



The Ombudsman

Summary of the report to Parliament for 2004
April 2005



28,990 complaints registered in 2004

67% increase compared to the previous year

In 2004, the total number of complaints registered came to 28,990, of which 14,264 were individual, 14,614 were collective complaints and 112 ex officio complaints. A figure significantly higher – by almost 67% – compared to the total of 17,389 complaints registered the previous year, as can be seen in table 1.

Men continue to present more complaints than women, though a slight narrowing of the percentages can be seen. A majority of complaints come from the national territory of Spain and the highest percentage of them correspond to the Madrid Community, though it can be seen that other communities are catching up in terms of individual complaints. In the same way, it is notable that there has been a certain increase in the total number of complaints sent by the Autonomous Commissioners. Standing out in terms of concerned administrative sectors are complaints relating to Education (8,953), Economy (3,446), Administration of Justice (2,394), Immigration (2,183) and Public Employment (2,012).

State of processing

The total of 28,990 complaints registered is made up of the following groups: 9,507

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	165
Individual ...	14,264	12,612
Collective....	14,614	4,612
TOTAL	28,990	17,389

(32.79%) admitted for processing, 16,846 (58.10%) not admitted, and 2,637 (9.09%) that were pending a decision at the moment of closing this report. Those admitted consist of 3,880 concluded, 5,600 in processing and 27 in suspension. Those not admitted were so due, among many other reasons, to there being no signs of administrative irregularity, due to no action having been carried out by the public powers in relation to the matters

that were raised, due to a firm judgment having been pronounced on some of them, or due to the existence of judicial intervention in the subject of the complaint. Those which were in a situation of pending required further information, a greater degree of analysis or the correction of some formal aspect.

Moreover, of the stated totals corresponding to complaints registered in 2004, a further 1,136 complaints were started or reopened which had been registered in other years, of which 741 were admitted, 373 were reopened and 22 were reinstated.

Efficacy in supervision of administrations

The ordinary supervision activity of Public Administrations as a result of complaints led to the drawing up in 2004 of a total of 413 resolutions directed at the pertinent authorities;



The Ombudsman delivers the 2004 Report to the President of the Senate, Francisco Javier Rojo, left, and to the President of the Congress of Deputies, Manuel Marín, in which photo appears the Ombudsman's Coordination Board who accompanied Enrique Múgica in both cases. From left to right, the Second Deputy Ombudsman, Manuel Angel Aguilar, the First Deputy Ombudsman, María Luisa Cava de Llano i Carrió; the Ombudsman; the President of Congress, and the Secretary General of the Ombudsman, María del Mar España Martí. (Photo Povedano)

specifically, 124 recommendations, 183 suggestions and 106 reminders of legal duties.

Of all these resolutions, at 31 December, just 118 had been admitted, 61 had been rejected and 128 were pending resolution. So, there still remains a fair number of resolutions pending a reply from the Public Administrations (almost 31%). Of the 179 replies received, 118 – more than 65% – accepted the suggestion or recommendation made by the Ombudsman, while just over 34% were rejected, in other words, 61 of the resolutions made. We provide further details on them all in the full report and also in this summary, on pages 5 to 26.

In terms of the most significant actions, though this is always subjective, these are gone into more fully on pages 27 to 50 ordered by management areas. Below, we summarise what, in the full report, is known as the **most significant conclusions** of each of those areas.

Civil service and public employment

In the field of the **general system of Civil Service**, mention has to be made of the large number of complaints in relation to certain processes of entry by means of competitive examination, which supposedly show little respect for the constitutional principles of equality, merit and ability, plus the lengthy delays in those same processes and taking possession of posts. The frequency and variety of complaints filed suggest that it would be a good idea to draw up some rules setting down the rights of candidates.

Also standing out are complaints relating to salaries and administrative careers, assessment of merits or passive classes and the increase in complaints from civil servants who say they suffer from **psychological harassment at work (mobbing)**, which seems to make it advisable to adopt preventive measures.

In terms of the different statutory situations, notable here are claims from health services personnel; from teachers, especially with regard to the lack of publicity and other difficulties in entrance tests in non-university teachers; evaluation procedures in the recruitment of teaching and research staff; claims from personnel in the Administration of justice; from personnel in penitentiary centres; on working conditions in some women's prisons; personal in the military administration, as well as those referring to the dismissal of reserve officers, those relating to the women joining the armed forces; problems of salaries among personnel in the State Security Forces and Corps and Local Police; plus the heterogeneous problem affecting labour personnel working for the public administrations and bodies, all of which are dealt with in the

detailed development of this area.

Defence and Internal Affairs

In addition to considering the growth in the number of prisoners, which gave rise to an ex officio complaint with the aim of preventing a risk of collapse in prisons, other matters related to the **Prison administration** were also analysed: the number of deaths among prisoners, especially in some jails such as Zuera

in Zaragoza, sometimes associated with the deterioration in the health of inmates as a result of drug taking; watching over the sanitary conditions in order to make check-ups and medical reports more widespread in transit centres and in transfers of prisoners, plus the use of new technologies and the need to hasten the construction and opening of new



The Ombudsman Enrique Múgica, in the plenary session of Congress, presenting the Report for 2003.

jails, or improving the conditions of women and children under the age of three in prisons.

In the same way, as far as **public safety** is concerned, actions have been carried out in relation to victims of terrorism; actions by the Security Forces and Corps, with strict respect for juridical safety by applying the Citizen Safety Act; improvement in the conditions of

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police station cells; guarantees in sanctioning proceedings for traffic violations, and proper attention in cases of emergencies at sea (especially in the case of sinking of boats full of immigrants).

As far as the **Military administration** is concerned, the corresponding information has been received regarding the well-known accident of the *Yakolev-42* and other questions of varying importance have been analysed.

