carrying them out will be approved.

Personnel Working for Public Administrations and Organisations

The need to guarantee, on the part of the different public administrations, respect for the constitutional principles that should preside over access to public employment in the processes of selecting and providing for personnel working for them, continues to be a constant in the supervisory activity of the Ombudsman's Office, as shown by the interventions stemming from the lack of respect for the prerequisites specified for competitively filling vacancies.

An intervention was also carried out regarding the conditions under which services are rendered in the public administrations on the part of personnel under contract, attending to the complaint presented by cardiologists of the Central Defence Hospital of Madrid, who asked for adequate legal regulation of civilian medical personnel's turns on duty, so that, given the circumstances involved and the regulations established for other personnel carrying out comparable functions, the factor of age could be considered as determining the limits for whether these physicians can be required to be on duty at night or on weekends.

In light of the contents of the Workplace Accidents Prevention Law, on the protection due to specially sensitive workers, regarding the stipulations of the Sole Collective Agreement for personnel of the General State Administration, it was suggested that the Ministry of Defence consider the advisability of carrying out an assessment of the real needs of the Cardiology Service at the aforesaid hospital, as well as the number of persons necessary in order to provide adequate health services, and that it then proceed to draw up a proposal for regulating medical duty for these workers, so that this modality of service could be adjusted to their situation, considering the possibility of exemption after a certain age.

Another subject for intervention has been the lengthy period of suspending the contract of a worker who was on forced leave after a period of incarceration due to a judicial sentence, whose request to return to active duty had been turned down due to lack of vacancies. In such situations it is necessary to speed up the resolution of these kinds of petitions, given that having a job is an essential requisite for being conceded the penitentiary benefit of the so-called *third degree* (a prison furlough programme), which is why it was decided that the Directorate General for Civil Servants should provide an urgent solution. Finally, the worker was authorised to return to his job.

Steady Rise in the Prison Population

The year 2005 marked the highest number of prisoners in Spanish jails: on 9 December 2005, it reached 61,405, a record for Spain's democratic era. As to preventive prisoners, the highest number was reached on 16 September, with 14,435. In recent years, the Ombudsman's Office has been expressing its concern over the steady rise in the penitentiary population. This trend moderated somewhat in 2005, but it remains steady.

In 2005, the Ombudsman's Office visited the penitentiaries of Barcelona (for men), Barcelona (for women), Bilbao, Naclares de Oca, Navalcarnero, Pamplona, San Sebastian, Valladolid, Madrid (Victoria Kent), Avila, Gerona, and Ocaña I.

Deaths in Prison

Cause for concern is the number of deaths from suicide or the effects of psychotropic substances in penitentiary settings. The Ombudsman always investigates all reported cases of deaths in prison, following up on the tasks which in such cases are within the jurisdiction of the Penitentiary Institution, touching on such issues as prevention of suicide risk and the fight against drug addiction and its impact on prisoners.

In 2005, an ex-officio investigation was launched as the consequence of a story appearing in the news referring to the high number of deaths in prison settings. As part of this ex-officio investigation, information was requested regarding all known cases.

The Directorate General of Penitentiary Institutions sent the Ombudsman a detailed report regarding all such deaths, from which it was deduced that there were three basic causes: natural death due to the worsening of a previously existing conditions (e.g., HIV, hepatitis), drugs (overdose or adverse reaction, sometimes a methadone overdose), and suicide—the latter generally by hanging, although there were some cases of ingesting caustic substances or carbon monoxide poisoning.



Zuera Penitentiary Centre.

Prisoners' Health

The Ombudsman also took interest in seriously ill prisoners, in order to promote the application, in such cases, of the provisions established in art. 196 of the Penitentiary Regulations, ranging from those regarding dental treatment to the transfer of prisoners to hospitals for ordinary consultations, which sometimes failed to occur, whether due to problems involved in custody during the trip, or problems involving the hospitals themselves.

The problem of drug addiction in prison is a continuing one. The figures are disheartening, and confirm the triple association of drugs/crime/prison. According to the study 'Drug Addicts in Prison: Consumption and Risk Practices' cited in the 2004 Report regarding 'Drug Addiction Intervention Programmes in Prisons' (Report by the Deputy Director-General for Prison Health, sent to the Ombudsman in October 2005), 77.2% of prisoners consumed drugs in the month before they went to jail, generally more than one substance.

Moreover, as indicated in the aforesaid report, they frequently have illnesses associated with HIV/AIDS, hepatitis B and C, tuberculosis, sexually transmitted diseases, and mental disorders. Other characteristics of the drug addicts who are sent to jail is their lack of proper grooming and hygiene habits, deficient knowledge regarding the risks of getting sick, lack of previous contact with health services and drug-addiction treatment services, low educational level, personality disorders, dysfunctional families, and so on; in sum, a set of negative elements, from the start, which require vigorous action on the part of the administrations and of all the social organisations able to help these prisoners recover their human dignity.

The Ombudsman has continued to follow up on the Administration's actions in this complex setting of the fight against drug addiction.

Support for Victims of Terrorism

The Ombudsman addressed the High Commissioner for Victims of Terrorism,

pointing out the problem of the legal vacuum suffered by Spanish victims of terrorist attacks committed abroad before September 2001, and their family members, in order to know whether some sort of legislative initiative in this regard was planned.

The High Commissioner sent the Ombudsman a report on a draft for a 'Law for the Protection of Victims of Terrorism'. At the request of the High Commission, and regarding the stance of the Ombudsman's Office regarding Spanish victims of terrorist attacks committed abroad before September 2001, the Ombudsman's Office has responded that it is completely in favour of granting the maximum recognition and benefits possible to those persons.

The 'Roquetas Case'

The death of a citizen at the Civil Guard station in Roquetas de Mar (Almeria) after being detained in July 2005 caused a major social uproar. The Ombudsman opened up an ex-officio investigation regarding the matter. As reported in the media, various members of the Civil Guard from that station were accused in a judicial proceeding that was underway, and had adopted, apparently, cautionary disciplinary measures.

The Directorate General for the Civil Guard was asked for a report on the disciplinary measures which had been taken regarding the civil guards involved in the case, as well as the use of defence measures that were against regulations. In any case, the judicial authorities will be the ones to determine any eventual responsibilities.

Latino Gangs

The Ombudsman has looked into the problem of street crime in different neighbourhoods and districts, both in big cities and smaller towns, as well as the insecurity stemming from the so-called 'Latino gangs'. Machismo and violence, within the framework of a paramilitary structure (which includes different uniforms), all form the identifying traits of these groups, which involve violent practices affecting

both outsiders and those within their internal structures.

The police are aware of this emerging problem, and have been carrying operations to repress and prevent it in those places where these young people get together, as well as in the vicinity of schools, the natural place for them to recruit new members.

The problem of juvenile gangs, which is new in Spain, is a serious one, because although on the one hand it is just another form of crime, which rightfully alarms the citizens affected and mobilises institutions to action, on the other it signifies, from a cultural perspective, the presence of organised groups with deeply antidemocratic values and which are an offence against human dignity, such as racism, sexism, and violence carried out in different forms; committed, moreover, within a hierarchical, authoritarian structure.



Latino gangs, mainly comprising the children of immigrants living in marginalised ghettos in major cities, have become a public security problem.

Problems of Regulated Parking

It is clear that there are notable restrictions suffered by citizens, above all in the major cities, who want to park their private automobiles. Besides the fact that they have to pay their automobile tax, they also have to pay the established rates for parking in regulated zones, zones which, moreover, are continually expanding and no longer limited to central, overcrowded neighbourhoods. Besides having to pay the established amount, they run the risk of being ticketed for reasons which, sometimes, are not entirely correct. Often, low-to-medium-income individuals are harassed by fines from which they cannot effectively defend themselves, which is



Parking meters are the subject of complaint and controversy, especially in some cities.

generating rising social discontent, along with rejection of the regulated parking systems in the municipalities where they have been put into effect.

It has also been confirmed that, generally, there is no free parking in the city centres. Citizens therefore must choose between a parking garage, paying for parking on the street in a limited parking zone, or the risk of being fined—with or without a good reason, given the difficulties of defending themselves indicated above. Given this situation, there is a lack of free or subsidised municipal parking for those citizens having the greatest need. This situation aggravates the negative social effects of the system, as it is currently set up.

For all of these reasons, the Spanish Federation of Municipalities and Provinces has been recommended to promote, in the municipalities affected, the strictest respect for procedural guarantees when fines are handed out. In particular, they should be sure that precise imputations are made, citing the regulations infringed upon, rather than a generic reference making a defence more difficult. Moreover, the Ombudsman's Office

seeks to raise officials' consciousness regarding the serious logistical and economic problems that this system creates for citizens and, consequently, urges the promotion of public policies for creating free or subsidised parking for such people.

Military Administration

Regarding actions of the Military Administration, the Ombudsman's Office has looked into a wide variety of problems. Noteworthy here was the visit to the institution of an army sergeant's wife, reporting that her husband was wounded in a mission in Iraq on 11 February 2004, suffering, along with other men in his unit and his section chief, an attack from a hand grenade in Ad Diwanayah.

The Ombudsman asked the Ministry of Defence for a report regarding the legal qualification of the wounds suffered by the sergeant; whether it was considered a combat wound or a terrorist attack, or rather, what was the appropriate legal category, which is the most relevant point from a constitutional perspective of legal security and respect for the rights pertaining to the affected party. The Ministry of Defence was also asked why the affected party was not evacuated from Iraq on 13 February 2004, waiting twelve days for his repatriation; what attention he received at Madrid's Gómez Ulla Military Hospital, and why the wounded man was not being provided with treatment by the Army, given the physical and mental problems that he continued to suffer. Even though he had asked to be released from active duty after his return home, it seemed evident that the Army should continue to be concerned about the physical and mental health of those who had been wounded in the line of duty.

Lastly, it was asked why the sergeant in question had not received any kind of commendation for the mission that he had carried out, and the reasons why he had been denied the Iraq Service Medal, bearing in mind that he had been wounded there whilst carrying out a mission.

The Ministry of Defence sent the Ombudsman complete information on the case in question, both insofar as the legal qualifications of the sergeant's wounds were concerned, as the rights pertaining to him. Likewise, the report provided detailed information regarding the circumstances of his evacuation, treatment received at the Central Defence Hospital and, finally, that he had been conceded the Distinction of Merit for Maintenance Operations regarding Iraq, by virtue of Resolution 216/1880/05, published in the *Boletín Oficial de Defensa* (Official Defence Gazette) n° 142.

More Delays in Judicial Procedures

The right to a process without undue delay, considered as a constitutional right requiring judicial bodies to resolve and order the execution of their resolutions within a reasonable time period continues to be, unfortunately, an aspiration, in light of the many complaints that the Ombudsman continues to receive year after year.

The Supreme Court's Civil Division is one of those accumulating the most delays. The Ombudsman has repeatedly expressed concern, in different annual reports, over the severe delays occurring in the resolution of the appeals to the Supreme Court involving the First Court of Appeals. For yet another year, it is necessary, once again, to insist that this situation, far from being similar to that of last year, is still getting worse.



The Supreme Court's Civil Division is one of those accumulating the most delays.

A report by the Attorney General, sent to the Ombudsman's Office as part of its investigations, highlighted the fact that in 2005, the First Court of Appeals had heard some appeals which had been presented in 1999.

Similar delays could be found in the Supreme Court's Third Administrative Court, also reflected in previous Annual Reports from the Ombudsman's Offices.

Lack of Courts

Regarding other courts, the worrisome delays affecting the court of **San Vicente del Raspeig**, which the Ombudsman already pointed out in previous reports, continue unresolved, in spite of the measures that have been taken since the first complaints about its dysfunction were received. We can highlight the complaint by a lawyer's collective

in Alicante, whose professional activities have been harmed by the poor functioning of this court, and another complaint referring to the same court regarding a procedure initiated in 1993 and which, in 2005, was still underway.

After initiating an investigation with the Valencia Region's Department of Justice and Public Administration and the General Council of the Judiciary, the report sent from the aforesaid Department provided details on the measures agreed upon, within its jurisdiction, in order to adapt its human and material resources to fit its needs. The construction of a new courthouse was promoted, and plans were approved for generic biyearly reinforcements aimed at solving the problems derived from the seasonal accumulation of issues pending processing. For its part, the General Council of the Judiciary admitted that it was conscious of the delicate and difficult situation at the court of San Vicente del Raspeig, adding that this court would be included in its upcoming calendar of visits, in order to have more exact knowledge of the court's situation in order to propose the opportune measures and solutions.

Also noteworthy is the deficient functioning of the **First Magistrates Court of Almería**. In this regard, a complaint was admitted for processing that was presented regarding the delays in the preliminary judicial inquiry underway at that court, stemming from the presentation of criminal charges. The report requested not only recognised the delays existing in these inquiries, but also the overall situation of the court itself. Specifically, it was indicated that, within the space of two years, the courthouse had been moved twice, the staff had been changed four times, and, since the month of June 2004, all of the career civil servants had asked to be transferred elsewhere, leaving the court entirely in the hands of interim administrators.

Moreover, the Ombudsman considers it necessary to underscore the situation affecting **Madrid's 73rd Court of First Instance**. A citizen reported that a petition for an ordinary trial had been presented on 8 February

2005, and that via a court order of 31 March, the trial was given a date for 7 March 2006. The information received from the Council's Inspection Service indicated the motives impeding the possibility of setting hearing dates within a shorter time-frame than the one that had become the norm.

These alleged motives basically referred to the need to fulfil the principle of obtaining oral testimony from the parties involved, which is part of the new judicial proceedings; the lack of hearing rooms in the court-houses, which made it necessary to divide those available amongst the different courts; and the volume of new cases being presented in the Madrid courts.

On 5 July 2005, the Madrid Judiciary Council approved unanimously a set of criteria to lend greater coherence to the setting of hearing dates, consisting of two weekly preliminary hearings, two ordinary trials, and six hearings. Given these data, it was obvious that **Madrid's 73rd Court of First Instance** was, on a weekly basis, carrying out a higher number of hearings than those agreed upon by the Judiciary Council, since every day in session it heard two preliminary hearings, two ordinary trials, and four hearings.

The only solution possible, according to the General Council of the Judiciary, to normalise this situation was to create new courts of first instance in Madrid. To do so, it was considered appropriate to open up a new line of investigation, with the Ministry of Justice, in order to be familiar with the latter's planning regarding the creation of new courts in Madrid.

Deficiencies in Judicial Services to the Public

The good or bad functioning of the administration of justice has a direct impact on the victims of crimes. A 76-year-old woman who had been the victim of a robbery complained that, seven months after reporting the crime, she had not been seen by a forensic physician, nor had she received any communiqué whatsoever from the court, nor had she been informed regarding the aid and legal assistance available to victims of violent crimes. Moreover, other victims of violent crimes and sexual assaults were not receiving such information, either, although the General Council of the Judiciary later confirmed to the Ombudsman that it had reminded its administrators of the legal obligation to provide this information.

After requesting the collaboration of the General Council of the Judiciary, the Attorney General, the Secretary of State for Security, and the Departments of the Interior of

Catalonia and the Basque Country, at the close of the Ombudsman's 2004 Report, all of the reports requested had been received, except for that of the General Council of the Judiciary, and the information therein—memos, instructions, manuals, guides, etc.—confirmed that these different bodies had adopted specific measures to remind their civil servants of the legal duty to inform victims.

In April 2005, the General Council of the Judiciary responded to the Ombudsman's request for a report, stating that by means of the Head of the Inspection Service, instructions had been given to all of the inspection units that each one should report on its experiences with this issue during their inspection visits. These reports indicated that the judicial bodies were indeed fulfilling their obligation to provide information, as stipulated in article 15 of Law 35/1995. However, some dysfunctions could be seen in the joint judicial bodies of Madrid, Extremadura, and Catalonia, because there was no evidence that victims of violent crimes and sexual assault were receiving specific information regarding the assistance to which they were entitled and the procedures to follow in order to obtain it, although, in any case, the victims were being properly attended to by the Municipal Social Services or by the different State Security Forces.

The lack of personnel in the Justice Administration was compounded, according to some complaints presented to the Ombudsman, by the lack of co-ordination between the authorities who intervene in police and judicial investigations of events causing the someone's death, and which led to delays in communicating this circumstance to the person's family, in spite of knowing who they were and that they were easily located. To this end, a communiqué was sent to the district attorneys requesting that they see to it that these families be informed more quickly.

Situations in Some Juvenile Detention Centres

During 2005, the Ombudsman's Office visited the following juvenile detention centres, without prior warning, as usual: Tielmes (Madrid), Concepción Arenal (Corunna), San Jorge (Zaragoza), Las Moreras (Murcia), Mesa Ponte and Valle Tabares (Tenerife), Gáldar and La Montañeta (Las Palmas), and the drug addiction treatment facility Cantalgallo (Seville).

Indeed, more than 80% of such centres in Spain have already been visited two or three times, aside from the fact that ex-officio



The situation at the Gáldar Juvenile Detention Centre in Las Palmas led the Ombudsman to propose its closure.

investigations are always opened when the Ombudsman is informed of events that affect detained minors.

Of these visits, special attention is due to one of them because of its special characteristics: the Cantalgallo Drug Addiction Treatment Facility for Minors in the town of Dos Hermanas (Seville). This centre, which is privately owned and managed, is directed by the Proyecto Hombre Foundation. We found a high level of satisfaction in the minors at this centre, and regarding the treatment of the workers. This centre combines treatment for addiction with social reinsertion programmes.