Justice and domestic violence

In this field, complaints on **delays and backlogs in judicial proceedings** again come top of the list, with special attention to the Supreme Court (Chambers One and Three). As far as the judicial civil service is concerned, apart from the lack of resources there are problems in the attention being received by victims of crime and delays in procedures referring to people with mental illnesses or cases of eviction due to failing to pay the rent.

In terms of **minors** who commit crimes, a special section is devoted to situations related to the application of Organic Act 5/2000, on their criminal liability, a subject that is receiving a growing number of complaints. On the other hand, the situation and problems in various internment centres for minors have been investigated, in collaboration with the administrations and institutions concerned.

The main actions on **domestic violence** concern cases of deaths among women victims, the situation of family courts, and a close study on what is known as family mediation and "meeting points".

The numerous complaints received on questions related to the **Civil Register** are focused on problems of nationality and recognition of marriages between Spaniards and aliens, revealing the need to update the offices. Finally, mention must be made of contacts with **Spanish prisoners abroad** with the aim of checking on their needs and if necessary satisfying them.

Administration of the economy

The appreciable growth in the number of complaints related to economic and tax aspects highlights the tendency among citizens to pay ever closer attention to the effectiveness of **economic and social rights**. Standing out in this sector are complaints on information services at airports, particularly for people with sensory difficulties.

In relation to **telecommunications** in general, and the **Internet** in particular, a sensation of helplessness is detected among users with regard to the actions by the provider

companies of access to the network. This makes it advisable to establish mechanisms so that claims can be settled quickly and efficiently out of court along with the full use of the appropriate inspection resources.

In the field of **state taxes**, complaints about personal income tax again stand out, for example, in relation to the application of this tax in deductions for international adoption; the consideration of de facto couples as being a family unit for the purposes of joint taxation; the status of seriously disabled being expanded to include sufferers of Alzheimer's disease for the purposes of tax relief on home help; the limited sum of reductions on the family minimum per descendent and the amount of subsistence minimums. Mention can also be made of improvements contained in the draft bill on compulsory expropriation, about which, moreover, there has been no news, which contrasts with the numerous complaints on this subject, mainly due to the slowness in paying the assessed price and arrears interest.

Territorial regulation

In the heading of **environment** emphasis needs to be placed on the loopholes existing in inter-administrative coordination, the absence of material measures for restoring environments and insufficiencies in accusations made by the administrative authorities; so, for example, standing out in substantive matters

deriving from complaints received are: withholding of environmental information, environmental impact evaluation, warning thresholds and alerts in atmospheric pollution, illegal works on the coastline, irregular dumping in offshore waters, and the importance of the local factor in the preservation of a suitable environment. Some progress has been made in regulations for solving the problems created by high tension lines.

As far as **urban development** is concerned, the rules that have been drawn up point to the concept of *sustainable development* as a factor for planning. So, the competent administrations are becoming aware of the need to introduce environmental protection measures in town planning, though a considerable slowness continues to be seen when it comes to putting this into practice.

The growing **concern over housing** has its origins in house prices, which in turn produces evident distortions in the market. Although certain measures have been taken in this regard, a check will have to be made of their functioning in reality notwithstanding certain reservations which can already be formulated: excessive restrictions on subsidies for tenants under the age of 35, resumption of collecting the subsidy once the conditions that are demanded have been met, the low amount of the subsidy. Complaints received also refer to shortcomings in the construction of protected housing and construction defects, and their difficulties in repair in the case of free market housing.



Pollution from uncontrolled dumping in the Huelva Estuary. Photo from the Huelva Greens website.

Health and Social Policy

There seems to be a certain **fall-back in terms of the satisfaction of users of the Health System**. Complaints received in 2004 highlight this: lack of coverage of the National Health System, lasting problems in attention to vulnerable groups (the old, the disabled, the chronically sick or those with rare or infrequent diseases), delays in attendance and the lack of any willingness to admit to professional errors, the burden on the family in the case of mental illness or dependence, insufficient participation or patient associations and a notable degree of bureaucratisation.

There also persist shortcomings in the **health transport** system and in relation to the structure, organisation and functioning of hospitals, and there has been an increase in **complaints against health professionals** and with regard to care for the chronically sick or those in their terminal phase. The **demand for places in public old people's homes** has risen and there has been an increase in complaints on unprotected minors, demands to make the procedure for adoption abroad easier, and complaints regarding the failure to develop the Large Families Act in the form of regulations.

As far as **pensions** are concerned, there is a lack of compatibility of total permanent disability with the carrying out of works other than those which originated the invalidity. Regarding widows' pensions, although certain recommendations made by this Institution have been put into practice, others that are equally important have not been developed

(temporary subsidy for dependent children, de facto unions, etc.). Mention has to be made of the disparity of criteria on the part of the autonomous communities when it comes to interpreting the assignment of incomes coming from minimum or basic salaries before people reach the age of 65, at which point they would receive a non-contributory pension.

Immigration and Foreign Affairs

The modifications in **matters of aliens** have complicated the steps for obtaining permits and authorisations for immigrants. Complaints filed in this regard have led to a monitoring of the work carried out in aliens offices most loaded with cases (there still does not exist a single office), whose result is decisive in the corresponding regularisation. On the other hand, the situation of immigrants arriving in small boats is being followed with concern and rigour; several Immigrant Temporary Stay Centres have been investigated; enquiries have been made into black African immigrants whose expulsion orders cannot be executed because their nationality is not known, and who become destined to a state of marginalisation, both socially and in terms of work; accusations have again been made of the automatism used sometimes for repatriating children and other inadvisable practices made in relation to minors (request for residence permit for children with guardians); an analysis has been made of the conditions in alien internment centres; various protective

suggestions and recommendations have been made regarding the rights of aliens in an irregular situation (not bringing expulsion proceedings for victims of violent crime, the release of interned aliens when the expulsion cannot be carried out); shortcomings have been detected in web sites of four consulates along with various other shortcomings, and criteria have been suggested in relation to what is known as family regrouping.

As far as **asylum** is concerned, the growing number of stowaways arriving in ships berthing in Spanish ports has been studied and a programme of visits has started to **refugee reception centres**, along with materialising a series of thoughts on the fight against racism and xenophobia.

Attendance for Spanish citizens abroad has again led to a call on the urgency of a training plan for External Service personnel (attention to the public, improvement in procedures, consular emergencies, etc.) and to the recommendation to complete the protective actions provided for Spanish emigrants returning to Spain.

Education and Culture

The shortcomings in planning and providing for the actual needs of the educational system, which is a necessarily dynamic system bearing in mind the world in which we live (immigration, working women), to a large degree condition the complaints from citizens in this sector. These complaints refer to the **lack of school places, of equipment and facilities, or the irregular distribution of pupils in need of compensation activities**.

In order to comply with its ends, the educational system has to have stability and flexibility at the same time, something which can be said for all stages of the system, including university education (university entrance exams, assignment criteria, review of qualifications, ratification of foreign qualifications, and so on). Although attempts have been made to find a remedy for the problems raised by these questions, it has not yet been possible to perceive the effects that are intended.

The **contents and programming of public communications media** have been the subject of complaint following a call for attention made by the Ombudsman himself when presenting the 2003 Report to the Chambers. For that reason, there are plans to carry out a rigorous monitoring of the situation so that the existing control systems can be made to work, above all with regard to the contents of television programmes (see page 50).



The management of large hospitals is the source of a good number of complaints. In the photo, the emergency wing of the Ramón y Cajal Hospital, in Madrid.

Distribution of the 28,990 complaints received in 2004

Table 2 differentiates the complaints received according to the sex of the complainant. The number of complaints from women has almost doubled. In spite of this, there is still a notable difference, with over 3,000 complaints more coming from men than from women.

Distribution of complaints by geographical origin

Complaints of national origin came to 28,454 (98.53%) and those coming from abroad were 424 (1.47%).

As usual, there exists a high number of complaints, both individual and collective, coming from the Madrid Community (table 3).

Complaints from abroad

The total number of complaints coming from abroad was 424 (1.47%). This figure shows a slight increase compared to the previous year, though without reaching the level of 2002 (table 4 on page 7).

TABLE 2. Complaints received differentiated by sex since 1997

	1997	1998	1999	2000	2001	2002	2003	2004
Women	6,504	7,176	4,905	11,568	4,164	7,292	6,539	11,932
Men	10,161	15,337	7,589	14,194	7,873	12,879	9,854	15,355
Not classifiable	1,352	1,451	1,057	1,112	1,149	868	831	1,591
TOTAL	18,017	23,964	13,551	26,874	13,186	21,039	17,224	28,878

CHART 1. Distribution of the origin of complaints by Autonomous Communities. Year 2004



TABLE 3. Complaints of national origin distributed by autonomous communities and provinces. Years 2003 and 2004

Autonomous Communities and provinces	Number		% / autonomous community		% over total	
	2004	2003	2004	2003	2004	2003
Autonomous Community of the Basque Region						
Álava	104	100	17.22	23.31	0.37	0.59
Guipúzcoa	182	106	30.13	24.71	0.64	0.63
Vizcaya	318	223	52.65	51.98	1.12	1.33
TOTAL.....	604	429	100.00	100.00	2.12	2.55
Autonomous Community of Catalonia						
Barcelona	2,017	1,551	77.88	84.02	7.09	9.22
Girona	202	98	7.80	5.31	0.71	0.58
Lleida.....	133	81	5.14	4.39	0.47	0.48
Tarragona.....	238	116	9.19	6.28	0.84	0.69
TOTAL.....	2,590	1,846	100.00	100.00	9.10	10.97
Autonomous Community of Galicia						
A Coruña	525	309	51.17	48.51	1.85	1.84
Lugo	85	59	8.28	9.26	0.30	0.35
Ourense.....	81	79	7.89	12.40	0.28	0.47
Pontevedra.....	355	190	32.65	29.83	1.18	1.13
TOTAL.....	1,026	637	100.00	100.00	3.61	3.79
Autonomous Community of Andalusia						
Almería.....	160	189	6.53	11.55	0.56	1.12
Cádiz.....	370	266	15.10	16.26	1.30	1.58
Córdoba.....	242	122	9.88	7.46	0.85	0.73
Granada.....	224	214	9.14	13.08	0.79	1.27
Huelva.....	160	78	6.53	4.77	0.56	0.46
Jaén	125	109	5.10	6.66	0.44	0.65
Málaga.....	496	277	20.24	16.93	1.74	1.65
Sevilla.....	673	381	27.47	23.29	2.37	2.26
TOTAL.....	2,450	1,636	100.00	100.00	8.61	9.72

(Continued on next page)

TABLE 3. Complaints of national origin distributed by autonomous communities and provinces. Years 2003 and 2004 (continued)