As a consequence of the visit to the Cantalgallo Centre, an ex-officio petition was made, asking for the collaboration of the General Council of the Judiciary, and the Attorney General, so that they could provide the means necessary for judges and prosecutors working with juvenile courts to be aware of the existence of such treatment centres, of the programmes carried out there, and their minimum duration, as well as the advisability of including, in the training of juvenile judges and prosecutors, information on the complete inefficacy of the measure of short-term internment for treatment. As the present Report was being closed, response had yet to be received regarding the communiqués sent to the General Council of the Judiciary and the Attorney General.

Actions against Domestic Violence

There have been too many fatalities among victims of domestic violence in 2005, and the Ombudsman's Office launched ex-officio investigations aimed at finding out whether the those administrations having jurisdiction in the matter had adopted all of the measures necessary and, when appropriate, to know why there had not been proper functioning of all the mechanisms that could have made it possible to avoid these deaths.

In other cases, and as a direct consequence of the complaints presented by citizens, investigations have been launched tending towards asking the competent administrations to adopt the preventive measures necessary to guarantee victims' security.

The Ombudsman's Office has also investigated the procedures initiated in the social services to solve marital crises.

Complaints against the General Register Office

The General Register Office, as has been highlighted in past reports, has such an overload of work that it is impossible to provide quality service with a minimum of speed. Its document-processing times continue to grow. The deficient functioning of its call centre impedes many citizens from knowing where their documents are. There is a high number of complaints regarding delays of seven or eight months in issuing certified copies of birth certificates once Spanish nationality is granted, after several years of paperwork. Without this certificate, citizens cannot obtain a Spanish National I.D. Card (DNI) or Spanish passport, meaning that they have no official identification for an indefinite period, which keeps them from getting a job, paying Social Security, leaving Spain, certifying their driving license—in short, it can cause severe economic and personal hardship to those involved.

Moreover, the citizens who report their concern regarding this situation also complain about the specially favourable treatment given to certain celebrities, such as foreign athletes or actors, who seem to be unaffected by the delays at the General Register Office.

Likewise, delays of nine to ten months can occur in the registration of minors, adopted abroad, at the General Register Office, after their parents have already suffered through a long adoption process.



The General Register Office's new headquarters in Plaza de Benavente, Madrid.



The Spanish Consulate in Tangiers (Morocco).

The Ombudsman, while recognising the efforts on the part of the Ministry of Justice to try to solve the dysfunctions at the General Register Office, is of the opinion that the measures adopted to date are clearly insufficient. Therefore, the Ombudsman considered it advisable, in February 2005, to recommend that this Ministry address all of these deficiencies, anomalies which included the inadequacy of the building itself, the insufficient personnel, lack of space for archives, and its inadequate location. The Ombudsman considered it necessary and urgent to design a Special Plan to remedy all of these deficiencies, which affect thousands of citizens. Likewise, the Ombudsman has underscored, yet again, the deficient functioning of the call centre.

The Ministry of Justice's report on this recommendation was received at the end of 2005, and it indicated the actions carried out by this department and those which were to be implemented in the near future. An example was the transfer of the General Register Office to a new location, a building that is being rehabilitated to that purpose in Madrid's Plaza de Jacinto Benavente; the expansion and modernisation of the current call centre; the improvement in computer applications, and the increase in personnel. Moreover, it cited new computer connections amongst all of the different register offices, and an increase in the number of hours worked in order to cut delays, introducing, when the new Judicial Office starts operating, expanded opening hours to the public, morning and afternoon from Monday to Friday, and Saturday mornings.

Regarding legislative modifications, it pointed out that, on 19 November 2005, the *Boletín Oficial del Estado* (Official Spanish Gazette) published Law 24/2005 of 18 November, on reforms for raising productivity, which in its seventh additional disposition, modifies article 16 of the Register Office Law, permitting, in those cases of international adoption and, likewise, in those birth registrations that are a consequence of acquiring Spanish nationality by citizens who were born in a foreign country, that the register of birth be extended to the Register Office of the city where the interested party is domiciled.

Spanish Prisoners Abroad

As has been reflected in reports from previous years, as well as by the volume of complaints received, the Ombudsman's Office has been paying special attention to those persons who, due to certain circumstances, find themselves deprived of their liberty in foreign countries.

The investigations undertaken are aimed—as stipulated in the General Act of Parliament regulating the Ombudsman's activities—at supervising the actions of the Spanish public administrations, and therefore the majority of the complaints admitted for processing stem from two motives: the actions of Spanish consulates, and delays in processing transfers.

It should be kept in mind that the actions of Spanish authorities are conditioned by those of the competent authorities in the country where the interested party has been convicted. Often, dossiers are stymied for causes exclusively imputable to these foreign administrations, which is discouraging for Spanish prisoners abroad, since the prisons where they are detained do not meet minimal hygiene, security, or health conditions.

Amongst the actions carried out by the Ombudsman during 2005 regarding certain Spanish prisoners abroad, we can highlight the petition to the Directorate General of Consular Affairs, asking about the personal situation of a Spanish prisoner in Venezuela who was shot at a penitentiary centre, consequent to a theft on the part of other prisoners in the same jail, precisely on the day when the Spanish Consulate paid him his aid money, which was apparently more than usual due to certain back payments that were made.

The response sent by this Directorate General explained that the transfer of the interested party to another prison was pending the authorisation on the part of the competent judge, so that he had yet to be relocated.

Asked about the frequency of visits by consular officials to Spanish prisoners, we were informed that these varied according to the number of prisoners, the penitentiary centres where they were jailed, and their locations, but that, in any case, the number of visits was higher than the minimum number fixed by the legislation in force.

Lastly, we were informed that the consulate was making all possible overtures with the aim of speeding up the processing of his transfer, whose delay was imputable to the Venezuelan public administration. Therefore, the Ombudsman decided to ask for the collaboration of the Ombudsman of the Bolivarian Republic of Venezuela so that, within the limits of his jurisdiction, he could intervene in speeding up the process; moreover, whether he could provide any information regarding the possibility of putting Spanish prisoners

together, based on the level of security they required.

The Venezuelan Ombudsman's Office sent a summary of the actions that it had carried out, which led us to conclude that the interested party had been visited on several occasions, and even that it had been possible to transfer him to the Victorino Santaella Hospital in Los Teques, were he received surgery for his bullet wound. After this operation, the interested party was visited at the penitentiary, and the civil servant from the Venezuelan Ombudsman's Office was able to confirm that he was in good physical condition.

Spanish Prisoners in Morocco

The Association for the Defence of International Professional Drivers (ASOCHOFER) sent the Ombudsman's Office a writ signed by a group of 39 Spaniards who were prisoners in Tangiers which, as we could later confirm, was published simultaneously in some news media.

The letter described the treatment received by these Spaniards, and the horrible conditions of the prison where they were being kept. In light of its contents, the Ombudsman considered it advisable to look deeper into the problems it set forth, and therefore an interview was scheduled with relatives of these prisoners and the president of ASOCHOFER.

During this interview, it was found that two of the Spanish prisoners were suffering from severe health problems: one of them was seriously incontinent, and the other had suffered two heart attacks and a stroke, so that both needed constant attention.

Moreover, we found that the situation of the imprisoned women was worse than that of the men, because they needed psychological help, and one of them had tried to kill herself by taking pills.

Lastly, we were informed that one of the main problems affecting Spanish prisoners in Morocco is the delay, on the part of the Spanish Consulate, in processing their poverty certificate — a document that is essential for the Moroccan Customs Department to cancel their fine and authorise their return to Spain. For example, a Spaniard condemned to three years in prison had been waiting for this certificate for two years.

This information was passed on to the Spanish Consulate in Tangiers, which issued the required report, saying that, in the first place, the Civilian Prison in Tangiers has a capacity for 1500 prisoners, although at that

time it was holding nearly 3000, which is in itself an example of the deficiencies in space, health conditions, and food that could exist at that prison.

In the Consulate there is one person who is solely and exclusively in charge of attending to the prisoners, who are visited two or three times a week, actions complemented by those of the Order of the Daughters of Charity, who, besides visiting the prisoners regularly, administer the money that their families send them and make purchases on their behalf.

In November 2005, the Consulate offered the prison director the possibility of sending doctors from the Spanish Hospital in Tangiers to visit the Spanish prisoners should it become necessary, and the director sent this offer on to the Directorate General of Penitentiary Administration. The Spanish Embassy asked for the appropriate permit, but was only given oral authorisation on a case by case basis, and so the request for a general authorisation was repeated.

Regarding the certificate of poverty about which we had asked for information, we were told that, in keeping with the content of the bilateral agreement signed between Spain and Morocco for the transfer of condemned persons, one motive for refusing it could be that the amount of the fine imposed by the prisoner's sentence had yet to be paid in full, or the amount agreed upon after possible negotiations with the interested party's legal representatives.

This certificate is a document that the Consulate has been providing in order to achieve a cancellation of the monetary fines imposed on Spaniards condemned in Morocco. The practice has been going on in keeping with the analogous application of the stipulations of the Moroccan legal process, for which the competent Spanish legal authorities draw up the appropriate dossiers. Specifically, it is necessary to obtain a certificate from the municipality where the prisoner was registered as living, another from the tax authorities regarding income from the previous three years, and lastly, one from the General Property Register and, if appropriate, a certificate or simple note of the assessed value of registered property.

Once the economic sanction was cancelled, the Consulate tried to go further, providing a certificate issued by the Attorney General's Office recognising the cancellation of this sentence, as part of the documentation for processing the transfer of these prisoners to Spain. This document is, in practice, substituting for the document which would prove that the sanction had been paid.

If, from the information received, it can be deduced that a situation of poverty really does exist, then the certificate is issued; if not, given that all of this documentation is placed at the disposition of the Moroccan authorities for verification, it is not issued, because it would be contrary to the interests of other prisoners who could benefit from this measure. The time necessary for gathering together the necessary documents depends on each of the Spanish bodies involved.

Serving Sentences in the Country of Origin

Given the efficacy of incorporating these documents into the transfer request, it was requested that the Directorate General of Consular Affairs study the possibility of signing an additional protocol to be added to the agreement between Spain and Morocco for serving sentences in the country of origin, with the aim of regulating this possibility, and in order to provide the certificate of poverty as part of meeting the documentary requisites for achieving a transfer.

Besides all of the above, individualised information was received regarding the situation of each one of the prisoners, which was sent on to their families.

Spanish Prisoners in Other Countries

Regarding the Spaniard who was condemned to death in the Philippines, in a process plagued with irregularities, which we have already set forth in previous reports, we were able to find, as a result of the follow-up carried out by the bodies involved, that the Philippine Supreme Court ratified the sentence, so that the only possible option was that of asking for presidential clemency. The Ombudsman has asked to be informed of any eventuality in this regard¹.

The same situation repeated itself regarding the case of another Spaniard in a Bolivian prison, accused of murdering a prosecuting attorney. The corresponding trial has been delayed again and again; moreover, the prisoner has been beaten in prison, according to a report by Amnesty International. Finally, however, he has been released provisionally, and is under house arrest, after having been imprisoned for more than 18 months without trial. Likewise, the Ombudsman has asked to be sent information regarding any new development in this particular case².

(1) The President of the Philippines commuted the sentence of the prisoner in question from death to two consecutive life sentences in April 2006. The family continues to appeal the decision.

(2) This prisoner was released, without charges, on 13 March 2006.

Different and Unequal Treatment in the Inheritance and Donations Tax

Differences in the taxes for inheritance and *donatio mortis causa* involving spouses or parents and children in Spain's autonomous regions having common legislation, and in the Basque Country and Navarre, were the reason underlying the opening of an ex-officio complaint, as well as several independent ones.

The following table summarises the Inheritance and Donations Tax in the different Spanish Self-governing Communities, excluding the Basque Country and Navarre, where such transmission are tax free:

Self-governing Communities	Groups of relatives receiving rebates	Family firm	Principal residence	Handicapped persons	Limits	Misc.
Andalusia.....	100% G. I and II		99,99% I and II	100%	Yes	EA
Aragon.....	100% G. I	95% G. I and II	100% G. I	100%	Yes	F
Asturias.....		99% G. I and II	Hasta 99%		Yes	C
Balearic Islands.....	99% G. I		100% G. I and II	-300,000 €	Yes	PL
Canary Islands.....		99% G. I and II		Up to 225,000	Yes	A, C
Cantabria.....	Hasta 50,000 €	98% G. I and II	99% G. I	Up to 200,000	Yes	E, S, PH, C
Castilla-La Mancha.....	95% G. I and II				Yes	
	20% G. II	3%		95%	Yes	EA
Castilla y Leon.....	60,000 € G. I and II	99% G. I and II		Up to 225,000	Yes	E, PH, I
Catalonia.....		95%	95%	Up to 570,000	Yes	E, PH, S, T, M, DPU
Extremadura.....	-70,000 G. I	100% G. I and II	100% G. I and II	Up to 180,000	Yes	E, EA, PL
Galicia.....	-1,000,000 G. I			Up to 216,400	Yes	I, C
La Rioja.....	99% G. I and II	99% G. I and II	95% G. I and II		Yes	EA
Madrid.....	99% G. I	95% G. I and II	95% G. I and II	Up to 153,000	Yes	E, S, PH, I
Murcia.....	99% G. I, 95% G. II	99%			Yes	
Valencia.....	99% G. I	95% G. I and II		99%	Yes	
Ceuta and Melilla.....	99% G. I and II	50% all groups	50% all groups	50% all groups	Yes	

There are four groups of relatives, categorised by the proximity of their relationship to the decedent, for whom the law stipulates different conditions applied in calculating the taxes owed.

Group I encompasses descendants and adoptees under 21 years of age. Group II includes descendants and adoptees over 21, spouses, ascendants, and adoptive parents. Group III comprises relatives in the second or third degree, and indirect ascendants or descendants. Lastly, Group IV contains family members of the fourth degree or higher, and non-family members, for whom there is no rebate whatsoever.

Of the 15 Spanish communities for which data were collected, besides the autonomous cities of Ceuta and Melilla, all but Asturias, the Canary Islands, and Catalonia raise the minimum amount exempt through deductions or rebates for those in Groups I and II.

Companies which are either individual firms, professional practices, or shares in entities constituting the deceased's main source of income are considered family firms, as long as they meet the requisites

established in article 8.4 of Law 19/1991 of 6 June, on the Capital Gains Tax. The transmission of a family firm enjoys a substantial rebate, except for in Castilla-La Mancha, Castilla y Leon, Galicia, and Valencia, although limitations are established aimed establishing a period of non-transferability.

Regarding the principal residence, to be regarded as such it must have been the deceased's principal residence, although in many Communities, there is a requirement for it to have been the legatee's, as well. The transfer of a principal residence also enjoys rebates, except for in Galicia, Castilla-La Mancha, Castilla y Leon, Murcia, and Valencia, although there are certain requisites established for this.

As to handicapped persons, those having an officially certified handicap also enjoy a special tax deduction, as high as 100% in Andalusia and Aragon, thus doing away with the tax for such persons. On the contrary, they have no special deduction whatsoever in Asturias, La Rioja, and Murcia. Other Self-governing Communities have opted for establishing a certain tax-free quantity.

Limits in Discounts or Rebates

Regarding limitations, all Spanish Communities establish limitations or incompatibilities with those recognised by the common regulations in application of deductions or rebates.

The last column of the table above lists different concepts in the regulations which vary from one Community to another, abbreviated with letters. The key to these letters is as follows:

E. Equality between common-law couples and married couples.

A. Equality between pre-adopted or foster children and biological children.

F. Specific fiduciary regulations under Aragonese civil law.

B. Coefficients. Article 22 of Law 29/1987 of 18 December, regulating the Inheritance and Donations Tax, stipulates, within the chapter devoted to calculating taxes, a set of coefficients to be applied to the full quota in order to obtain the final figure due for payment. These coefficients are established according to the pre-existing property of the

deceased, so that those legatees having property with a higher value on the date of the deceased's death will have to pay a tax rate that is 5%, 10%, or 20% higher, depending on the group of relatives in which they are categorised. Those Communities that have regulated their own table of coefficients have established reductions or raises.

P.L. Provisions of regulations contained in new draft laws in the Balearic Islands, Catalonia, and Extremadura.

S. Specific reductions for quantities received from life insurance.

P.H. Registered heritage properties, recognised by the National or Autonomous Administrations.

E.A. Farmsteads. Communities in which land that is being farmed enjoys specific deductions aimed at alleviating the tax burden of *mortis causa* acquisition of these properties, bringing it in line with the benefits for family firms.

I. Indemnities received from Public Administrations.

M. Mutual assistance cohabitation. Catalonia is the only Community in Spain which recognises the category of mutual assistance cohabitation, defined as the cohabitation of two or more persons in the same principal residence who, without constituting a family unit, share common expenses and household chores, whether distributed equally or unequally, and independently of who generates income. Those in this category treated like Group III family members.

Moreover, Law 29/1987 of 18 December on Inheritance and Donation Tax, stipulates generally, for the entire common territory, deductions for transferring a family firm, principal residence, cases of handicapped persons, and inheritance of registered heritage property, so that the rebates established for these concepts by the different Communities suppose an increase in general tax benefits, except for in cases of incompatibilities. In addition, Law 19/1995 of 4 July, on Modernization of Farmsteads, stipulates a general rebate for the transfer of such farms.

Taxation Inequality, According to Place of Residence

From the viewpoint of the right to material equality cited in article 9.2 of the Spanish Constitution, it is surprising that there are differences between Groups I and I defined by Law 29/1987 of 18 December, regulating the Inheritance and Donations Tax (in article 20.2a) and which, as we have seen, encompasses in Group I those descendants and adoptees below 21 years of age, and in Group II other descendants, spouses, adoptees, and

ascendants, with the latter bearing a higher tax burden than the former.