Autonomous Communities and provinces	Number		% / autonomous community		% over total	
	2004	2003	2004	2003	2004	2003
Principality of Asturias						
TOTAL.....	730	408	100.00	100.00	2.57	2.43
Cantabria						
TOTAL.....	276	217	100.00	100.00	0.97	1.29
Autonomous Community of La Rioja						
TOTAL.....	147	137	100.00	100.00	0.52	0.81
Region of Murcia						
TOTAL.....	608	535	100.00	100.00	2.14	3.18
Region of Valencia						
Alicante.....	832	609	32.90	33.93	2.92	3.62
Castellón.....	230	239	9.09	13.31	0.81	1.42
Valencia.....	1,467	947	58.01	52.76	5.16	5.63
TOTAL.....	2,529	1,795	100.00	100.00	8.89	10.67
Autonomous Community of Aragón						
Huesca.....	167	56	22.72	9.66	0.59	0.33
Teruel.....	40	58	5.44	10.00	0.14	0.34
Zaragoza.....	528	466	71.84	80.34	1.86	2.77
TOTAL.....	735	580	100.00	100.00	2.58	3.45
Autonomous Community of Castilla-La Mancha						
Albacete.....	306	62	22.27	13.48	1.08	0.37
Ciudad Real.....	202	115	14.70	25.00	0.71	0.68
Cuenca.....	122	50	8.88	10.87	0.43	0.30
Guadalajara.....	237	69	17.25	15.00	0.83	0.41
Toledo.....	507	164	36.90	35.65	1.78	0.97
TOTAL.....	1,374	460	100.00	100.00	4.83	2.73
Autonomous Community of the Canary Islands						
Las Palmas.....	333	251	50.68	50.00	1.17	1.49
Santa Cruz de Tenerife.....	324	251	49.32	50.00	1.14	1.49
TOTAL.....	657	502	100.00	100.00	2.31	2.98
Autonomous Community of Navarra						
TOTAL.....	397	182	100.00	100.00	1.40	1.08
Autonomous Community of Extremadura						
Badajoz.....	234	145	55.98	47.70	0.82	0.86
Cáceres.....	184	159	44.02	52.30	0.65	0.95
TOTAL.....	418	304	100.00	100.00	1.47	1.81
Autonomous Community of the Balearic Islands						
TOTAL.....	360	280	100.00	100.00	1.27	1.66
Community of Madrid						
TOTAL.....	11,595	5,594	100.00	100.00	40.75	33.25
Autonomous Community of Castilla y León						
Ávila.....	100	59	5.47	5.16	0.35	0.35
Burgos.....	181	116	9.90	10.15	0.64	0.69
León.....	395	245	21.60	21.43	1.39	1.46
Palencia.....	309	173	16.89	15.14	1.09	1.03
Salamanca.....	172	150	9.40	13.12	0.60	0.89
Segovia.....	105	81	5.74	7.09	0.37	0.48
Soria.....	56	40	3.06	3.50	0.20	0.24
Valladolid.....	430	226	23.51	19.77	1.51	1.34
Zamora.....	81	53	4.43	4.64	0.28	0.32
TOTAL.....	1,829	1,143	100.00	100.00	6.43	6.79
City of Ceuta						
TOTAL.....	30	31	100.00	100.00	0.11	0.18
City of Melilla						
TOTAL.....	99	107	100.00	100.00	0.35	0.64
TOTAL.....	28,454	16,823	—	—	100.00	100.00

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

Country of origin	Number		
	2004	2003	2002
Albania.....	1	—	—
Germany.....	25	26	25
Algeria.....	5	1	1
Argentina.....	62	83	158
Australia.....	1	5	4
Austria.....	3	—	4
Belgium.....	13	17	3
Bolivia.....	2	3	2
Brazil.....	16	9	13
Bulgaria.....	2	—	—
Cameroon.....	—	1	—
Canada.....	4	3	9
Chile.....	11	5	11
Colombia.....	14	8	48
South Korea.....	—	1	—
Ivory Coast.....	—	1	—
Costa Rica.....	3	4	8
Cuba.....	14	5	5
Denmark.....	—	2	—
Ecuador.....	11	6	8
Egypt.....	1	2	1
El Salvador.....	1	—	1
Slovenia.....	1	—	—
United States.....	26	20	27
Philippines.....	1	—	—
Finland.....	2	1	1
France.....	32	43	30
Ghana.....	—	1	—
Greece.....	1	—	—
Guatemala.....	1	—	2
Guinea.....	—	—	1
Holland.....	3	8	12
Honduras.....	—	8	—
Ireland.....	—	2	2
Israel.....	—	1	1

Country of origin	Number		
	2004	2003	2002
Italy.....	—	13	14
Indonesia.....	1	—	—
Japan.....	4	—	1
Luxembourg.....	—	1	—
Malta.....	2	—	—
Morocco.....	27	20	28
Mauritania.....	—	—	1
Mexico.....	12	16	214
Namibia.....	1	—	—
Nicaragua.....	—	3	—
Norway.....	1	—	—
Oman.....	1	—	—
Panama.....	—	3	1
Paraguay.....	—	1	—
Peru.....	8	6	28
Poland.....	—	2	2
Portugal.....	9	4	16
Principality of Andorra.....	3	—	4
Puerto Rico.....	1	1	3
United Kingdom.....	32	24	39
Dominican Rep.....	1	5	4
Czech Republic.....	6	4	—
Republic of Benin.....	—	—	1
Russia.....	—	1	—
Serbia and Montenegro.....	1	1	1
Sto. Tome y Principe.....	1	—	—
Sweden.....	3	3	2
Switzerland.....	12	4	6
South Africa.....	1	2	—
Thailand.....	—	1	1
Turkey.....	1	—	—
Uruguay.....	7	5	38
Venezuela.....	17	14	104
Zambia.....	—	1	1
TOTAL.....	424	401	875

Distribution according to origin of the complaint

Another classification of complaints can be made according to the channels via which they reached the Ombudsman. So, this is contained in tables 5, 6 and 7, which show an increase in complaints coming from the Autonomous Commissioners and other entities and organs of the Administration.

TABLE 5. Origin of the complaints according to channel sent. Year 2004

Route	Number	%
Direct	12,655	88.03
Via the Autonomous Parliamentary Commissioners	1,684	11.71
Via various entities and organs of the Administration	37	0.26
TOTAL	14,376	100.00

TABLE 6. Complaints received via the Autonomous Parliamentary Commissioners Years 2003 and 2004

Autonomous Parliamentary Commissioners	2004	2003
Defensor del Pueblo Andaluz.....	295	260
Sindic de Greuges de Catalunya.....	282	144
Valedor de Pobo. Galicia.....	40	86
Arateko. Basque Region.....	84	79
Diputado de Común. Canarias.....	183	179
Justicia de Aragón.....	112	121
Sindic de Greuges de la C. Valenciana.....	261	322
Procurador del Común. Castilla y León.....	363	308
Defensor del Pueblo de Navarra.....	36	28
Defensor del Pueblo de Castilla-La Mancha.....	28	31
TOTAL.....	1,684	1,558

TABLE 7. Complaints channelled via various entities and organs of the Administration. Year 2004

Entities/Organs	Number
Constitutional Tribunal.....	5
Comision de Peticiones y Defensa del Ciudadano.....	2
Bar Association.....	1
European Ombudsman.....	3
Foreign Ombudsmen.....	1
Defensor del Minor de la Comunidad de Madrid.....	2
Organs of the Administration.....	4
Oficina del Defensor del Ciudadano.....	2
Oficina Municipal de Información al Consumidor.....	17
TOTAL.....	37

Distribution of complaints by sectors

Table 8 contains information on the material content of complaints registered in the Institution during 2004, distributed in 19 thematic groups, these headings coinciding with the distribution of subjects made in the Report.

Taking into consideration individual complaints, for the purposes of a greater representativeness, the largest number of complaints received are seen to concern the Administration of Justice, followed by those to do with the Regulation of economic activity.

As far as groups are concerned, we find the largest number in Educational administration, motivated by the complaint relating to the qualification in psychology. The most numerous ex officio complaints concern the rights of inmates in prisons and their safeguarding by the prison authorities.

TABLE 8. Distribution by sector of complaints processed during the year 2004

Sectors	Individuals	Collective	Ex officio	Total
Administration of justice	1,780	598	16	2,394
Rights of prisoners and their care by the prison authorities.....	491	—	29	520
Citizenship and public security.....	990	268	7	1,265
Military administration	28	—	—	28
Emigration and attention for Spanish citizens abroad	138	1	—	139
Immigration.....	1,568	607	8	2,183
Educational administration.....	1,054	7,896	3	8,953
Health administration.....	850	—	7	857
Social action and social security.....	1,153	214	1	1,368
Labour administration.....	147	—	—	147
Public treasury	381	790	—	1,171
Regulation of economic activity.....	1,678	1,763	5	3,446
Transport and communications	162	332	3	497
Environment.....	490	187	16	693
Urban development and housing	897	254	5	1,156
Local administration	533	—	—	533
Personnel at the service of Public Administrations	1,509	491	12	2,012
Administrative procedure	14	—	—	14
Other matters.....	401	1,213	—	1,614
TOTAL.....	14,264	14,614	112	28,990

State of processing of complaints

In this section, we are going to analyse the state of processing of complaints registered at 31 December 2004.

Complaints not admitted for processing

The volume of complaints not admitted for processing is due to a certain lack of information among citizens with regard to the competencies of the Ombudsman, plus the high degree of trust which the Institution inspires among the population, which leads them to confiding problems in it, even though it cannot enter into them by virtue of its own regulating law, or to asking it for assistance in order to focus on the best way of solving their problems.

TABLE 10. Situation of complaints pending at 31 December 2004

	Individual
Pending information requested of the interested party.....	585
Pending processing or study.....	1,792
Pending due to defect of form	2
TOTAL	2,379

TABLE 9. Situation of complaints registered in 2004, at 31 December

Situation	Ex officio		Individual		Collective		Total	
	Number	%	Number	%	Number	%	Number	%
Admitted for processing.	112	100.00	5,148	43.32	4,247	29.58	9,507	36.08
Concluded.....	36	32.14	2,386	20.08	1,458	10.16	3,880	14.72
In suspension.....	2	1.79	25	0.21	—	—	27	0.10
In processing.....	74	66.07	2,737	23.03	2,789	19.43	5,600	21.25
Not admitted for processing.....	—	—	6,737	56.68	10,109	70.42	16,846	63.92
TOTAL.....	112	100.00	11,885	100.00	14,356	100.00	26,353	100.00

TABLE 11. Details of processing before the General Administration of the State. Year 2004*

Ministries	In processing	In suspension	Concluded	Total	% concluded /total
Peripheral administration	202	5	247	454	54.40
Public Administrations.....	23	—	9	32	28.12
Agriculture, Fisheries and Food.....	3	—	4	7	57.14
Foreign Affairs and Cooperation.....	115	—	82	197	41.62
Culture	2	—	—	2	0.00
Defence	33	—	15	48	31.25
Economy and Finance	97	1	72	170	42.35
Education and Science	87	—	69	156	44.23
Public Works	94	—	55	149	36.91
Industry, Tourism and Trade.....	20	—	10	30	33.33
Interior.....	225	—	197	422	46.68
Justice.....	168	1	77	246	31.30
Environment.....	32	—	6	38	15.78
Presidency.....	5	—	2	7	28.57
Health and Consumption.....	12	—	10	22	45.45
Work and Social Affairs.....	84	—	87	171	50.87
Housing.....	2	—	—	2	0.00
Various Administrations of the State	54	—	68	122	55.73
TOTAL.....	1,258	7	1,01	2,275	100.00

* Includes ex officio complaints

Administrations subject of complaint

With regard to individual and ex officio complaints dealt with concerning the public administrations, the most numerous have been those directed towards the General Administration of the State, 2,275; followed by 755 regarding the Local Administration, 587 towards the Autonomous Administration; 192 towards the State Public Prosecutor; 1,083 did not require any investigation; 153 were handed with regard to the various public bodies and 215 with regard to the various administrations.