Article 39 of the Spanish Constitution establishes constitutional protection for the family, understood as a unit, without establishing differences amongst children due to their age or status. The difference is due, clearly, to the presumption of having a certain economic capacity after a certain age, so that subsequently greater protection is given to those descendants who, because of their young age, lack this economic capacity in order to liquidate the rights corresponding to the property of their progenitors. However, today's social circumstances make it impossible to appreciate differences in economic capacity between the ages of 20 and 22 sufficient for maintaining this distinction. In light of the aforesaid constitutional precept, we see a singular fact, which is that the same property can be subject to different taxes if there are two or more inheriting descendants, and one of them is under 21, which would exempt the younger from paying inheritance taxes on the same property in such Self-governing Communities as Aragon, Madrid or Valencia, whereas a 22-year-old would have to pay. The term 'exemption' is used, practically speaking and to simplify these conclusions, when comparing them to the special systems in the Basque Country and Navarre, but such inheritances are, technically, subject to taxation, even at a rate of 0%, which, materially, is the same as exemption from payment.

Likewise, spouses would be subject to taxation in these same regions, and in some others, such as Andalusia, the Balearic Islands or Galicia, where family firms would also be subject to taxation under the system established by Law 29/1987 of 18 December.

This breakdown in the peculiarities of how the same scenario can lead to different tax rates, depending on where the deceased was residing, and the prolix regulations in each Self-governing Community, represent an added difficulty for taxpayers who, in their complaints to the Ombudsman, feel discriminated against and confused by the legal dispersion existing all over Spain.

Taxpayers need to have a clear idea, in order to feel certain of their rights and, by extension, the rule of law, that their place of residence is irrelevant to the establishment of an applicable right, which in the present case of inheritance and donation taxes, is determined by the deceased's place of residence.

Article 20 of Law 21/2001 of 27 December, which regulates the taxation and administrative measures of the new system of financing of the Self-governing Community under the common system and the

autonomous cities, also regulates the norms for determining the habitual residence of persons, and establishes, in section 4, the lack of efficacy of changing one's tax domicile from one Self-governing Community to another when the principal motive for such a modification is achieving lower rates on those taxes which have been totally or partially devolved, such as the inheritance tax.

Economic Privileges Associated with Domicile

From the data studied, it can be concluded that the communities geographically close to one another which have their own regional laws have regulated a tax system that is more beneficial for their residents with the aim of not allowing their wealth to be dispersed outside the region, since the depopulation of their towns would also have an additional impact on the resources of their municipal treasuries, as well as the own Self-governing Community.

Although it is true that there are no physical barriers to the free circulation of goods and persons within Spain's borders, and the choice of residence depends, undoubtedly, on the individual citizen, the regulation of different inheritance tax systems in different communities could involve discrimination, in violation of article 138.2 of the Spanish Constitution, since it imposes economic privileges associated with place of residence.

Moreover, the legislative technique employed does not seem to be the best adapted to rule of law; thus, many communities use their annual laws regarding taxes, administration, or social services to introduce modifications in the inheritance and donation tax for successive years, thus generating more uncertainty amongst citizens.

This panorama of dispersion regarding the differences in inheritance taxes, in the application of a tax which, to a certain extent, punishes savings, together with the legal concerns which have already been expressed to the National Administration—in the 2004 Report—leads the Ombudsman's Office to once again recommend that the Ministry of the Economy adopt an legislative initiative to modify the inheritance and donations tax, setting up guidelines to result in regulations for each Spanish Community, so that they may wind up having more equal taxation, in order to avoid distorting the content of article 31 of the Spanish Constitution, so that the choice of residence may not be influenced by taxation.



The 'Internet in the Classroom' and 'Connected Homes' initiatives aim to promote families' participation in the educational process through computer. Photo: Red.es.

Internet in the Classroom

The promotion, on the part of the Administration, of use of the Internet, applying the 'Connected Homes' plan integrated into the 'Internet in the Classroom' plan, have had a severely negative impact on companies in the retail personal computer business in Spain, due to the fact that banks are allowed to sell computers directly to their future users, financing them at a zero interest rate, applying a budget specifically earmarked for this purpose.

Connected Homes

According to the Secretary of State for Telecommunications and the Information Society, the 'Connected Homes' initiative aims to promote the participation of families in the educational process through new technologies, and encompasses the launching of a preferential credit line for the acquisition by these families of a 'package' that includes computer equipment, a broadband Internet connection, and training—all through zero-interest loans through the credit companies selected for the

programme. This line of credit totals 100 million, and the maximum credit for each applicant is 1,000, except for families with three or more children, whose maximum is raised to 1,200.

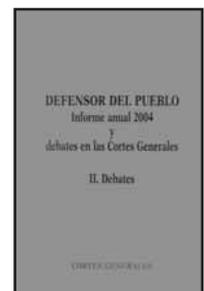
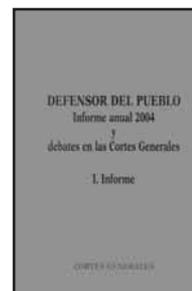
According to the Administration, special care has been taken to enable the retail sector to enjoy the benefits of this initiative. Thus, the Resolution of 8 August 2005 establishes, in section 4.2, that the beneficiaries of these loans can acquire the components of their 'package' in any store of their choosing, and that the credit companies are obliged to accept their applications as long as the applicants meet the solvency requisites established by the credit company itself. The desired effect is, therefore, that a public which would not usually go to such stores without this kind of preferential financing will indeed go there, consequently raising sales. The role of the credit companies in the 'Connected Homes' initiative is not that of competitors in the retail personal computers market, but rather that of financial intermediaries collaboration with the State Administration in simplifying the processing and management of loans, publicising the initiative, and providing training venues and courses for these families.

Citizens have also questioned the exclusion of the parents of children in private educational centres, not supported by state funding, from the credits included in the 'Connected Homes' programme, part of the Avanza Plan, as well as those of students over the age of 21 studying in private centres which are not part of the state system, and so an investigation has been launched in this area.

OMBUDSMAN PUBLICATIONS

Besides the recommendations and suggestions issued by the Ombudsman to the different public administrations between 2001 and 2004 (one volume per year), in 2005 the Ombudsman's Office has published two special reports, on 'Noise Pollution' and 'Legal Assistance to Foreign Nationals in Spain', whose covers are shown below, as well as the 2004 Report and its parliamentary debates.

These publications may be acquired at: c/ Zurbano 31, 28010 Madrid, or ordered on the Internet at: publicaciones@defensordelpueblo.es



Lack of Ecological Consciousness Contrasts with Growing Public Awareness About Natural Resources

Need for a Single Nationwide Housing Policy

The background to reflections on environmental issues is that of criticism of the still dominant conception of the economic system, according to which the management of damaged resources does not form part of the internal costs of productive activity—a conception that, unfortunately, has yet to arouse an adequate response from the different administrations. Therefore, it is urgent for the different public spheres to engage in more reflection on how the destruction of natural resources, waste production, the rise in dissatisfaction are effects linked to the productive process, whose absence contrasts with a growing awareness on the part of the citizenry regarding natural resources. Today, we know how to better appreciate the non-monetary value of, for example, forests and beaches, and to defend this value against the attacks from producers of other 'goods', which are bought and sold in the marketplace.

This growing public awareness connects directly and basically with the right of access to environmental information, with the quality of being an interested party in a procedure, with the presenting of complaints, with the public action that certain laws recognise, and with the general prohibition of defencelessness. The assessment of environmental impact is an essential process in any public works project, which must be subjected to administrative control and public opinion.

Over the past 30 years, the major legislative developments in the field of environmental protection have come to cover natural spaces, many of which, given the extent of their natural value, have been officially declared protected.

The declaration of a space as protected can wind up becoming a threat rather than serving the aim of conserving its ecological value, all under the aegis of a false idea of sustainable development. Herein lies a paradox: a natural space can actually be better protected if it not officially declared protected.

This seems to be the situation reflected by some of the investigations followed in 2005 regarding the management of several natural parks (Dunas de Corrubedo Natural Park, Hoces del Río Riaza Natural Park, and Cabo de Gata Natural Park). In these areas,

the Administration has approved uses, and authorised the construction of infrastructures, which are viewed as an opportunity for regional economic development, with the aim of enabling all of the municipalities involved to gain maximum profit from the situation.

However, the conservation of natural assets, and the impact of the planned actions on them, appear as secondary considerations. This order of priorities tends to be contrary to the Natural Resources Zoning Plans (known by their Spanish initials, PORN) for Natural Spaces, the law that regulates their creation, and the autonomous laws for natural spaces. These regulations always present as their priority objective the conservation and protection of natural resources within the protected spaces—flora, fauna, landscape—and the preservation of their

biodiversity, as well as the maintenance of the dynamic and structure of their ecosystems, whereas the promotion of the study and enjoyment of their natural and cultural resources, as well as the socioeconomic development of the populations in their environs, are presented as objectives complementary to the preceding ones. Therefore, it is urgent, in keeping with the regulations in force, for the administrations having jurisdiction over the management of protected natural spaces to incline towards the philosophy of conservationist tourism.

Lack of Organisation of Water Administration

A similar attitude can be seen, as in previous years, regarding the lack of diligence on the part of water administration authorities in the exercise of their power to impose sanctions in cases of illegal usage, contamination, or occupation of water resources in the public domain, which has continued to incite a considerable number of investigations by the Ombudsman's Office, as well as many suggestions and reminders regarding the of unfulfilled legal obligations on the part of the organisations concerned.

The Ombudsman's Office has several investigations open—some of them have been open for years—regarding the water administration, in order to confirm whether sanctions are executed, if necessarily by force; whether conditions are returned to their former state, when necessary via the procedures of subsidiary execution; and whether indemnifications are demanded for the damages caused.



Cabo de Gata Natural Park in Nijar (Almería). Photo: Atan.org.



Opposition to the location of controlled landfills and recycling plants contrasts with citizens' behaviour insofar as the dispersion of organic, gardening, and agricultural waste is concerned, as well as that of old furniture and construction materials, which are dumped without any control, fouling fresh water sources and even the sea, as here in Ávalos, La Gomera (Canary Islands). Photo: Atan.

Irrigation Communities

In the realm of land development, the legal nature of irrigation communities, and their status as public administrations, has provoked certain legal controversies. It should be pointed out that, in the opinion of the Ombudsman, these irrigation communities, regardless of their timeframe, have been constituted as legal public associative entities, and it is generally compulsory to constitute them and be a member of them in order to exploit these resources, under the tutelage of the Administration, but with an independent legal identity.

Opposition to the Location of Landfills and Recycling Plants

A peculiar phenomenon is that of the prevention and management of waste, where citizens' concerns are centred more on the inconveniences generated by landfills or waste management plants, or even in the value-added activities carried out by private companies under the Wastes Law, than on the problems involved in their reduction or elimination. Neighbourhood opposition, sometimes unjustified, to waste management plants and installations, which can even stop their construction or delay the start of their operations, represents a problem that is difficult to solve, has surely not been channelled correctly through the use of planning and citizens' participation mechanisms in decisions involving the location of such installations, and there is an apparent lack of clarity regarding the correct measures to be adopted.

In other cases, there is a contrary phenomenon: the complaints focus —year after year— on denouncing the existence of uncontrolled dumping near towns, neighbourhoods,

or housing developments, with the full knowledge and consent of the administrations involved. In the case of irregular urban waste dumps, there are many town councils which, in spite of being conscious of their legal obligations, do not regularise their situations, alleging economic and budget difficulties.

Eight Years' Delay in Regulating Organic Animal Wastes

Moreover, there is cause for concern in the fact that this year, once again, there is a need to refer —as in the reports corresponding to 2002 and 2003— to the use of organic farm animal waste as fertiliser, which has yet to be the subject of the opportune and obligatory regulation stipulated in the Wastes Law.

The delay in the elaboration of these regulations is excessive from any standpoint, since it should have been approved by the Government within the space of nine months after

the Wastes Law entered into effect—in other words, eight years ago. The Administration's passiveness in this matter, moreover, implies blunting the law's efficiency, given that one of the areas for waste management that it addresses—the pollution generated by the use of organic farm animal waste as fertiliser—has yet to be regulated, and not precisely due to reasons that may have made it advisable to delay this regulation of the law, but due to a persistent lack of consensus between the two ministries involved, and the lack of initiative and co-ordination on the part of the Technical Secretary General of the Prime Minister's Office.

Authorities' Resistance to Dealing with Noise Pollution

The problem of noise pollution, which is unfortunately attaining an ever higher profile in our society and in the work of the Ombudsman's Office, has led to the preparation and presentation in the Spanish Parliament of a special report on *Noise Pollution*. Without exhaustively summarising the contents of this report, we can highlight the general resistance on the part of the administrations with jurisdiction over certain infrastructures (airports, highways, and railroads) to accept our proposal due, fundamentally, to two *a priori* assumptions, which are in our view incorrect, to wit: noise is an inevitable cost of progress; noise is an option freely accepted by the citizen who suffers from proximity to a noise emission source.

In this regard there are various important cases that were closed in 2005; others, equally important, remain open (e.g., noise pollution around Madrid's Barajas Airport, and Barcelona's Prat), although with the limits derived from the fact that they are also the subject of legal actions.



The new Terminal 4 of Barajas Airport has sparked complaints, both due to incidents involved in its start-up phase, as to the noise pollution caused by the aeroplanes in the take-off and approach routes to its new runways, which are closer to housing developments.

City Planning and Housing

The Constitutional Right to Decent Housing

The Ombudsman's Office has been able to confirm that the different Self-governing Community legislatures have been passing more or less proven measures for increasing the amount of housing at affordable prices in order to moderate the high prices of the free market. These measures are aimed at lowering the prices of land, rental properties, and condominiums, as well as controlling fraud in state housing. Moreover, they are based on the idea of putting empty housing on the market, and accentuating the importance of rehabilitation.

In sum, these measures are trying to guarantee that a city's growth and development do not occur at any cost, nor will they compromise the wellbeing of future generations, seeking alternative solutions to bring down the cost of land and housing; avoid speculation with a scarce commodity like land; simplify public actions in the realm of city planning and cut red tape; and favour the access of all citizens to decent housing, without breaking down an urban model of social cohabitation that is an important heritage for everyone.

To attain these ends, the Ministry of Housing responded with the draft bill for the Law of Land and Assessment, and with the new 2005-2008 Housing Plan that was passed in July 2005.

The general criteria inspiring this draft bill revolve around four basic aspects: greater transparency in order to achieve higher public participation; working towards sustainable urban and rural development; guarantees for a sufficient supply of land zoned for state housing; and new legal criteria for assessment in order to exclude speculative factors.

Bearing in mind the functions assigned to the Ombudsman by the Spanish Constitution and by General Act of Parliament 3/1981 of 6 April, it is worth highlighting a very important contribution to the draft bill cited above: the fact that, for the first time, a state law on land zoning includes a section detailing the rights and duties of the citizens, their legal status in city planning matters. In sum, housing and all of its attendant installations and services should be treated as the citizens' right, and therefore the public authorities have the duty to guarantee their access to it. To such an end, state regulations use this right as a point of departure, and try to establishing the precise technique for guaranteeing a supply adequate to their needs through systems able to

promote zoning and housing that give priority to these social rights, compared with a protectionist conception of the right to land ownership. The Ombudsman hopes that the law's future final text, with the new elements that may be incorporated, will produce the desired effect and put a stop to speculation, providing greater transparency.

Subjectivity and Delays in City Planning and Development

Moving on to another subject, and in keeping with issues already mentioned in the 2004 Report, it must once again be highlighted that Spanish city planning laws are increasingly committed, in many ways, to protecting the urban as well as the rural environment; this is underscored by the fact that the most modern regional city planning laws are incorporating new techniques through a general rethinking of city planning as a tool for creating a specific kind of cohabitation, presided over by such constitutional values as those reflected in article 45 (right to adequate environmental conditions), 46 (protection of collective cultural heritage, and 47 (right to decent and adequate housing).

Amongst the city planning techniques to guarantee adequate environmental conditions are those with the purpose of preserving rural areas, especially measures consisting of classifying land as buildable or not; i.e., the exercise of public authority in excluding, on principle, certain lots from the city planning and construction process. In such cases, the Ombudsman's Office advocates the need for the public administrations to set forth well-reasoned, objective arguments justifying the classification of land as buildable or not, reasoning which becomes, if possible, even more relevant in those action dictated within the exercise of discretionary authority, as is undoubtedly the case when city planning is involved.

A second set of city planning techniques is tied directly to the protection or improvement of urban environments, headed by the traditional establishment, through the corresponding regional legislation, of 'city planning standards': rezoning of previously established uses, to avoid that, due to the saturation of certain uses, the result is environmentally intolerable in certain areas; or promoting integrated urban renewal operations, which constitute truly surgical actions

involving degraded and irrecoverable urban structures, for which the only viable solution is that of designing a new neighbourhood, one in consonance with the environmental quality demands of our times, operations put into practice through the so-called Special Interior Reform Plans.

On another plane, we find those city planning techniques having the same objective, but common to any kind of land, and therefore, to any environment to be protected, both urban and rural, whether with preventive aims or corrective, restorative ones. Thus, for example, the technique of cataloguing singular elements which contribute undoubtedly to the preservation of a certain image, a certain atmosphere, of the city and its surroundings, especially when such protection today affects the widest variety of elements, such as old palaces in city centres, private gardens, land next to lakes, theatres, cinemas, etc.