The following tables contain details of complaints in the year 2004 dealt with regarding the General Administration of the State and the dependent bodies of the autonomous communities, respectively.

It can be seen that the largest number of complaints handled correspond to those directed towards the Ministry of Interior, with the least number being towards the Ministries of Housing and Culture, though it has to be remembered that these departments have only been in existence since last May.

One says "correct action" when, following the investigation made by the Institution, it is confirmed that the Administration has acted in accordance with the existing rules.

TABLE 12. Details of processing before the Autonomous Administration Year 2004*

Autonomous Communities	In processing	In suspension	Concluded	Total	% concluded /total
A.C. of Andalusia.....	26	—	7	33	21.21
A.C. of Aragón.....	7	—	1	8	12.50
Region of Valencia.....	25	2	22	49	44.89
A.C. of the Canary Islands.....	17	—	3	20	15.00
A.C. of Cantabria.....	11	—	7	18	38.88
A.C. of Castilla-La Mancha.....	14	—	13	27	48.14
A.C. of Castilla y León.....	24	—	14	38	36.84
A.C. of Catalonia.....	15	—	11	26	42.30
A.C. of Extremadura.....	13	—	11	24	45.83
A.C. of Galicia.....	12	1	15	28	53.57
A.C. of the Balearic Islands.....	2	—	3	5	60.00
A.C. of La Rioja.....	3	—	3	6	50.00
C. of Madrid.....	137	2	99	238	41.59
Region of Murcia.....	11	—	13	24	54.16
C. of Navarra.....	—	—	2	2	100.00
A.C. of the Basque Region.....	3	—	3	6	50.00
Principality of Asturias.....	18	—	10	28	35.71
A. City of Ceuta.....	1	—	—	1	0.00
A. City of Melilla.....	1	—	2	3	66.66
Various Aut. Communities.....	3	—	—	3	0.00
TOTAL.....	343	5	239	587	100.00

* Includes ex officio complaints

The term "corrected" indicated that the Administration has modified an incorrect behaviour following the intervention of the Ombudsman. When the Administration

maintains its incorrect behaviour or behaviour which does not accord with the regulations as revealed by the institution, then the term used is "uncorrected".

TABLE 13. Types of conclusion in individual and ex officio complaints, according to Administrations. Year 2004

Administrations	Correct action	Corrected	Uncorrect	Others	Total
General Administration of the State.....	635	337	9	29	1,010
Autonomous Administration.....	134	80	—	25	239
Local Administration.....	136	84	2	13	235
State Public Prosecutor.....	61	2	1	3	67
Investigation unnecessary.....	344	247	45	103	739
Other public bodies.....	46	43	1	1	91
Various Administrations.....	21	17	1	2	41
TOTAL.....	1,377	810	59	176	2,422

TABLE 14. Detailed types of conclusions in individual and ex officio complaints made to the General Administrations of the State. Year 2004

General Administration of the State	Correct action	Corrected	Uncorrected	Others	Total
Peripheral administration.....	138	102	4	3	247
Public Administrations.....	5	4	—	-	9
Agriculture, Fisheries and Food.....	2	2	—	-	4
Foreign Affairs and Cooperation.....	50	29	1	2	82
Defence.....	11	2	—	2	15
Economy and Finance.....	43	28	—	1	72
Education and Science.....	31	35	—	3	69
Public Works.....	39	15	—	1	55
Industry, Tourism and Trade.....	8	2	—	—	10
Interior.....	145	45	2	5	197
Justice.....	69	5	—	3	77
Environment.....	5	1	—	—	6
Presidency.....	1	1	—	—	2
Health and Consumption.....	4	5	—	1	10
Work and Social Affairs.....	45	33	1	8	87
Various Admins. of the State.....	39	28	1	—	68
TOTAL.....	635	337	9	29	1,010

TABLE 15. Detailed types of conclusion in individual and ex officio complaints made to the autonomous administrations. Year 2004

Autonomous Communities	Correct action	Corrected	Uncorrected	Others	Total
Autonomous Community of Andalusia.....	4	3	—	—	7
Autonomous Community of Aragón	1	—	—	—	1
Region of Valencia	—	—	—	—	—
Autonomous Community of the Canary Islands	1	2	—	—	3
Autonomous Community of Cantabria.....	3	2	—	2	7
Autonomous Community of Castilla-La Mancha	7	4	—	2	13
Autonomous Community of Castilla y León	12	2	—	—	14
Autonomous Community of Catalonia	7	3	—	1	11
Autonomous Community of Extremadura.....	6	5	—	—	11
Autonomous Community of Galicia.....	9	5	—	1	15
Autonomous Community of the Balearic Islands.....	1	2	—	—	3
Autonomous Community of La Rioja	15	7	—	3	25
Community of Madrid.....	52	33	—	14	99
Region of Murcia	10	2	—	1	13
Community of Navarra.....	1	1	—	—	2
Autonomous Community of the Basque Region	—	3	—	—	3
Principality of Asturias.....	3	6	—	1	10
Autonomous City of Ceuta	—	—	—	—	—
Autonomous City of Melilla.....	2	—	—	—	2
TOTAL	134	80	—	25	239

14,614 collective complaints

The 14,614 collective complaints registered in 2004 break down into 30 groups which are given below:

— 24 stated the **situation of injustice that drivers find themselves in when it comes to paying motorways tolls.**

— 43 complained about **citizen insecurity which in their opinion exists in Alcantete de la Jara (Toledo).**

— 2 citizens objected to the lawsuit brought against them by the Social Security Administration for **refunding of a retirement pension that had been wrongly paid to them.**

— 562 citizens were opposed to the **possible application of a royalty or other kind of fee for taking out library books** in application of Directive 92/100/EEC. **To this was added 200,000 signatures from library users all over Spain.**

— 50 participants in entrance examinations for the state mail company, **Correos y Telégrafos, S.A.** stated their opinion opposing the results of the examination.

— 1,213 claimants requested the Ombudsman's intervention for **repeating the last General Elections held on 14 March 2004, in their opinion under conditions that did not allow free voting.**

— 521 people filed a complaint for declarations made by the **General Coordinator of the left-wing political party Izquierda Unida, who asked the Government to censure the**

Catholic Church in the public communications media due to the opposition of the Episcopate to Government plans to legalise gay marriages.

— 77 people stated their **disagreement with the Government decision to present parliament with a draft bill on modification of the Civil Code that will permit marriage between people of the same sex.**

— 8 people filed a complaint concerning **problems of safety in the Itoiz dam (Navarra).**

— 258 people stated their disagreement with the sanctioning system set down in Act 29/2003 of 8 October, on **improvement to the conditions of competition and safety in the road transport market**, due to considering that the increase in the size of fines is not proportional to the scale of the offence.

— 106 citizens asked the Ombudsman to file an **appeal of unconstitutionality against certain provisions of Organic Act 14/2003, of 20 November on reform to the Organic Act 4/2000, of 11 January, on the Rights and Freedoms of Aliens in Spain and their Social Integration.**

— 254 people turned to the Ombudsman declaring their **disagreement with the size of the price increase in protected housing in the Madrid Community.**

— 147 **enthusiasts of motorcycling** in natural spaces filed a complaint in this

Institution due to the environmental restrictions which the practising of this sport is subjected to.

— 43 complainants referred to the lack of various essential spaces in accordance with the regulating framework on **minimum requisites for educational facilities at the non-university level**, in the state school Isabel La Católica in the town of Navas del Rey (Madrid), constructed, as they state, in the years 1993 and 1994.

— 26 people have expressed their **discontent with** the fact that the Ministry of Justice has still not provided the **entrance examination system for gaining access to the various sections of the Administration of Justice**, under the terms provided for in article 484.2 of the Organic Act of the Judiciary, stating that they had knowledge that this department had again made an offer of public employment by means of the ordinary entrance examination system provided for in article 484.1 of that legislation.

— 187 people requested the intervention of this Institution with regard to **pedestrian crossings** currently in use since, in their opinion, they cause motorcycles, scooters, bicycles and even pedestrians to slip on them, particularly when raining or when they are damp.

— 501 citizens stated their complaint over the **delays that were occurring on the**

part of the Consular Section of the Spanish Embassy in Peking, in registering minors adopted in that country by Spanish citizens, due to the fact that the endowment of staff and means granted to it were insufficient for carrying out proper assistance.

— 214 people turned to this Institution in order to ask the Ombudsman to carry on acting with regard to the public powers in order to ensure the **protection of families and children**.

— 38 signatories stated that the Directorate General of Traffic does not acknowledge the validity of certificates of competence for **driving instructors issued by the National Register of Driving Instructors of Ireland**, which prevents holders of that certificate from practising their profession in Spain.

— 6,960 interested people asked the Ombudsman to file an appeal of unconstitutionality against Act 44/2003, of 21 November, on the Regulating of Health Professions, since it makes no mention of the **degree of Psychology as a health profession**, with just “psychologist specialising in clinical psychology” being considered as such.

— 1 citizen added himself to the group of complaints made which were presented in 2003 protesting against **Spanish intervention in the Iraq War**.

— 629 citizens asked the Ombudsman to file an appeal of unconstitutionality against Act 61/2003, of 30 December, on the State General Budgets for 2004, due to considering that the Act was unconstitutional on account of omitting the **increase in family minimums for descendants and the personal minimum**.

— 159 civil servants from the **Ministry of Defence** stated their complaint with regard to the lack of prior approval of the **initial list for jobs** of the Ministry, which is necessary for the collective negotiation of both the allocation and the suppression of particular supplements to the job.

— 1,763 people stated their disagreement with the application of temporary provision 14 of Act 30/1995 on the Regulation and Supervision of Private Insurance for workers of financial institutions, due to the fact that this provision sets down, on a general basis, the obligation on companies to outsource **pension commitments** which they have with their workers, setting up pension funds for that purpose, with banks being excluded from this obligation and being allowed to maintain their pension commitments by means of internal plans.

— 171 people requested that a writ of relief be filed against resolution 20,702 of 30 November, from the Secretariat of State



The National Library. 200,562 citizens using libraries through out the whole of Spain are opposed to the establishment of a royalty for taking out books.

for Universities and Research, by which the procedure and period was determined for the **presentation of applications for assessment of research activity to the National Evaluating Commission for Research Activity**.

— 83 medical staff who took part in the process for selection and provision of personnel based on the development of Act 16/2001, which establishes an extraordinary process of **consolidation and provision of places for statutory personnel in Social Security Health Institutions of the Health Services of the National Health System**, expressed their disagreement with the slowness with which the procedure was being developed regarding candidates admitted in the examination for voluntary transfer for coverage of places for specialist medical staff.

— 161 citizens asked the Ombudsman to file an appeal of unconstitutionality against articles 11, 42 and 43 of Legislative Royal Decree 3/2004, of 5 March, approving the Revised Text of Personal Income Tax, due to considering that this Act is unconstitutional since it omits the **increase in family minimums for descendants and the personal minimum**.