There are also preventative operative techniques, both in urban and in rural settings, called 'special plans for protecting environmental values', which incorporate mechanisms of planning and zoning involving natural spaces and resources. In such cases, it is necessary to highlight that unfortunately, there are few special protection plans of this type approved; moreover, their approval process is excessively long.

Finally, considering sanctions under the law, another technique aimed at environmental protection is that of raising sanctions assigned to infractions affecting lands linked to the preservation of a better quality of life —land used for public services (e.g., parks and green areas)— to which are joined the traditional rule that the action of



The deficit of public housing, and the existence of empty housing units, contribute to land speculation and higher prices.

the Administration to proceed to the restoration of legal zoning and reparation of the altered physical characteristics is not subject to time limits in these cases.

Complaints Against 'City Planning Agents'

Referring to the execution of city planning, for yet another year the high number of complaints presented by citizens in the Valencia Region should be highlighted, from which it can be deduced that they reject the city planning techniques established in Valencian Regional Law 6/1994, of 15 November, on Regulating City Planning Activities, and especially, its institution of a land development agent agent. This figure continues to be the subject of major internal tensions, being questioned on a jurisdictional and doctrinal basis, and external ones, due to the possible application of the doctrine established by the European Court of Justice in recent sentences referring to the fact that that city planning actions are subject to the norms of EU contract regulations.

The Ombudsman's Office has been able to confirm that in several of the complaints received for this reason in 2005, the claimants were questioning, as one of the arguments against this kind of land development, precisely the adaptation of the figure of the land development agent, and its functions, to national and EU regulations regarding public contracting, and alleging, according to the jurisprudence of the European Court of Justice, that the legal nature of the relationship between the land development agent and the Administration is a public contract involving the concession of a public service and, therefore, subject to its norms.

Other complaints revolve around the same issues as in previous years, including disagreement with the high cost of land development fixed by the land development agent, in contrast with an insufficient valuation of the price of buildable land and existing buildings, a circumstance which compels owners to cede the right to build, given their inability to make such payments in cash. The result is the perception of a certain state of defencelessness, provoked by the non-existence of effective competency (proposal for a single programme), within the framework of an irresponsible laxity of municipal surveillance over the rights of those affected.

However, it is only fair to underscore the efforts carried out by the Department of Land Management of the Valencia Region to incorporate into Regional Law 16/2005 of 20 December, on Valencia Land Development, in effect since 1 February 2006, those modifications aimed at solving the problems reported by citizens, so that their rights can be

guaranteed, and improvements made in the practical application of the model and its adaptation to social demands. The second of the reported normative initiatives to favour all citizens' access to decent housing is the new national housing plan for 2005-2008.

National and Self-governing Community Jurisdictions in Promoting Public Housing

This model, however, is moving towards a profound transformation which, unlike the situation with city planning legislation, has yet to become settled. This can be considered a transformation, firstly, because housing is indeed an area over which, under article 143.1.3 of the Spanish Constitution, all of Spain's autonomous communities have assumed exclusive jurisdiction, which could apparently keep the central government from creating or maintaining a system of regulations for housing promotion, or regulating the status of developments constructed as state housing financed with national state resources. This conclusion could be supported by the Constitutional Tribunal's sentences 13/1992 and 39/1992, ruling that the central government's capacity to spend its own resources does not involve a specific jurisdictional right enabling it to regular legally an economic sector subsidised with such funds.

However, the same Tribunal's sentence 142/1988 confirmed the constitutionality of national housing plans, considering that the central government has, at least, two jurisdictional entitlements to establish a system for housing subsidised with state funds. In the first place, its jurisdiction over the bases of economic co-ordination (art. 149.1.13 of the Spanish Constitution); secondly, its jurisdiction over establishing the bases of credit regulations (article 149.1.11 of the Spanish Constitution). To this, one would have to add the central government's exclusive entitlement to civil legislation, and to dictating the bases for contractual obligations.

However, as has been suggested, this does not represent an obstacle to the Regional Administrations' being able to also carry out their own housing policies, using their own resources to complement these subsidies. And since, on the other hand, the Central Administration lacks the power to execute its own housing promotion policies, the application of nationwide plans can only be carried out by the Self-governing Communities, as pointed out in the Exposition of Motives of Royal Decree 1/2002, by which the recently concluded National Plan of 2002-2005 was approved.

In sum, it is up to the autonomous communities to integrate regulated assistance from the central government into their general housing policies, adapting them to their

particular needs within a specific policy of their own, so that recognition of the right to economic assistance with state funds, and the qualification of the housing involved, be determined by the Autonomous Administrations, in accordance with their own set of regulations.

As a result of this, in second place, the system of state housing which until now was in effect continued to follow, basically, the 1978 model, now seems to be moving towards a new scenario with an uncertain future —due both to the occasional derogations which this model has been suffering, through substantial regulatory changes such as the Urban Rentals Law of 1994, which significantly affected the system of subsidised rental housing; and to such developments as new city planning legislation on the part of the Autonomous Administrations, which has established and generalised the qualification of land earmarked for state housing; and the communities own housing legislation, which have been, as noted above, slowly generating their own models of state housing, different from and with prevalence over those of the central government; as well as to the successive housing plans of the central government, which have been progressively adapting, when not altering outright, the system established in 1978.

Three Kinds of Tension Affecting State Housing

The process sketched out above has led to the current situation, in which state housing is subjected to at least three kinds of dialectical tension which are difficult to describe concisely, and which have not been dealt with, and therefore not resolved, by the public authorities:

1°. The tension of a historical model, conceived as a development tool aimed at facilitating disadvantaged families' access to have their own homes, which, although it is now more than 25 years old, continues to persist to a great extent today, with the perception of the need for a new model which has yet to be firmed up on a regulatory plane, but on which there is a consensus regarding the two premises which should serve as its starting point: the need to extend housing policy to a very wide range of people (not just the most disadvantaged), given the generalised difficulties of access to housing and, consequently, the need for public action involving housing issues to turn from purely promotional actions to a higher degree of administrative involvement.

2°. The tension existing between the regulatory central system, whose virtuality in terms of defining a legal system for state housing is that of a set of regulations supplementary to those established to that effect by the

Autonomous Administrations, but which in terms of financing actions, has full jurisdiction regardless of that corresponding to the Self-governing Communities; and the very substantive system that they are increasingly approving as part of the exercising of their exclusive jurisdictions, a system sometimes in disagreement with the aims of plans for financing state housing actions approved by the central government.

3°. Lastly, the tension of an option that could be called the most liberalising for the housing system, to the extent to which: its links to a state housing system are modulated and reduced over time; the types of state housing and the conditions of access are multiplied, and the conditions regarding sales price in second or later transmission are softened; housing is freed from a system protecting it from the mechanisms of qualified financing, opening the door to raising rents with an impact on costs going from the owner to the tenant; there is an alternative of greater intervention which opts for linking housing to state protection during the entire useful life of the property.

This last philosophy seems to be behind the new 2005-2008 Plan which, although it does not break—as indeed it could not—with the development of the preceding plan,

opts for a lasting subjecting of state housing to a statute of protection with a fixed price for second or later transmissions of the properties, restricting the possibilities of sales of units intended for rental, or through the creation of a Register for State Housing and public registers of those demanding such housing, which the Ombudsman's Office has suggested.

The Right to Housing, a Problem of the State

In spite of all this, the experience accumulated in recent years in dealing with complaints, which invariable bring up the same problems, such as access to state housing—whether built publicly or privately—and the perception of overpricing on the part of private promoters, as well as the occasional lack of fulfilment of annual programmes involving state housing within each plan, delays in the execution of these actions, red tape out of touch with the situation and its specific needs, the contractions between national and autonomous housing regulations and, lastly, the disconnection between state housing systems and new social demands, all contrast with the new developments which

have been emerging on the regulatory front. These include the national 2005-2008 Plan, the Andalusia Law 13/2005 concerning state housing and land, the new State Housing Regulations approved in 2005 by the Community of Madrid, or the draft for the new State Land Use and Valuation Law; all instruments which it is to be hoped will prove efficacious in resolving the problems cited above, but which do not seem to bring forth or reorient a new housing model able to overcome the tensions described previously.

Housing today, unfortunately for Spanish society, represents a problem of such magnitude that it could be called a state problem—and it should be approached as such. This view does not mean that the Ombudsman advocates a single housing policy which overlooks the model of competence we have just examined, but which does call for unified action on the part of public authorities, subsequently implying co-ordinated action on the part of the different public administrations in identifying the problems and considering problem-solving mechanisms, and regulatory, financial, and organisational responses which they should bring about—problems whose characteristics have changed in the last 30 years as much as Spanish society itself.

Internet Access to the Ombudsman's Office

Our website

http://www.defensordelpueblo.es/index.asp?destino=quejas_internet.asp

QUEJAS POR INTERNET

Nombre 1er Apellido 2º Apellido

Pais Provincia Población Código postal

Domicilio (Indica tipo de vía, nombre de la calle, número, piso, escalera, etc.)

Sexo * Nacionalidad * N.I.F. * Teléfono Email *

Motivo de queja (describe de forma detallada las circunstancias de tu queja):

Who Can Present a Complaint?

Any natural or legal person who expresses a legitimate interest, regardless of nationality, place of residence, gender, age, legal incapacity, internment in a penitentiary centre or prison, or any special relationship of subjection to or dependence on an Administration or public authority.

The complaint must be presented within a year, starting from the moment when the claimant becomes aware of the situation originating it, without any impact on the time limits set by laws governing appeals, whether administrative or

legal, or on those for the execution of associated resolutions or actions.

How to Follow Up on Your Complaint

The receipt of your complaint and other communication from the Ombudsman's Office will be sent to the postal address that you provide on the complaint form.

However, should you wish to have information regarding the processing of your complaint, you may call (+34) 91 432 79 00.

Economic, Clinical, and Social Obstacles Block Universal Access to the Right to Healthcare

Excessive Emphasis on Curative Care, Rather than Preventive and Palliative Care

The complaints presented to the Ombudsman during 2005 in the field of healthcare especially emphasise common structural failings in the public health system, which make it difficult, if not impossible, to effectively guarantee the right to health coverage in certain cases. In early 2005, the Prime Minister's Office informed the Ombudsman that the Ministry of Health and Consumer Affairs and the Ministry of Social Affairs agreed that providing universal health care would not only involve major legal reforms, such as modifying the General Laws on Health and on Social Security, but that it would also have other repercussions—economic, social, and involving the health system itself—which should be carefully analysed from a perspective broader than the merely legal. Consequently, and in keeping with these criteria, what is holding back universal access to health care has more to do with opportunities than with legal impediments, involving the Spanish health system in an ongoing process which has sparked a considerable number of complaints to the Ombudsman in 2005.

Assisted Reproduction Techniques

Many complaints have been presented regarding the application of assisted human reproduction techniques, indicating that the Spanish public health system is not able to provide citizens, adequately and directly, with a healthcare option that is included amongst those financed by the system.

Fibromyalgia

Likewise, there has been a high number of complaints on the part of persons suffering from fibromyalgia and chronic fatigue syndrome, highlighting the fact that these are complex processes whose aetiology remains unknown, which are highly variable and often cause severe disability, but for which there are currently insufficient diagnostic criteria making it possible to provide an adequate healthcare response.

Care of Individuals with Brain Injury

Another special area was that of care for traumatic brain injury (TBI), which in recent years has been the source of a considerable number of complaints to the Ombudsman. To be more specific, these complaints focus especially on two aspects: first, the non-existence of specific rehabilitation units or centres for the treatment of TBI and, secondly, the need for public institutions having responsibilities in the management of social services to modify the precarious current situation and to move forward with the creation and equipment of daycare centres and other social resources to support these persons and their families, thus reducing the adverse impact of this condition on their lives.

The Ombudsman considers it advisable to promote a global study on the epidemiological, social, and healthcare situation of TBI in Spain, a study which was carried out by the Spanish Federation for Brain Injury Care,

under the supervision of the Ombudsman's Office, and which was presented, in December 2005, to Parliament's Joint Committee for Relations with the Ombudsman.

With this report on TBI, the Ombudsman set forth, for those public administrations with jurisdiction in this area, a series of recommendations in order to meet the social and healthcare needs of the affected persons, with an emphasis on efficiency, efficacy, and quality.

Waiting Lists

Regarding waiting lists at National Health Service hospitals, it is noteworthy that, over the course of 2005, there has been a rise in the number of the autonomous health services regulating their maximum waiting times, so that, at present, nearly all of these services have established guarantees regarding access to health care, in line with the recommendations formulated by the Ombudsman in the special study on waiting lists carried out with the National Health Service.

Thalidomide Victims

Thalidomide, a medication that came onto the European market in the late 1950s, produced dramatic side effects, leading to a number of deaths, whether from severe damage to vital organs or the significant suicide rate generated by the severe birth defects caused by this drug. Spain's Thalidomide Victims Associations asked the Ombudsman for help. The Ombudsman's Office held interviews and meetings with healthcare professionals and with persons affected by thalidomide, making it possible to discover, in the most direct way, the real situation and problems faced by this collective, who should not only enjoy a set of rights common to all citizens, but who, moreover, should be the beneficiaries of extra public attention derived from the principles of social



Disabled persons receiving job training.



Thalidomide birth defects.

and economic policies which public authorities ought to follow. Given this scenario, the Ombudsman, as part of an investigation which is still underway, stressed to the Ministry of Health and Consumer Affairs, the Ministry of Labour, and the Ministry of Social Affairs the need to promote the appropriate legal reforms, in order to establishment a network able to respond to the serious situation in which Thalidomide victims currently find themselves in Spain.

Lack of Attention to Minors

The Administrations' passivity in the face of the demands and requests for the protection of certain minors has also led to intervention on the part of the Ombudsman's Office. In certain cases, relatives closest to the nuclear family have denounced the lack of attention to minors. In these cases, the Administration must carry out the most complete technical assessment possible in order to confirm

the true situation, the parents' capacity to assume the duties of child custody, and the possible risk factors to which these minors are exposed.

In two cases presented to Valencia's Social Welfare Office, it became clear that even though the families had run through all of the available household support resources, the situation of their children continued to worsen, which led the case workers most closely involved in these situations to advise against keeping the minors with

their families, since they were considered at risk.

Consequently, the interested parties asked the public authorities for protection of minors to assume legal custody, or, if necessary, tutelage of these minors, sending them to a centre or residence adequate to their needs. This request was turned down, in the interest of the minors, since there were no available resources adequate for treating the problems that these minors presented.

The Ombudsman addressed the Valencian Department of Social Welfare, suggesting its immediate attention to these specific cases, and recommending a study on the feasibility of expanding and diversifying the means and resources necessary to provide adequate care of minors with behavioural disorders who provoke severe alterations in family life, and require specialised therapeutic assistance.

In response to this recommendation, the Department in question reported that it was preparing a draft decree which would assign specific jurisdictions to the Department of Social Welfare, and which would expand and create new services of psychosocial support for children and adolescents with serious mental disorders, as well as a project regulating the conditions and requisites for the functioning of psychosocial support centres for children and adolescents with severe mental disorders.

The Dependency Law and Care of the Elderly and Disabled

The situation of the elderly, and especially of assistance to persons who cannot take care of themselves, is a constant concern in our society. In its latest reports, the Ombudsman's Office has stressed the need to endow dependent persons with a legal framework guaranteeing their wellbeing through a system of social services, attending to their specific problems involving health, housing, culture, and leisure, in keeping with the stipulations of article 50 of the Spanish Constitution.

Last year's report mentioned the presentation of the *White Paper on Dependency*, as a reference point in the design of the draft bill for care of dependent persons. As the present report was closing, the Bill on Personal Autonomy and Dependency had yet to be presented to Parliament, although, in early 2006, the Government presented the draft bill.

Calculating Pensions

Regarding retirement pensions, a considerable number of complaints has been

presented, in which the interested parties express their disagreement with the contribution period used to determine the base salary to calculate such pensions, since this

is considered the 15 years immediately prior to the date of retirement, which in many cases is prejudicial since, due to their employment circumstances, their highest base



Daycare centre for Alzheimer patients. Photo: AZdem.

salary corresponded to periods before the last 15 years of work. This issue was one of the subjects included in the so-called Toledo Pact, and included in the agreement between the Government, employers associations, and trade unions in 2001, concluding that it is necessary to delve deeper into the contribution criteria, so that greater proportionality can be achieved between the amount of money a worker puts into the system and the pension received, thus leading to greater equity.

The Order of 13 February 1967, which establishes the norms for applying and developing death and survivor benefits in the General Social Security System, established, in its article 21.1.d., the end of orphans pensions in the event that orphans with the maximum level of disability were to marry, which led the Ombudsman's Office at one point to urge that this article be modified, based fundamentally on the economic and personal circumstances of those receiving this pension.

Finally, Royal Decree 1335/2005 of 11 November, regulating family Social Security benefits, introduced certain improvements into this area of coverage, doing away with the policy of cutting off orphans pensions in the situation cited above.

Lack of Regulation of 'Common Law' Partnerships

The modifications in the concept of the family which have occurred in Spanish society in recent years have led to a rise in so-called common-law partnerships, due to which the Ombudsman has repeatedly insisted upon the need to regulate them, basically insofar as they affect access to widows pensions, and has provided information regarding those actions to citizens who have presented complaints to the Ombudsman's Office regarding the lack of regulation of these partnerships.

The fifty-fourth additional provision of Law 30/2005 of 29 December, regarding the 2006 Budget, stipulated that the Government would present to Parliament, after assessing and analysing, in a dialogue with social agents, a bill making it possible for those persons who, without matrimonial

ties, formed a family unit to have access to widows pensions.

Widows Pensions

The regulation regarding pensions from the Compulsory Old-Age and Disability Insurance (known by its Spanish initials, SOVI) established a system of incompatibilities with any other pension from the Social Security System, a measure which had been declared constitutional by the Constitutional Tribunal.

However, the Ombudsman's Office, conscious of how low those pensions are, and that their incompatibility would basically affect widowed pensioners, considered it advisable, in a study on the issue of widows pensions, to refer to the need of making these SOVI pensions compatible with widows pensions from the Social Security System.

Such a regulatory modification has finally been favourably accepted, with the approval of Law 9/2005 of 6 June, which makes SOVI pensions compatible with widows pensions from the Social Security System.

Reconciling Family Life and Work

In recent years, there have been major changes as more women are incorporated into the labour market in Spain, which is approaching the female employment rates of the rest of the European Union, thus making it necessary to legislate policies aimed at generating assistance so that family life can be better reconciled with work.

The Ombudsman's Office, from its beginnings, has stressed the need to modify and expand maternity benefits; in this regard, different proposals aimed at the Administration could be cited, such as the expansion of multiple-birth benefits to cases of adoption, recognition of maternity benefits in the case of temporarily fostering children, and modifying the regulations for maternity leave in the event of premature birth, all of which have been detailed in previous reports to Parliament.

Law 39/1999 of 5 November, promoting the compatibility of employment and family life for workers, and Royal Decree 1335/2005

of 11 November, regulating family Social Security benefits, have encompassed some of the proposals cited above.

Amongst the objectives achieved are the right to reducing the workday for the care of a child under six years old, and there have frequently been requests for expanding that coverage to a higher age, as pointed out in another section of the present report, with the Directorate General for Labour mentioning the possible expansion of the measures tending to facilitate reduction of the workday in order to exercise legal guardianship, remitting this to a future regulation in the Law of Equality between Men and Women, as well as a new Law regarding the Compatibility of Family Life and Employment, reiterating that, in any case, such measures should be adopted within the framework of a process of social dialogue.

The Ombudsman will follow up on these future regulations in which the Ministry of Labour and Social Affairs will adopt solution promoting the integration of women into the workplace, improving their working conditions and facilitating the compatibility of employment with family activities.

Rise in Complaints regarding Variety Discount Shops

Finally, in the area of consumer affairs, over the last few years, there has been a marked increase in the complaints received by consumer advocacy groups, which seems to indicate higher public confidence in the legal mechanisms placed at citizens' disposal for protecting their rights.

Noteworthy here is the ex-officio investigation recently initiated by the Ombudsman's Office as a consequence of the appearance in different media, during the 2005 Christmas season, of reports that many toys were not being subject to the legally established security regulations, especially those that could be acquired in the variety discount shops known in Spain as *toda a cien*. Therefore, the National Consumer Institute was asked for information regarding the measures adopted to date or which are to be adopted with the aim of providing greater security in the acquisition of toys. This investigation was currently underway at the close of the present report.

How to Contact the Ombudsman

Internet: visit our website, www.defensordelpueblo.es

Post: c/ Zurbano, 42, 28010 Madrid, SPAIN

E-mail: registro@defensordelpueblo.es

Telephone: (+34) 900 10 10 25, (+34) 91 308 11 58

Ombudsman's Recommendations on Immigrant Legalization Process Accepted

Throughout the greater part of the year to which the present report refers, the processing of different complaints and ex-officio investigations related to residency and immigration issues has coexisted with the final phase of preparing a special report on 'Legal Assistance to Foreign Nationals in Spain'⁽¹⁾.

A high number of complaints has indicated that the process for issuing an entry visa on the part of consular offices is extremely long, and sometimes, due to these delays, foreign nationals' residency authorisations can go out of force, since they are not legally allowed to stay outside of Spain for longer than six months. This excessive red tape has compelled the Ombudsman's Office to carry out actions aimed at the swift resolution of the individual cases called to its attention.

Massive Assaults on the Border Fences in Ceuta and Melilla

After the massive assaults on the security fence separating Melilla from Morocco, a team from the Ombudsman's Office, headed by the First Deputy **María Luisa Cava de Llano**, visited the Autonomous City on 10 and 11 October 2005.

On 22 November 2005, the First Deputy appeared before the Joint Committee for Relations with the Ombudsman to report on the team's conclusions. The present Annual Report offers a summary of these conclusions, beginning with an analysis of the causes due to which, over the course of 2005, the pressures on the Spanish enclaves of Melilla and Ceuta have been worsening.

The border area is on Spanish territory, and there is no regulation, in the law governing foreign nationals' access to Spanish soil, permitting exceptions to the full application of Spanish law on any portion of national territory. Given this starting point, the report analyses which legal term could be applicable to those persons who are intercepted whilst trying to accede to Spanish territory in an irregular fashion. That term is *return*, which should be carried out in accordance with the guarantees and formalities established by law. Not to act in this way leaves those persons who could ask for protection without any option whatsoever of requesting this right. To avoid such problems, the Secretary of State for Security has been sent a reminder of these legal duties.

The team was able to confirm the lack of clear criteria for the adequate use of these means of contention, so it is necessary to design an intervention protocol adapted to the structure of the border area, and the conditions under which these actions should be carried out. The Secretary of State for Security was also informed of the need, on the part of the Administration, to investigate accusations of disproportionate violence and of summary returns, without any procedures being followed, and even of persons

who were wounded in the course of their attempts at irregular entry.

The Ombudsman's Office continues to follow the internal investigation opened by the Civil Guard in relation to the images shown on a television broadcast in which it could be seen how a person, who appeared to be a civil guardsman, giving a hard kick to a Sub-Saharan man who had been cast to the ground by another guardsman. Moreover, a writ was sent to the Attorney General to know whether he had opened any judicial proceeding related to this event.

Special attention was given to the fact that along several points of the fence, coils of barbed concertina wire were laid out. The installation of these elements was cause for grave concern, since they represent a serious risk to human life and safety. Finally, the concertina wire was taken away. In the

Ombudsman's investigation, the project of installing a third obstacle was also analysed; this so-called 'three-dimensional rope obstacle' was designed to make access to the fence more difficult, and more information regarding its definitive installation was requested of the Secretary of State for Security.

The team sent to attend to these immigrants, working under the aegis of the Short-Stay Centre for Immigrants (CETI), deserves high praise, especially because it played a key role in keeping the situation under control and maintaining social harmony.

Return of 73 Immigrants to Morocco

In the course of the visit made to the Provincial Police Station of Melilla, the team proceeded to analyse the documents regarding



The First Deputy Ombudsman, María Luisa Cava de Llano, looks at the concertina wire along the Melilla fence, during her visit on 10 and 11 October, after the massive assaults by Sub-Saharans trying to get into Spain. She is accompanied, on her right, by her Office Chief, Carmen Comas Mata Mira, and on her right, by the Head of Immigration and Foreign Affairs, Bartolomé José Martínez.

(1) See the website, www.defensordelpueblo.es

the processes involving the foreign nationals who were finally readmitted by Morocco on 6 October 2005. Although Melilla's Provincial Aliens and Documentation Brigade resolved to follow due process in the return of these interested parties, these persons entered Spanish territory without being intercepted by the security forces, and then went immediately, by themselves, to the police station and, after two days remaining in Spain and moving about freely, they returned to the police station—under which these circumstances, the proper procedure would have been to initiate an expulsion procedure, rather than a return, although the latter is what was done. As a result, a reminder of their legal duties was sent to the Government Delegation in Melilla.

The procedure chosen and the processing followed in these returns was excessively short and, moreover, it did not attend to the principle of granting a hearing, it was closed, and lacking in real legal guarantees. Under these circumstances, it is not feasible that anyone having protection needs would have been able to expound them.

Part of the responsibility for this situation lies in how legal assistance was provided by professionals from the Melilla Bar Association. Consequently, in early 2006 a recommendation was sent to that Association for it to adopt the necessary measures in order to substantially improve the legal assistance provided in return procedures, as well as to establish a system able to ensure the availability of a sufficient number of lawyers in case of a legal emergency.

On another subject, the Ombudsman's Office received a significant number of petitions asking it to initiative actions to prevent the Moroccan authorities from sending aliens in an irregular situation to desert areas or conflict zones. The Ombudsman informed these petitioners that it was not possible to do anything in relation to this matter, since the events were occurring outside of Spanish territory, and under the authority of Moroccan officials. However, the Joint Committee for Relations with the Ombudsman was asked to include, in border control co-operation agreements, assessable clauses regarding effective guarantees for the respect of migrants' human rights.

Repatriation of Unaccompanied Minors

The Ombudsman has contacted the competent bodies involved in family reunification regarding the need to carry out a detailed analysis of each minor's situation before making the decision to return them to their countries. However, it became clear that, in most cases, once minors had been placed under the jurisdiction of the protection services, the



Llanos Pelados Juvenile Detention Centre, Fuerteventura.

governmental authorities were immediately asked to initiate repatriation procedures, without even considering the possibility that it could be in the minors' best interest to remain in Spain.

A joint investigation was also carried out with the Department of Family and Social Affairs of the Community of Madrid, and with the Central Government Delegation, which concluded with two recommendations, in the sense that if a minor who was going to be repatriated was under some medical treatment, a medical report should be requested to determine whether the repatriation should be postponed or, if appropriate, put off indefinitely, as well as the treatment to be followed.

Situation in Juvenile Detention Centres in the Canaries

During 2005, teams from the Ombudsman's Office visited four detention centres for unaccompanied alien minors (known by their Spanish initials, CAME) in the Canary Islands. The Los Llanos Pelados centre, the only one on Fuerteventura Island; La Isleta, on Grand Canary; and the Geneto and El Portezuelo centres, on Tenerife. The full report details the conclusions from each of these visits, which have been sent to all of the administrative bodies having jurisdiction in issues involving minors in the Canary Islands, as well as—in the case of certain specific problems—the Attorney General and the Central Government Subdelegation.

It should be highlighted here that the recommendations made to the Department of Employment and Social Affairs of the Canary Islands Administration, and to

the Fuerteventura Island Administration, included closing down the installations of the Los Llanos Pelados CAME, transferring these minors to a more appropriate centre.

Visits to Internment Centres for Foreign nationals

During 2005, consultants from the Ombudsman's Office visited five internment centres for foreign nationals (known by their Spanish initials, CIE) in Fuerteventura, Grand Canary, Tenerife, Barcelona, and Madrid, in order to confirm the conditions of their installations, verify whether they were functioning correctly, and to guarantee due respect for the foreign nationals' recognised rights.

Especially noteworthy is the fact that, given the upcoming transfer of the Barcelona CIE to new installations, it was recommended that the installations visited be kept at a low level of occupation, given their clear shortcomings. Indeed, the Ombudsman hopes that the new centre shall serve to correct the many shortcomings found at the CIE known as La Verneda.

Regarding the Madrid CIE, an investigation is still in course regarding the lack of security from which the centre suffers, and due to which only the first floor can be used.

Protecting Undocumented Battered Immigrant Women

In the past, an ex-officio investigation was launched regarding the difficulties of women foreign nationals living in Spain



Spanish Consulate in Bogota.

irregularly should they need to report domestic violence or other crimes of which they are victims, due to fear of being the object of an expulsion order. In 2005, the Secretary of State for Security, following the Ombudsman's guidelines, issued Instruction 14/2005 of 29 July, 'regarding actions in police installations involving aliens who are victims of domestic or gender violence, and in an irregular administrative situation'. However, it should be pointed out that the procedure established is highly complex, nor is it in keeping with the norm's protective nature since, in a best-case scenario, the sanction would end with the imposition of a fine on the woman involved.

Along these same lines, the Ombudsman maintains his criteria regarding the need to avoid emitting expulsion orders under the Aliens Law to those foreign nationals in an irregular situation who go to a police station to report having been the victim of a crime. The Directorate General for the Police considered that it was not feasible to accept this proposal from the Ombudsman's Office. Therefore, the issue has been appealed to the Secretaries of State for Security and for Immigration and Emigration, in order for them to examine the existing channels for meeting the criteria defended by the Ombudsman.

Assistance for Those Denouncing Organised Crime

It is equally important to mention the investigation carried out due to the complaint presented by a Bielorussian citizen who had

collaborated with Spanish authorities in prosecuting organised crime rings, but had not been issued a residency authorisation—which prevented her from getting a job in order to live—and without having received any help in returning to her country. The interested party said that, given the lack of assistance and the fact that she could not work legally, she had no other choice but to resort to prostitution, which was, precisely, how she came to be exploited by the crime ring that she reported to the police.

The Ombudsman considered that the situation of these persons deserves specialised attention, and therefore sent the Directorate General for Immigration a recommendation that help, especially social, psychological, and medical, be offered to those persons who found themselves in such a situation when it was clear that they lacked their own resources or had no access to other family or social support.

Urgent Improvements in Consular Assistance

The need for our consular system to undergo substantial improvements, to the benefit of the citizens and the functioning of the entire public services network, continues to be a priority.

Regarding service over the telephone or information services, the most overloaded consulates generally present deficient functioning. In this regard, noteworthy examples include the consular offices in Lagos, Islamabad, Quito, Bogota, and Havana.

As to the function and service to the public at the Consulate-General of Spain in Havana, different investigations were carried out, referring, among other issues, to the need to wait all night at the visa desk. Part of the problem lies in the actions of the private individuals holding places on the queue, with the aim of receiving an economic benefit, who are known as *coleros* (Spanish for 'queueers'). The actions initiated with the Cuban Ministry of the Interior in order to address this situation have had no results to date. However, the Administration reported that it has increased telephone service, and the hired more staff for this consular office in order to try to improve these deficiencies as much as possible.

The Ministry of Foreign Affairs has made manifest that the difficult situation in which the Consulate-General of Spain in Havana needs to act on a daily basis is cause for concern, which is worsened by the fact that the special characteristics of Cuba limit to a large extent any attempt to improve consular services. The Administration has announced an increase in staff and expansion of the installations.

As can be seen from an investigation carried out with the Consulate-General of Spain in Shanghai, this office required those requesting a visa to present the original document offering them work. At first, the Directorate General for Consular Affairs and Assistance recognised that the regulations did not require the presentation of such a document, and that it was not necessary to provide it. However, it was found that this practice has not ceased, and it was justified as a means to prevent possible fraud. A recommendation was made to the Consular Administration asking it to cease and desist in the practice of requiring visa applicants who had received working papers to present the corresponding job offer. The recommendation has been accepted.

An Iraqi citizen with legal residency in Spain complained to the Ombudsman's Office that he had the appropriate residence authorisation for reuniting his family, in this case his wife and two sons, but when his wife went to the Consular Office of Spain in Damascus (Syria) to ask for the corresponding visas, she was not allowed to present the request, because she could not accredit legal residence in that country. The interested party maintained that his family was in Syria given the situation in their country of origin. The Ombudsman took into consideration that land travel between Damascus and Baghdad was long and complicated for anyone, and especially for a woman travelling with two young minors. Consequently, an urgent suggestion was sent to the Directorate General for Consular Affairs and Assistance so that she would be allowed to present her applications at Spain's consular offices in Damascus. The suggestion was accepted.

Consular Functions Subcontracted to Private Companies

Another investigation that should be noted here in relation to the measures adopted by



Long queues persist at the offices opened for legalising immigrants.

the Embassy of Spain in Islamabad for processing and issuing visas for family reunification. When the interested parties went to the Embassy to process their corresponding visas, they were informed in writing that the Embassy could not process their request in the near future, and offered the following alternatives: continue in their present situation and wait indefinitely; pay the amount of 15,000 rupees for the Embassy to process their request more quickly, with the help of outside collaborators; or, finally, cancel their application.

From the official information received, it can be seen that Embassy personnel considered the documentation issued by the local authorities to be unreliable and that the process of confirming their authenticity with these authorities is extremely long, and not always having any results. Therefore, they had opted for offering a system enabling a single local consulting firm to make the opportune verifications on the Embassy's behalf. The Ombudsman expanded this investigation in order to clarify how this local collaborator operated, how it was selected, and the controls established over it, as well as the kind of actions that the Embassy carried out in the event that the visa applicant chose not to opt for this verification system.

Destruction of Documentary Evidence

The Ombudsman still has open an investigation regarding the practice followed by the Central Government Subdelegation in Barcelona, during the process of legalising established immigrants, of destroying those resolutions conceding residency which could not be delivered by certified mail, as well as the postage slips documenting the attempts to do so. The decision is even more serious given the fact that the documentation destroyed could have probatory value. The competent bodies have been informed of these antecedents, with the aim of taking appropriate actions to clarify who was responsible.

Problems with Appointments for Immigrant Regulation

The deficiencies seen in the system for giving out appointments have spread to other computerised media, as is the case of the Internet-based system set up by the Ministry of Public Administration for the province of Barcelona. Once the Ombudsman's Office received the requested

information, it could be deduced that the problem lies in the fact that more than 70% of the total of appointments was concentrated in a small group of people. After the Ombudsman's intervention, the Sub-Secretariat of the Ministry of Public Administration introduced modifications in the computer system which kept it from accumulating appointments. However, it should be pointed out that the problems for obtaining an appointment over the Internet have persisted.

Another group of investigations is related to the general delays detected in the ordinary functioning of some offices for processing foreign nationals' papers. These were nearly always related to lack of materials, computers, and personnel; this was sometimes in addition to lack of adequate installations, resulting in citizens finding themselves forced to wait for long periods outdoors, even in rough weather; in delays in the processing of their documents; or in their receiving inadequate treatment.

The Census Requirement for Residency

The Ombudsman's Office has carried out many actions related to the process of legalising those aliens who were in an irregular situation, as long as they could prove that they had been residing in Spain since before 7 August 2004, and that they had a job contract. The issue generating the most complaints was regarding the demand that they present a certificate of being on their municipal census, as the sole method of proving their continued residence in Spain.

In March 2005, the Ombudsman sent a recommendation to the Secretary of State for Immigration and Emigration, urging that it accept, for this special legalisation process, other means of indubitable proof than a certificate of being on the municipal census in order to accredit residence in Spain.

At first, the Administration reject the Ombudsman's proposed criteria. However, the Ombudsman issued another writ, insisting on the need to expand the types of proof for accrediting residence in Spain, given that many immigrants who were living in Spain, and could accredit this, were not registered on their municipal census, for different reasons. Finally, the Administration accepted the Ombudsman's views and mitigated the effects of the restriction of means of proving residence, accepting the concept of census registration by omission, an idea already included in the norms regulating census rolls.

Expulsions during the Legalisation Process

During the special legalisation process, complaints were received from different places around the country, presented by foreign nationals who were trying to be included in the legalisation process, and who seemed to meet its requirements, but in spite of they had been detained or issued an expulsion order due to being in Spain irregularly, during the days before the process began, or even while it was going on. Many of these persons were carrying out the necessary paperwork to obtain the documents to include in their regularisation applications, and saw their intentions frustrated by being imprisoned and, in most cases, expelled.

Moreover, the Ombudsman's Office is still receiving complaints with a certain frequency indicating that, in order to accept applications for residence and work permits, formulated as part of the special legalisation process, a report from the home government was requested regarding the foreign national who aimed to be legalised under the process. An unfavourable report usually meant that the corresponding application was rejected. The Ombudsman's criteria is that the simple existence of an unfavourable government report cannot constitute the direct cause of refusing a work and residence permit as part of the aforesaid legalisation process, unless its contents refer to circumstances incompatible with the applicant's remaining in Spain.

Standardised Criteria for Family Reunification

The legislation on aliens limits the right to family reunification to those foreign nationals residing legally in Spain and whose applicants accredit, among other circumstances, that they have the necessary means to attend to the needs of their family after reunification, as well as to having sufficient housing for them. However, there is a lack of general instructions regarding the economic quantities which can be demanded in such cases, and standards for minimum housing requirements, which has led to a disparity in the criteria used by different government delegations and subdelegations, which have fixed parameters whose differences are sometimes not very reasonable. The non-existence of general instructions regarding this matter generates a situation of legal insecurity which could lead to arbitrary decisions.

Consequently, a recommendation was sent to the Directorate General for Immigration, urging the Administration to proceed to

the promulgation of the Ministerial Order stipulated in the Alien Regulations which would determine the economic requisites for such situations. Moreover, it mentions the advisability of completing these instructions with some indications regarding what is considered appropriate family housing. In the response received, the cited ministerial department showed itself favourable to accepting this recommendation.

However, the Secretary of State for Immigration and Emigration did not accept the recommendation from the Ombudsman's Office that, for family reunification purposes, unmarried couples who could accredit a stable relationship be treated as if they were married.

Exemption of EU Workers from the Penal Certificate

Complaints received at the Ombudsman's Office indicated that family members of foreign nationals from EU countries who had requested residence cards, without having previously obtained a visa, were required to present a certificate of their penal record. This requirement was not stipulated in Royal Decree 178/2003 of 14 February, which indicates

only that, in exceptional cases, the authorities in charge of conceding residence cards may request reports from the authorities from the applicant's State of origin, or other States, regarding a possible legal record. The Commissioner-General for Aliens and Documentation was reminded of this, in order to cease and desist in this practice.

Fewer Applicants for Asylum

The downward trend in the number of persons requesting asylum in Spain is caused by a variety of factors: the spreading of false stereotypes on the part of mafias or human traffickers, the lack of adequate legal orientation once they arrive on Spanish soil, or the realisation that the procedure could delay the applicant's possibility of entering Spanish territory, even in an irregular situation. Especially relevant is the requirement in such cases of a visa from the nationals of countries who previously did not need to have visas to come to Spain.

Amongst the actions carried out within the realm of protecting the right to asylum, a highlight is the investigation of the Central Government Delegation in Ceuta and Directorate-General of the Police, launched after

the events of 28 December 2004 in Ceuta. After examining police fingerprint files, it was proved that a number of persons who were in Ceuta had been summarily expelled, pending the processing of an asylum request, without any procedure whatsoever. The Directorate-General of Interior Policy made it possible for some of these persons to return, after they were located on Moroccan soil.

For its part, the Central Government Delegation in Ceuta denied these events, and indicated that on this date persons who had just entered Spain had been detained, and placed in the hands of the Moroccan authorities, in application of a readmission agreement between the two countries signed on 13 February 1992. The Ombudsman's Office finds such explanations inadmissible; firstly, because it does not recognise a scenario which has already been proved by other means and, moreover, because it tries to defend the idea that the readmission agreement with Morocco makes it possible to immediately return, without any kind of formal process, an individual who is already on Spanish soil and has been caught by surprise in the vicinity of the border. Therefore, the Delegation was asked to open an inside investigation in order to determine who was responsible.

Emigration and Assistance to Spanish Nationals Abroad

This section covers those actions carried out in relation to the problems faced by Spanish nationals abroad, whether in stable situations or on a short-term basis.

Beginning with the fact that the collective of Spanish emigrants comprises 1,487,817 persons, according to official statistics from 2004, the Ombudsman's Office follows with great interest the evolution of this group's presence in different geographic areas, since this also has an impact on the demand for services from the Spanish Administration.

Since 26 October 2005, the United States has required that everyone who wants to enter that country must do so with a

bar-coded passport with a digital photograph. Should the person not have this kind of passport, an entry visa must be requested before the trip. Spain has been issuing such passports since 2003, although problems have been found in most consulates for the issue of this kind of document.



Spanish emigrants, in Argentina.



Queues in front of the Consulate of Spain in Buenos Aires to apply for a visa. Photo: La Region de Orense newspaper.

The Consular Administration has reported that it aims to progressively install the means enabling consulates to issue digital passports, as is already done, for example, at the Spanish Consulate in Zurich. The Ombudsman's Office will follow up on the process of installing this new technology. Moreover, it has indicated to the Administration that, as long as the current situation goes on, it must allow Spanish nationals abroad to renew their passports in a consular district different from that corresponding to their place of residence, if necessary.

Delays in Processing Pensions

Amongst the functions of Spain's offices abroad is serving Spanish emigrants who could have the right to an assistance pension. Recognition of these pensions and forms of assistance is granted by Central Government services, under the Directorate-General for Emigration. However, the work of the consular offices is essential, since they receive the applications and serve as efficient sources of information so that the eventual beneficiaries of these programmes are able to present their applications properly, thus avoiding bureaucratic delays and repetition.

Delays in processing applications for assistance pensions from Spanish nationals living in Argentina, the country with the largest number of Spaniards residing abroad, have

been especially significant. A substantial part of the responsibility for these delays corresponds to Spain's offices abroad, since it appears that at times quite a few months are necessary for the applications to move from the centres where they are received—generally honorary vice-consulates—to the Labour Affairs Office at the Embassy, and from thence to the central services in Spain.

The Ombudsman has requested that the Directorate General for Emigration speed up the resolution of those applications for which long delays have been observed, taking into account that the applicants for these pensions and forms of assistance are in precarious situations and, moreover, are elderly persons, so that they are often in an especially vulnerable position.

In 2005, the actions involving the Directorate General for Emigration have continued regarding the serious lack of protection suffered by the collective of emigrants over 65 years of age who return to Spain and who, in spite of lacking in economic means, cannot have a non-contributive pension, nor an old-age assistance pension.

The Administration has regulated this issue via a Royal Decree of 30 December 2005, in keeping with the Ombudsman's indications, since in its third additional provision, it eliminates the requirement that emigrants older than 65 who return to Spain must have been beneficiaries of an old-age assistance pension in their country of residence for two years in order to receive such a pension back in Spain, as long as they accredit fulfilling the remaining requisites stipulated in the General Law for Social Security to have the right to a non-contributive pension, with the exception of the residence period. However, it should be pointed out that the new norm is being applied with limited retroactive effect, since it leaves outside the scope of this coverage all

those emigrants who returned to Spain before 1 January 2004.

Pensions for 'Civil War Children'

Law 3/2005 recognises the right to economic assistance for those of Spanish origin who, as minors, were taken abroad between 18 July 1936 and 31 December 1939, as a consequence of the Spanish Civil War, and who spent most of their lives outside of Spanish territory. The Spanish Administration had already adopted different measures in favour of specific collectives within this larger group, known as the *niños de la guerra* (Civil War children), although this norm has a more general scope.

The economic aid specified by the new law is a measure which aims to compensate for the hardships of those citizens whose personal and professional prospects were cut off as a consequence of that conflict. The Ombudsman's Office is very pleased at the promulgation of this law. However, after it entered into effect, many complaints have been received from citizens—all of them children during the Spanish Civil War—who relate their harsh personal experiences, and vindicating the extension of the law's coverage to their own situations. In all of these cases, the Ombudsman's Office has informed the interested parties that the determination of which *de facto* situations could give someone the right to these benefits corresponds to the Legislature.

Service and Treatment at Consular Offices

Having investigated the complaints by citizens referring to possible rude treatment on the part of consular civil servants or employees, it is frequently found that there is a lack of probatory elements, and the differences in the versions of the parties constitutes an obstacle to determining responsibility on the part of the personnel involved.

All of Spain's offices abroad should have an emergency service, on duty 24 hours a day, able to deal quickly and effectively with any possible serious incident which could befall Spanish nationals when they are abroad. After the Ombudsman's intervention, general instructions were given that, outside of office hours, all consulates had to connect their telephones to an automatic answering service, providing a telephone number for emergency situations.

For an Educational System Not Subject to Electoral Swings

Throughout 2005, the Spanish educational system has been, once again, waiting for normative reforms and modifications, when the implantation of reforms stipulated in previous norms had yet to be fully implemented. Once again, in the present Annual Report, the Ombudsman's Office calls upon decision-makers in the realm of education to endow our system with the stability necessary for its future development, and achieve results adequate to the needs of our society.

Above and beyond political and ideological discrepancies it is necessary for all sides —indeed, it should be demanded of them, in the Ombudsman's opinion— to reach basic agreements on educational issues, making it possible to build a solid, stable structure, one not subject to electoral swings, upon which to base a system in which the educational administration, teachers, and other educational professionals can work towards long-term goals.

Violence in the Schools

In December 2005, the Ombudsman signed an agreement with the Spanish Committee of the United Nations Children's Fund (UNICEF) to carry out a national study on the serious problem of violence in the schools. This investigation not only aims to discover the current state of this problem, but also to determine its evolution since the Ombudsman's Office first published the results of its previous study (1999-2000), and to compile specific data on the effectiveness of the measures and interventions of all kinds put into effect to date in an attempt to stem this phenomenon.

The fieldwork is being conducted over the course of the first half of 2006, and includes, amongst other tasks, a poll of students, teachers, and administrators

from at least 300 schools around the country which provide compulsory secondary education. If there are no unexpected difficulties or delays, the results of this new study should be published at the end of 2006.

Regarding the complaints processed over the course of 2005 in the realm of education below the university level, it can be said that the complaints regarding school installations have dropped, both those referring to deficiencies and failure to meet the minimum requirements of already existing installations, and those referring to the lack of installations in certain areas or for certain educational levels. One year is not enough as a deadline within which to respond to the deficiencies and needs reported by the educational community, and recognised by the competent authorities.

The equipping and maintenance of educational installations often demands complex administrative paperwork, involving the participation of different authorities or administrations, which explains, but does not justify, why necessary actions like these can be delayed for so long, with the obvious negative impact that this situation can have on the quality of the educational services that citizens receive.

Lack of Spaces in Preschool

As to enrolment in the schools, the most frequent complaints involve the problem of concentrating immigrant children, or those with special educational needs, in certain schools, as well as the lack of places for preschool students, especially those who are three years old. These deficiencies occur in specific geographic areas, particularly in densely populated urban centres with a high proportion of immigrants, or those with urban development plans or programmes —circumstances which often go hand in hand.

Regarding the concentration of immigrant students, the Ombudsman's Office has been recommending, although without much success, that measures be adopted tending to favour, and even under certain circumstances, to impose, the balanced redistribution of these students, not only amongst the public schools, but also between public schools and private schools receiving state subsidies. Also regarding these immigrant students, as well as those who for other reasons require specific educational support, the Ombudsman has recommended specifically that the Community of Madrid suppress the quantitative limits on the number of special education teachers for those centres where there is a high number of these kinds of students, in order to provide them with enough of these kinds of teachers to meet their specific needs.



Signing of the agreement with UNICEF on school violence. The President of UNICEF Spain, Consuelo Crespo, signs, with Ombudsman Enrique Múgica, an agreement for conducting a new study on violence in the schools, updating the one already carried out by the Ombudsman's Office in 2000. To their right is the Second Deputy Ombudsman, Manuel Aguilar, whose department will co-ordinate the new report.

Regarding the lack of spaces for preschool students, and especially for those in the three-year-old bracket, progress has been considerable, although there are still some shortages, particularly in areas with intense urban development, where the educational provisions and planning seem to have been insufficient to provide an adequate response to perfectly foreseeable educational needs.

Student Admissions

Regarding student admissions, problems are still seen regarding the accreditation of family income, although this has been solved to a certain extent by the fact that the educational authorities can get information directly from the tax authorities; however, this solution can be problematical due to the time-lag between the income tax declaration taken into consideration and the academic year in which the student requests a space, if the family's income has varied considerably during that time.

There has also been a considerable delay in the regulation of student admissions to schools depending on the Spanish Administration abroad, whose normative development has been pending since 1993, and more than a decade has been insufficient to carry this out.

Also worthy of mention is the Ombudsman's radical disagreement with the criteria maintained by some municipalities whose schools, in determining admissions, give extra consideration to students whose families accredit paying higher rent or having higher mortgages. Given that the capacity to go into debt or pay rent tends to be directly linked to one's economic capacity, it is more than questionable whether such criteria should favour the admission of students to educational centres which are, to a certain extent, maintained with public funding.

Image Diagnosis Technicians

As to issues involving academic accreditation, the present report can highlight two of them. The first, now being resolved satisfactorily, involves the academic and professional status conceded to the former diploma of Technician Specialised in Nuclear Medicine, who until now were considered the equivalent of Higher Technicians in Radiotherapy, which excluded them from professional activity and jobs involving image diagnosis. After the pertinent steps were taken, the Ministry of

Education and Science has informed the Ombudsman that it is working on a project which would include making the former diploma as a Technician Specialised in Nuclear Medicine, granted as part of an official training programme, the equivalent to the current diploma as a Higher Technician in Image Diagnosis, thus meeting the demands of the interested parties having Nuclear Medicine diplomas.

Special Education

Regarding special education, the complaints received continue to stress the lack of personnel and resources, or the inadequacy of the installations due to the characteristics of the students being taught at such centres. There has been a notable rise in the number of complaints regarding delays in the substitution of teaching and non-teaching personnel, or even refusals to do so, when for temporary or permanent reasons they go on leave in the ordinary centres with places for special education students, or in specialised education centres. It is clear that these students require ongoing, intensive support on the part of the educational authorities, and that no measures or resources should be stinted in providing them with the educational support that they need.

Other issues mentioned in the present report, and regarding which the Ombudsman's Office has taken action over the course of 2005, include, among others, those regarding the problem of obtaining the diplomas corresponding to post-compulsory studies on the part of foreign students in an irregular situation, a problem resolved by the approval of Royal Decree 2393/2004, as well as the access of foreign students to grants and assistance for acquiring textbooks. Lastly, noteworthy actions still underway aimed at eliminating the restrictions on access to the open certification exams given at certain official language schools, and regarding some of the languages taught there.

Shortage of Health Professionals

Regarding university education, and specifically issues involving access to a student's first choice of degree programme, the drop in the number of students and the greater availability of places, as well as the implantation of a single, nationwide district, has brought about a significantly lower number of complaints in this area, as has been the case for the past several years. However, these difficulties seem to



The salary differences between Spanish Self-governing Communities, and the lack of equivalency of their healthcare diplomas with those of the rest of Europe, are a source of discouragement to health professionals.

persist in certain areas, especially the Health Sciences, where there is apparently still a gap between the supply of and demand for places.

Given that the media have been bringing out news reports over the past year regarding the shortage of health professionals in some parts of Spain's health system, it would seem necessary to adopt measures able to correct the aforesaid supply gap, especially in those areas of knowledge and those professions for which the Spanish university system is not providing sufficient graduates.

Co-ordination of Registration Times

Moving on to another subject, it has been seen how, as a consequence of the current pre-registration system, different universities' registration times often overlap, so that it is impossible for students to wait and see the results of all of their admission applications to different universities before the registration deadline in one or more of them, which sometimes compels students to pay the registration fee at a university where they have been accepted, before they know whether or not they were admitted to another university which was their first option. Therefore, these registration periods should be co-ordinated, along with their corresponding procedures, in order to avoid such problems.

Delays in Certifying Foreign Diplomas

Regarding the certification of foreign diplomas, which continues to generate complaints due to processing delays, a welcome development is the new procedure established by Royal Decree 285/2004 of 20 February, which provides a more consistent and simplified process, but which did not enter into effect until September 2005. Therefore, it would be difficult for the Ombudsman, in the present report, to present an objective assessment of the benefits which could foreseeably arise from this norm, and the impact it could have on the situation of bureaucratic collapse which was reported in 2004, according to the data provided by the Ministry of Education and Science at that time.

Nursing. Another welcome development is the publication and entering into effect of Royal Decree 450/2005, regarding nursing specialities, which puts into practice a recommendation sent by Ombudsman to the Ministry of Education and Science in March 2000, that Royal Decree 992/1987 of 3 July, regulating certification for a Specialist Nurse diploma, be substituted for another adapted to the requirements established by European Union regulations.

Assistant Health Technicians. A more difficult situation is that of those having a diploma as an Assistant Health Technician (known by its Spanish initials, ATS) in obtaining equivalency with those having a Nursing diploma, once they were declared homologous by Royal Decree 111/1980, under the condition that, within five years, these degree-holders complete an equivalency course specially designed for this purpose. This deadline has been extended, and finally, a period was established between 1 January 2000 and 30 December 2008; however, at the end of 2005, the necessary actions had yet to be initiated by the National Open University (UNED), the academic body placed in charge of beginning, in the short term, to give the aforesaid equivalency course.

Psychologists. Over the course of 2005, problems have also persisted for those psychologists who aspire to obtain a diploma as Specialist in Clinical Psychology. There are many applications to be processed, and even more since the deadline was extended for those who met the necessary requirements to apply for this specialised diploma.

Regarding study **grants and assistance**, another favourable development was the 12.8% increase in funding for this purpose, which has made it possible to

raise an average of 5% the maximum income allowed in order to have access to such grants or assistance. Moreover, the amount of grants and assistance has risen approximately 4%. In spite of this, students still encounter many difficulties in financing their post-compulsory studies in the academic centre of their choice, because neither the number of grants awarded nor their quantity enables students to finance the cost of their study fees, travel, and room and board.

The present report specially emphasises the rigorous criteria imposed by the Administration in selecting those students to receive grants which in some or another promote student mobility, both around Spain and abroad. The amount of this assistance, received from the Seneca and Erasmus programmes, is insufficient, and the rigorous income restrictions placed on candidates for mobility grants is excessive. All of this makes it difficult to fulfil the purpose of these grants, which is none other than to promote the mobility of Spanish students amongst different academic centres.

Co-Official Languages

Regarding co-official languages, there has been a notable increase in the usual

volume of complaints, compared with other years. Very probably, this is related to the political debate which arose regarding the reform of Catalonia's Statute of Autonomy, since a large part of the complaints received in 2005 relate to this community. The Ombudsman's Office, in the present Annual Report, asks that the exercising of linguistic rights reflect the framework of freedom and respect designed in the Spanish Constitution, without impositions or impediments, so that the free use of the language of one's choice may involve personal and social enrichment, rather than becoming a factor contributing to discord or discrimination.

Regarding the communications media and broadcasting, many complaints are still being received, particularly regarding television programming, with only a very slight improvement being noticeable after the Agreement Promoting Self-Regulation Regarding Television Content and Children, signed in December 2003, between the Government and representatives of the national television stations. There is much yet to be done, although we find ourselves in a waiting period during the design of regulating projects, aimed at reforming the model of public television and the current control system.



The Second Deputy Ombudsman, Manuel Aguilar Belda, fourth from the left, at the 2nd National Childhood, Television, and Education Forum, held at RTVE, Spanish National Television. To the left of the Second Deputy is Pedro Núñez Morgades, the Ombudsman for Minors of the Community of Madrid.

Institutional Relations

(cont. from p. 5)

Relations with Autonomous Ombudsmen

Included below are only the most relevant meetings during 2005 with Autonomous ombudsmen. As usual, a lengthy list of the many contacts with different Autonomous institutions has been omitted.

Meeting with the **Canary Islands Ombudsman, Manuel Alcaide Alonso** (Ombudsman's Office, 25 January).

Participation of the First Deputy in the **2nd Seminar on Statutory Reform, Social Rights, and Ombudsmen**, organised by the Andalusian Ombudsman, with the conference 'Statutory Configuration of Autonomous Ombudsmen through the Experiences of these Institutions in the Defence of their Rights' (Baeza, Jaen, 5 and 6 May).

Participation of the First Deputy in the **2nd Seminar for the 20th Anniversary of the Catalan Ombudsman Law**, organised by the Catalan Ombudsman, with the conference 'The Ombudsman as Commissioner in Defence of Rights: Controlling the Administration and Other Functions' (Barcelona, 29 September).

20th Ombudsmen's Co-ordination Seminar

The 20th Ombudsmen's Co-ordination Seminar was held from 16-19 October in Alicante, organised by the Ombudsman of the Valencia Region.

The Seminar was inaugurated by the Deputy Governor and Secretary of the Valencia Region, **Victor Campos Guinot**, and closed by the President of the Valencian Regional Legislature, **Julio de España Moya**. The keynote theme was 'Public Administrations' Response to Different Phenomena and Problems Affecting Childhood and Youth'.

Amongst the conferences and debates, resulting in conclusions which are included in the full version of the present report, highlights included 'Criminal Content on the Internet', 'Justice Administration and Minors', 'New Challenges for Young People's Health', 'Juvenile Violence and Today's Society', 'School and Family Violence', 'Analysis of Protection systems for Minors and Violence Prevention', 'Young People and Gender Violence', and a panel

discussion on 'Urban Gangs and Violence', which included the participation of the Ombudsman of Spain and the Ombudsman of the Valencia Region, **Bernardo del Rosal**.

Each one of these conferences was moderated by one of the autonomous ombudsmen, with the participation of experts on each issue, as well as the speakers.

The workshops prior to this seminar were held in the offices of the Ombudsmen of Andalusia, the Canary Islands, and Aragon, and dealt with 'New Technological and Media Realities' (Seville), 'Justice Administration and Minors' (Santa Cruz de Tenerife), and 'New Challenges for the Health of Young People' (Zaragoza).

The conclusions of these workshops, as well as those of the 20th Co-ordination Seminar, may be found in the complete version of the present report, on the Ombudsman of Spain's website: www.defensordelpueblo.es

Meetings Regarding Complaints

The complete version of the present report includes a detailed list of the meetings and audiences involving the Ombudsman or his Deputies held at the Ombudsman's Office with individual petitioners or representatives of collective complaints who wanted to convey their viewpoints on the issues involved to the Ombudsman's Office.

Highlights among these meetings, due to their public impact, were:

— With the **Mayor of Salamanca, Julián Lanzarote Sastre**, regarding the complaint presented due to the return to Catalonia documents in the General Archive of the Spanish Civil War, located in Salamanca (20 January).

— With representatives of **an association of those affected by the works on the Permanent Circus** (1 February).

— With two **neighbourhood organisations from Madrid** and Madrid City Councilman Pedro Sánchez (2 February).

— Interview with **representatives from the Spanish Heart Association**, regarding the needs of their patients (3 February).

— Interview with the representative of the **Nuevo Baztán and Villar del Olmo Neighbourhood Associations** (3 February).



The Ombudsman and autonomous commissioners who attended in Alicante, from 16-19 October, the 20th Ombudsmen's Co-ordination Seminar, organised by the Ombudsman of the Valencia Region, during which, amongst other issues, urban gangs and violence and the Law of Minors were discussed.

— Meeting with the **Mayor of Rota (Cádiz), Lorenzo Sánchez Alonso**, accompanied by his Economic Affairs Delegate, Juan Antonio Liaño Pasos, **to deal with the issue of tax compensation, the impossibility to carry it out on the part of said Municipality** (9 February).

— Meeting with **residents of the town of Almadén (Ciudad Real)**, regarding the Almadén Mine's failure to fulfil its commitment to allow them to use an empty field.

— Meeting with the **Socialist Spokesman of the Madrid Regional Assembly, Rafael Simancas Simancas, and the PSOE (Socialist Workers' Party of Spain) Municipal Groups from the Cities of Pozuelo de Alarcón, Las Rozas de Madrid, Boadilla del Monte, Brunete, Tres Cantos, Villanueva del Pardillo and Majadahonda** (24 February).

— Meeting with **interim public school teachers from the Basque Country regarding their job stability** (28 March).

— Working meeting with the **Fire Chief of the Community of Madrid, Javier Sanz; the Head of the Madrid Regional Firemen's Health Service, Sebastián Cartón; and two representatives of the Firemen's Local of the Comisiones Obreras trade union** (12 April).

— Meeting with the **Mayor of San Lorenzo del Escorial (Madrid), José Luis Fernández Quejo del Pozo** (10 May).

— Meeting with the **Councillor for Health of the Extremadura Autonomous Administration, Guillermo Fernández Vara** (17 May).

— Meeting with a **cultural collective from Aragon, which was presenting a complaint regarding the use of the Catalan language in Aragon**, the preservation of its cultural identity, and the problems arising due to the use of said language

(e.g., in the workplace, economic, and cultural) (26 May).

— Meeting with **neighbourhood representatives from the Carmelo District in Barcelona, who explained the wide variety of problems affecting its residents due to the collapse of a number of blocks of flats and shops** (30 May).

— Meeting with **members of International Adoption Agencies, regarding the functioning of these agencies** (1 June).

— With **two family members of military men stationed in Iraq** (20 June).

— Interview with **Javier Conde, Director of Mobility for the City of Madrid**, accompanied by the Deputy Director of the Administrative Department, Álvaro de la Vega Marcos, regarding a complaint presented to the Ombudsman's Office. Received by the First Deputy on 13 July.

— Meeting with **a member of the Joint Committee for Relations with the Ombudsman, the President of the Catalan Speleology Federation, and two citizens from Catalonia interested in a pardon petition**. Received by the Ombudsman and his Office Chief at the Institution's headquarters, 14 July.

— Meeting with a **Socialist City Councilwoman from Madrid, Carmen Sánchez Carazo, and another citizen, to discuss the Municipal Administration's policies regarding disables persons** (22 July).

— Meeting with the **Mayor of Bollullos Par del Condado (Huelva), Juan Carlos Sánchez Álvarez, interested in the pardon petition for a resident of this town** (26 July).

— Interview with **neighbourhood representatives from Barxeta regarding high-tension wires** (20 September).

— Meeting with **residents affected by the public works in Eugenia de Montijo Park, Madrid** (29 September).

— Visit to the **Autonomous City of Melilla to investigate the actions taken in the face of the irregular entry of foreign nationals, carried out by the First Deputy, accompanied by her Office Chief and the consultant responsible for Immigration and Foreign Affairs, during 10 and 11 October**.

— Meeting with **representatives of a neighbourhood association in Vicálvaro** (13 October).

— Visit by the **First Deputy to Spanish prisoners jailed in Asunción (Paraguay)** in November.

— Meeting with the **President of the Spanish Confederation of Groups for Families and Persons with Mental Illness** (14 December).

— Interview with the **Director of the La Merced House for Minor Refugees and Immigrants and Unaccompanied Juveniles, Pablo Pérez Pérez** (15 December).

— Meeting with **representatives of a celiac disease association from Catalonia** (27 December).

International Activities

During 2005, the Ombudsman's Office has continued to intensify its activities on the international scene. The main objective of these efforts is to support the initiatives aimed at improving the promotion and defence of rights and freedoms in other countries, mainly through fomenting the creation and strengthening of defence institutions.

In this area, noteworthy in 2005 was the designation of the Ombudsman as the President of the Ibero-American Federation of Ombudsmen (known by its Spanish initials, FIO). This designation was



At the 10th FIO Congress, held in Asunción (Paraguay), from 14-17 November 2005, the Ombudsman of Spain, Enrique Múgica, was elected President of the organisation for a two-year term. (Left) Mr Múgica appears in the middle of this 'family photo' of Latin American ombudsmen. (Right) Some of the speakers and attendees during one of the congress's sessions.

made in November, in the city of Asunción (Paraguay), for a two-year term.

This 10th FIO Congress had as its keynote theme 'International Systems for Promoting and Protecting Human Rights', and included a conference by the Ombudsman, Enrique Múgica, representing the European region, on 'Experiences and Actions of European Institutions regarding Childhood Protection Issues'. Likewise, the Ombudsman attended the General Assembly of the FIO, held in Asunción (Paraguay), 14-17 November.

At this Congress, the 'Asunción Declaration' was approved, the text of which may be found in the complete edition of the present report on the Ombudsman's website: www.defensordelpueblo.es

Participation in Other International Events

— The Ombudsman participated in other international events. For example, those held to mark the **50th Anniversary of the Danish Ombudsman**, in Copenhagen (Denmark), from 30 March to 2 April

— During the **16th period of sessions of the Annual Meeting of the International Committee for Co-ordination of National Institutions, 61st period of Sessions of the Human Rights Committee**, held in the Palace of Nations, Geneva (Switzerland), from 13-15 April.

— At the **5th Meeting of the Board of Directors of the Special Fund for Ombudsmen and National Human Rights Institutions in Latin America and the Caribbean**, also held on 15 April in Geneva.

— At the **2nd Luso-Brazilian Ombudsmen's Colloquium, organised by the Ombudsman of Portugal**, with the conference 'The Ombudsman, a State Institution', Lisbon (Portugal), 31 May.



Delegation from the South Korean Ombudsman, visiting the Spanish Ombudsman's Office, to observe how it works.

— At the **OSCE Conference on Anti-Semitism and Other Forms of Intolerance**. Moderated the 3rd Plenary Session, devoted to 'Reponses Against Anti-Semitic and Hate Crimes: The Role of Governments, Institutions, Legislation, Mechanisms for Applying the Law, and Civil Society' (Cordoba Convention Centre, 8-9 June).

— **Attendance at the 5th Seminar for Ombudsmen of the European Union, organised by the European Ombudsman and the Ombudsman of the Netherlands** (The Hague, Netherlands, 12-14 September).

Visits and Official Acts

— Meeting with the **President of the Inter-American Court of Human Rights, Sergio García Ramírez**.

— **Visit of the Ambassador of the Kingdom of Morocco in Spain, Omar Azziman**.

— **Meeting in Chile with the President of the Constitutional Tribunal, Juan Colombo; with the Minister of Justice, Luis Bates; with the Secretary-General to the President, Eduardo Dockendorff; and with Magistrates from the Supreme Court**.

— **Meeting with the Presidential Commissioner for Human Rights of Guatemala, Frank la Rue, and with the Deputy Minister for Foreign Relations, Marta Altolaguirre**.

— **Presentation of the conference on 'Security in Europe and Human Rights', by the Human Rights Commissioner of the Council of Europe, Álvaro Gil-Robles**.

— **Meeting with the National Ombudsman for the Public Defender's Office, Rodrigo Quintana Meléndez; the Regional Ombudsman for the Metropolitan Region, Eduardo Sepúlveda; the Office Chief for the National Ombudsman, Gonzalo Berrio; and the Head of International Co-operation, Alejandro Salinas**.

— **Visit of the Swedish Ambassador, Anders Rönquist**.

— **Meeting with Carlos Genatios, Professor at the Central University of Venezuela and former Minister of Science and Technology**.

— **Meeting in Jerusalem between the Ombudsman and his Israeli counterpart, Micha Lindens Trauss**.

— **Attendance at the ceremony for the 2005 Samuel Toledano Award**.

Co-operation

— **Meeting with the Portuguese Ombudsman's Deputies, José Luis Pereira Coutinho and Antonio Manuel Macedo de Almeida**.

— **Visit from Uruguayan prosecutors on an internship at the Ministry of Justice's Centre for Judicial Studies**.

— **Meeting with the Human Rights Commissioner of the Council of Europe, Álvaro Gil-Robles**.

— **Meeting with a delegation from the Swedish Ombudsman, presided over by First Deputy Cecilia Nordenfelt**.

— **Master Class, 'The Relationship between the Ombudsman and Parliament and Local Administrations', invited by the University of Chile Law School**.

— **Visit from the Ombudsman of the Republic of Chile to support efforts in favour of creating the figure of an Ombudsman. Meeting with the President of the Chilean Congress, Gabriel Ascencio; with the Human Rights, Nationality and Citizenship Committee; and with the President of the Citizens' Defence Committee, Francisco Fernández Fredes**.

— **Meeting with the Municipal Ombudsman of Cali (Colombia), Adolfo Leon López Giraldo**.

— **Meeting with groups from the trade unions UGT, CCOO and USO, which, together with a delegation of Colombian union leaders, discussed problems involving the deterioration of human rights and the rights of trade unions in Colombia**.

— **Meeting with the Director-General of the Association for the Prevention of Torture, regarding the presentation of a preventive protocol for internment centres**.

— **Meeting with the Ombudsman of Sindh, Karachi (Pakistan) to exchange viewpoints on the functioning of both institutions**.

— **Meeting with a committee of European congressmen on a fact-finding trip regarding the application of the Law Regulating Land Development Activities in the Valencia Region**.

— **Meeting with Spain's Representative for the UN High Commission; the Assistant Director of the UNHCR's European Bureau, Oluseyi Bajulaiye; and with Deborah Elizondo**.

— **Meeting with the Ombudsman of the Bolivarian Republic of Venezuela and President of the FIO, Germán**

Mundaraín, and his Director of Foreign Affairs, Raizabel Díaz.

— Meeting with the National Commissioner for Human Rights of Honduras and President of the Central American Council of Human Rights Commissioners, Ramón Custodio.

— Meeting with a delegation from the Republic of Serbia, headed by the Minister of State Administrations and Local Self-Government, Zoran Loncar Tema.

— Meeting with the Ombudsman of the City of Buenos Aires, Alicia Beatriz Pierini, accompanied by the Argentine Ambassador, Carlos Bettini.

— Meeting with the former Minister of Science and Technology of Venezuela, Carlos Genatios.

— Visit of students from different Public Administrations from South American Countries, through the INAP Centre for Local and Territorial Studies.

— Visit of a delegation from the South Korean Ombudsman.

— Meeting with the European Committee for the Prevention of Torture.

— Attendance at a public audience on the European Union's Agency for Fundamental Rights.

— Working meeting with members of the association Human Rights Watch to analyse the report on 'Anti-Terrorist Measures in Spain'.

— Visit by a member of the International and Ibero-American Foundation for Public Policies and Administrations (FIIAPP), Miguel Utray, to present the EUROsocial Project.

— Meeting with the Portuguese Ombudsman, Henrique Nascimento Rodrigues, and the Andorran Ombudsman, Pere Canturri Muntaya.

— Interview with a former prisoner from the Perito Moreno Prison in Quito (Ecuador), presenting a report on the penitentiary situation in that country.

— Meeting with Antonio Alonso Marcos, from Helsinki España, to present a project on human rights education for primary and secondary schools in the Community of Madrid.

— Meeting with participants in the Third Course for Parliamentary Legal Advisors from Latin America and the European Union.

— Meeting at the Spanish International Co-operation Agency regarding its support from the Regional Programme for Ombudsmen in Latin America promoted by the CICODE, and to discuss 2006 programming in Latin America.

— Attendance at the 7th Latin American Conference of Ministers and High Officials for Childhood and Adolescence.

— Attendance seminar held regarding the possible creation of an Ombudsman's Office in Uruguay.

— Meeting with the Director-General of the WTO Office in Spain, Juan Felipe Hunt Ortiz, and the Director of the Regional Programme for the Americas, Martha Pacheco.

— Meeting with a group of experts from the European Commission Against Racism and Intolerance (ECRI).

Technical Co-operation and Promotion

Through these initiatives, the Ombudsman's Office aims to raise its profile in order to bring its institutional programmes closer to the citizenry.

Co-operation Activities

— **International Seminar on Islamist Terrorism**, organised by the Community of Madrid and the Justice in the World Foundation, of the International Magistrates Union. Participation in the panel discussion, 'Public Institutions and Administrations Face Islamist Terrorism'.

— Participation in a **panel debate on 'Remembering the Holocaust: Homage to the Victims and Reflection'**, organised by Diálogo Europeo.

— Participation in the **5th Seminar for the Project 'Schools Promoting a Culture of Peace: 2001-2010 Plan'**, with the conference 'People's Rights and Peace'.

— **Meeting with the Deputy Director-General of Personnel Inspection and Security Services of the Ministry of the Interior**, Maximiliano García Cantos.

— **Attendance, as witnesses, at the event during which César Egido Serrano, of the Gestión Mecenazgo Foundation, donated the royalties from his book**



King Juan Carlos of Spain gives the Human Rights award bearing his name to the founder of Pastoral da Criança, Zilda Arns Neuman, in the Assembly Hall at Alcalá de Henares University. Photo: Dalda

Euzkadi: El Crimen y las Sombras (The Basque Country: Crime and Shadows), to the Victims of Terrorism Foundation.

— **Participation in the session commemorating the centennial of the Sabadell Bar Association**, with the conference 'The Evolution of Our Democratic State and Law since the Approval of the Constitution'.

— Under the auspices of the Israel-Latin America Cultural Institute and the Israel-Spain Friendship Association, **conference at the Truman Institute for the Advancement of Peace**, with the title 'Identities and Cultural Frontiers in Spain'.

— **Workshops on 'Humanitarian Action and Social Exclusion in Developed Countries'**, organised by the Department of Public Health, History of Science and Gynaecology of Miguel Hernández University, Elche, and sponsored by the Ombudsman.

— **Meeting with the Dignity and Justice Association.**

— **Meeting with the president and other members of the Independent Foundation.**

— **Meeting with the Union of Associations Assisting Drug Addicts (UNAD).**

— **Meeting with the Head of Campaigns and Research of the Spanish Section of Amnesty International**, Giulia Tamayo, with an Investigator from the International Secretariat, Roberto Stefani, and the Co-ordinator for Refugee Teams, Iciar Ruiz Jiménez.

— **Meeting of the jury awarding the '2005 Ombudsman's Drawing Prize', for primary and secondary school students, for the promotion of human rights.**

— **Working meeting with the President of the General Council of Spanish Lawyers, Carlos Carnicer.**

— **Visit from Elena Zarraluqui, member of the Family Lawyers' Association.**

— **Inauguration of the 12th Meeting of the Spanish Association of Family Lawyers.**

— **Working meeting with the Secretary-General of the Spanish Coalition Against Racism and Xenophobia (CECRA).**

— **Participation in the Seminar on Legal Protection for the Handicapped, organised by the Government of La Rioja**, with the conference 'Towards Social Integration of Disabled Persons: Their Protection in the Legal System'.

— **Participation in the Seminar on Tax Law and the Taxpayers' Ombudsman in Spain**, organised by the Office of the Taxpayers' Ombudsman of the City of Madrid, with the conference 'The Ombudsman's Defence of Taxpayer Rights and Guarantees'.

— **Attendance at the conference given by the Secretary-General of the Polisario Front, Mohammed Abdelaziz.**

— **Participation in the 2nd Magistrates Meeting organised by the Professional Association of Magistrates**, with the conference 'The Image of Judges'.

— **Workshop with the Foundation for International Relations and Foreign Dialogue**, participating in the panel discussion 'Migratory Pressure and the Border Situation in Ceuta and Melilla: Proposals for Action from Spain and the European Union'.

— **Participation in the 3rd Congress on Violence Against Women**, organised by the Province of Madrid, with the conference 'The Need to Grant Integrated Treatment to the Phenomenon of Gender Violence (General Act of Parliament 1/2004, on Measures for Integrated Protection Against Gender Violence)'.

— **Attendance at the events of the European Year of the Citizen**, held at the Ministry of Education and Science.

— **Conference at the Master's in Needs and Rights of Children and Adolescents**, at Autónoma University, Madrid.

— **Attendance at the closing ceremonies of the 1st Conference on the Protection of Minors: Fostering Programmes**, organised by the Department of the Family and Social Affairs of the Community of Madrid.

— **Meeting with the President of UNICEF and Director of Social Mobilisation and Education for the development of this organisation.**

— **Participation in the panel discussion on 'Institutional Defence of Disabled Persons',**

organised by the Co-ordinated Confederation for the Disabled of the Valencia Region.

— **Meeting with the Rector of Alcalá University, Virgilio Zapatero.**

— **Attendance at the presentation of the Madrid Plan for Social and Intercultural Co-existence at the Círculo de Bellas Artes, Madrid.**

— **Conference at the 6th Course for Promotion to the Category of Principal Commissioner of the National Police Corps**, 'Police Activity as Assessed by the Ombudsman's Office', held at the Promotion Centre of the Training Division of the Directorate-General of the Police.

Promotion and Public Awareness

— **Meeting with schoolchildren at the Nuevo Equipo School in Madrid, to mark Culture Day, devoted to Peace and Non-Violence.**

— **Presentation of the book *La destrucción de los judíos europeos (The Destruction of European Jewry)*, by Raúl Hilberg, at the Círculo de Bellas Artes, Madrid.**

— **Participation in the 1st Immigration Seminar: Facing the Challenge of the 21st Century**, organised by the Ubeda-Baeza Academy of Commissioned and Non-Commissioned Officer of the Civil Guard, with the conference 'The Ombudsman's Role Regarding the Phenomenon of Immigration'.

— **Attendance at the 2nd Young Family Investigators Awards**, organised by the



Even held in the Hall of Columns of the Spanish Parliament for awarding the prizes to schoolchildren in a drawing contest on the theme of human rights organised by the Ombudsman, with the attendance of the Speaker of the Congress, Manuel Marín. Photo: Povedano.

Acción Familiar Foundation and the Economic and Social Council of Madrid.

— Attendance at the **audience with HM the King, conceded to the Managing Committee, the Jury, and the winner of the 19 Edition of the Juan Lladó Award for Supporting Culture and Research.**

— **Presentation of the book *El genocidio de Guatemala a la luz de la sociología militar.***

(The Guatemalan Genocide in Light of Military Sociology), **by Prudencio García**, organised by Casa de América, the SEPHA publishing company, and the Foro Milicia y Democracia Association.

— **Course organised by the Francisco Largo Caballero Foundation, as part of the Complutense University Summer School, 'Spain in the Memory of Three Generation: From Hope to Reparation'**, held in El Escorial (Madrid), participating with the conference 'Memory and Political Transition'.

— Participation in the **opening of the European Conference on Healthcare Quality**, organised by the European Institute of Health and Social Welfare at the Madrid Convention Centre.

— **Inaugural lecture of the 2005-2006 course series, organised by the La Opinión-El Correo de Zamora Club**, with the conference 'Constitutional Rights: Culmination of the Desire for Freedom'.

— Inauguration of the **Seminar 'Property, Knowledge, and Intellectual Rights'**, organised by the performing rights organisation Sociedad de Gestión de Artistas, Intérpretes o Ejecutantes, and the University of Alcalá.

— Participation in the **14th Integration Seminar / 2nd Hispano-Portuguese Seminar on Cerebral Paralysis**, organised by the University of Extremadura, with the conference, 'School Peer Violence: Report by the Ombudsman'.

— Speech at the opening of the **Seminar of the European Project 'Justice, Rights, and Inclusion for Persons with Intellectual Disabilities'**, organised by the University of Alicante, FEAPS, and Inclusion Europe, titled 'Access to Justice for Persons with a Disability'.

— Attendance at the **awards ceremony for the 11th Pelayo Award for Prestigious Jurists**, organised by the Pelayo Insurance Company, at the Casino de Madrid.

— **Breakfast conference at the Ritz Hotel, Madrid, organised by the Foro de la Nueva Sociead, Tribuna de Nueva Economía, devoted to social issues, titled 'Defence of Constiitutional Rights and Control fo the Administration'.**

— Participation in the inauguration of the **Seminar 'Property, Knowledge, and Intellectual Rights'**, organised by the **Sociedad de Gestión de Artistas Intérpretes**

o Ejecutantes (SGAE) intellectual property rights managers, and the University of Alcalá, and the conference 'Intellectual Property and Human Rights'. As part of this same event, the Ombudsman was given the title of honorary member of the University Arts Faculty.

— Inauguration of the **symposium 'Age Discrimination, a Question of Human Rights: From Words to Actions'**, organised by the Confederation of Organisations for the Elderly, at the Madrid Exhibition and Convention Centre.

— **Conference on 'Human Rights and Social Progress', organised by the Admiral Alvarez Ossorio Chair at the Marín Naval Academy (Pontevedra).**

— **Speech at the Congress on 'Civil Servants, at the Service of the Citizens', organised by the Community of Madrid (Office of the Governor), titled 'Citizens' Complaints Regarding the Functioning of Services and Public Employees', at the Canal de Isabel II Foundation.**

— **Participation in the 1st International Congress of the Centre for Studying Spain's Transition to Democracy, 'The End of Franco's Regime and the Roots of the Political Transition'**, giving a conference at the sixth session, 'The Protagonists Speak', at San Pablo-CEU University.

— **Reading of Article 54 of the Spanish Constitution, as part of the commemorations marking its 27th Anniversary, organised by the City of Madrid.**

— **Conference marking Constitution Day, organised by the Province of Burgos**, titled 'Constitutional Rights and Democratic Consolidation'.

— **Day for Schoolchildren to Read the 2005 Declaration of Human Rights, organised by the NGO Globalisation of Human Rights, carried out in the Hall of Columns of the Spanish, and giving out the prizes for the '2005 Ombudsman's Contest'.**

— At the **awards ceremony for the 'Previsión Sanitaria Nacional' Prizes for Professionals**, giving a conference on 'The Importance of Professional Organisations in the Defence of Citizens' Fundamental Rights', at the Madrid Medical Association.

— Attendance at the **presentation of the General Council of Lawyers' campaign 'Know the Constitution: It's Your Right'.**

— Participation in the **2nd National Forum on 'Childhood, Television, and Education'**, in the Spanish National Broadcasting Service auditorium.

— Attendance at the **Seminar on 'Violence and Childhood'**, organised by UNICEF at the Spanish Parliament.

— **Conference at the National Public Administration Institute for Municipal Secretaries.**

— Participation in the **2nd Quality Seminar at the Logroño Social Services Centre**, with the conference 'Quality Management in Social Services'.

— Attendance at the **12th Meeting of the Spanish Association of Family Lawyers.**



The Ombudsman, Enrique Múgica, gives his acceptance speech after being awarded the first José María Llanos Award for Human Rights Defence and Education, during a ceremony held on 29 September at the José María de Llanos Foundation, in Pozo del Tío Raimundo, which was presided over by First Deputy Prime Minister María Teresa Fernández de la Vega.



The Ombudsman, Enrique Múgica, during the course that he gave in the summer of 2005 at Menéndez Pelayo International University, in Santander

— Participation in the **10th International Family Education Conference**, organised by the Department of Education, International Association for Training and Research in Family Education, of the University of Las Palmas de Gran Canaria, with the conference 'Intra-Family Violence from the Ombudsman's Perspective'.

— **Interview with the President of the Stop Accidents Association.**

— Inauguration of the **Seminar on Law and Children's Rights**, organised by the University of Alcalá.

— Classes at the **2nd Master's in Human Rights Protection at the University of Alcalá**, on 'The Ombudsman of Spain' and 'Human Rights and Development Before the 21st Century'.

Visits, tributes, and official events

The following are some of the special meetings and events in which the Ombudsman participated, or which he attended.

— **King of Spain Human Rights Award ceremony (first edition)**, with the award going to Pastoral de Criança, from Brazil, presided over by TM the King and Queen.

— Event marking the **Day of Remembrance of the Holocaust and Prevention of Crimes against Humanity**, organised by the Spanish Parliament.

— Participation in the **panel discussion 'Legal Advances for Freedom'**, as part of the **homage to Gregorio Ordóñez, '1995-2005: Gregorio Ordóñez, Ten Years of Fighting Fear'**.

— **Visit to the 2005-2005 class at the Legal Practice School of the Biscay Bar Association.**

— **Visit to students at the INAP Local and Territorial Studies Centre.**

— **Attendance at the awards ceremony for the 2nd Telemadrid Solidarity Prize, honouring Santiago Mero López.**

— **Attendance at the ceremony commemorating the 25th Anniversary of the Constitutional Tribunal.**

— **Inauguration of the Castilla-La Mancha Ombudsman's Office.**

— **Participation in the lecture series commemorating the 20th Anniversary of the Ombudsman of Catalonia Law**, with the conference 'The Ombudsman as Human Rights Commissioner: Controlling the Administration and Other Functions'.

— **Awards ceremony for the 1st José María de Llanos Award for Human Rights Defence**, given to Enrique Múgica-Herzog, and for **Education** given to Father Roberto Guevara Rubio.

— Attendance at the **ceremony commemorating the 25th Anniversary of the General Council of the Judiciary.**

— **Attendance at the 30th Anniversary of the Proclamation of HM the King.**

— Attendance at the **awards ceremony for the 'Previsión Sanitaria Nacional' Prizes for University Professionals.**

— Attendance at the **presentation of book *Comentarios a la Constitución Europea* (Comments on the European Constitution)**, directed by the Chair in Constitutional Law Enrique Álvarez Conde.

— Attendance at the ceremony awarding the **San Raimundo de Peñafort Medal to the drafters of the Insolvency Act report.**

— **Research visit to the town of Curitiba (Brazil), at the invitation of the Pastoral da**

Criança, the organisation given the 1st King of Spain Human Rights Award.

Courses

— **Seminar on 'Economic, Social, and Cultural Rights Protection'**, sponsored by the Ombudsman, as part of the Menéndez Pelayo International University's Summer School, at Magdalena Palace in Santander, from 29 August to 2 September.

— **Seminar on 'Human Rights in Europe from the Ombudsman's Perspective'**, organised by the University of Ibiza and Formentera Summer School, and sponsored by the Ombudsman, in collaboration with the University of the Balearic Islands and the Ibiza and Formentera Islands Administration, conducted in Ibiza, from 5-9 September.

Agreements

— **These form part of the ordinary activity of the year covered by the present report, although their development over time may be longer.**

— **Co-operation agreement between Miguel Hernández University of Elche and the Ombudsman**, for organising workshops on 'Humanitarian Action and Social Exclusion in Developed Countries'. Signed in Madrid, on 11 May.

— **Co-operation agreement between the Ombudsman's Office, the Balearic Islands Government, the Ibiza and Formentera Islands Administration, and the University of the Balearic Islands, to organise the sixth edition of the University of Ibiza and Formentera Summer School in 2005**, signed in Ibiza on 24 June, and an **Addenda** to this agreement, also signed in Ibiza, on 5 September.

— **Co-operation agreement between the Ombudsman's Office and Menéndez Pelayo International University, for the organisation of a meeting on 'The Protection of Economic, Social, and Cultural Rights'**, signed in Madrid on 26 August.

— **Signing of a co-operation agreement between the Ombudsman's Office and the Spanish National Research Council-Doñana Biological Research Station**, signed in Madrid, on 4 November.

— **Third Co-operative Protocol appended to the Co-operation Agreement between the Spanish Committee of the United Nations Children's Fund (UNICEF) and the Ombudsman's Office**, signed in Madrid on 1 December.