— 22 interested persons denounced the **bad smells caused by composting plants in the waste management complex of Valdemingómez, in the locality of Rivas-Vaciamadrid (Madrid)**, as well as their concerns for emissions of dioxins, furans and heavy metals given off by the incinerator.

— 331 complaints questioned, from the philological point of view, the **introduction of teaching in the Valencian language** in official language schools provided for in certain draft regulations due to the fact that, in their opinion, that language is identical to Catalan.

TABLE 16. Details of the processing of collective complaints at 31 December 2004

Situation	Number	%
Complaints not admitted	10,109	69.17
Complaints included in collective complaints		
from previous years	258	1.77
Complaints being processed ..	2,789	19.08
Complaints concluded.....	1,458	9.98
TOTAL	14,614	100.0

Table 17. Details of the processing of collective complaints made regarding the General Administration of the State in 2004

Ministries	In processing	Concluded	Total
Defence.....	159	—	159
Public Works	—	10	10
Interior.....	38	—	38
Health and Consumption.....	—	83	83
Foreign Affairs and Cooperation.....	—	501	501
Economy and Finance.....	1,763	—	1,763
Various administrations.....	629	—	629
TOTAL.....	2,589	594	3,183

Ex officio complaints

During 2004, the Institution acted **ex officio** on 112 occasions. These concerned actions carried out by the Ombudsman on his own initiative as a result of becoming aware of an event susceptible to being investigated.

Standing out among the *ex officio* complaints presented are, among others, those resulting from specific incidents as a consequence of the situation of overcrowding in prisons coming under the Ministry of Interior.

Other specific problems standing out in *ex officio* complaints refer to the lack of resources in internment or protection centres for minors and for the protection of ill-treated women; certain specific incidents of ill-treatment of detainees in police stations; permits for prisoners condemned for offences against sexual freedom who commit crimes, including murder, when on temporary release; and numerous events associated with mistreatment of the environment and ecological crimes.

Situation in prisons

Briefly, complaints were formulated in relation to the following events recorded in prisons, which were investigated by the Ombudsman:

— In relation to the death of prisoners, Zuera prison (Zaragoza) registered **the first three deaths in the prison, one of them due to drugs**. Another prisoner from the same jail **died on 8 June 2004 in the Miguel Servet Hospital in Zaragoza**. The following day, another prisoner died in the prison's sick bay, and on 10 June and 9 July two other inmates of this prison died after having been taken to the Miguel Servet Hospital. On 15 December another prisoner of that same penitentiary centre died. In the same hospital, a prisoner from Pamplona Jail died on 21 July, and a short while later a prisoner from the same prison of Zuera, who had been subjected to restraining measures, died.

— On 15 December 2004, **an inmate of the penitentiary centre of Nanclares de la Oca (Álava) died at the age of 30**, apparently, and according to the news, as a result of suicide by hanging. On the same day, 15 December, another inmate from that same prison died, aged 21: he was found dead on the bed of his cell without any apparent signs of violence.

TABLE 18. Ex officio complaints addressed to the various administrations. Year 2004

Administrations	In processing	Concluded	In suspension	Total
General Administration of the State.....	37	15	—	52
Autonomous Administration.....	5	9	1	15
Local Administration.....	4	6	1	11
State Public Prosecutor.....	1	—	—	1
Investigation unnecessary.....	4	—	—	4
Various Administrations.....	23	6	—	29
TOTAL.....	74	36	2	112

— **An inmate from the Brians Jail died in Martorell Hospital** (Barcelona) following a fight with another prisoner and after being overcome by the warders.

— Another inmate of the penitentiary centre of **Almería was found dead in his cell, apparently as a result of an overdose**.

— **The death was recorded on 2 January 2004 of an inmate of Dueñas prison (Palencia)**.

— Warders of the penitentiary centre of Valencia complained about the conditions in which they work in **Picassent penitentiary centre, which, according to the news, lacks sufficient warders for properly guarding the growing number of prisoners being housed in that centre**.

— **An old woman of 74 spent two months in prison in Picassent (Valencia)**.

— **Prisoners in the penitentiary centre of “El Acebuche” (Almería) were charging other inmates to let them use the showers or sleep on a mattress**.

— On 17 March 2004, Advisors of the Institution visited **Burgos prison and confirmed the poor working conditions of the production workshops and noticed the generally difficult situation of the prison**.

— According to news from the communications media, an inmate in the penitentiary centre of Ponent (Lleida) **was subject to a attack from the prison warders**.

— **According to the communications media, warders in the prison of Salto del Negro, in Las Palmas de Gran Canaria, highlighted the overcrowding of inmates**.

— **The penitentiary centre of Picassent (Valencia) has radiology equipment but no technicians for using it. It has also been stated that the hygienic conditions in the cells of transport buses are inadequate. In the same prison, a mentally retarded patient has been kept there for a year and a half awaiting trial**.

— The communications media denounced the fact that **19 prisoners were the object of**

ill-treatment following a riot which they headed in the penitentiary centre of Quatre Camins (Barcelona).

— An investigation was also conducted into the news appearing in the communications media, according to which **judicial actions have been taken against the governor of Badajoz prison and an inspector of the Directorate General of Penitentiary Institutions for presumed coercion, prevarication and falsification of public documents**.

— Denouncement in the media concerning the **serious risks presented by the structure of Villena prison (Alicante)**, as a result of the existence of an underground river passing beneath the prison buildings.

— An investigation was made into the high concentration, according to the information media, **of Islamic prisoners in the penitentiary centre of Topas (Salamanca), which has led to various problems**.

— At the end of October 2004, a **collective fight took place in the canteen of module 6 of the penitentiary centre of Las Mulas (León), whose population is virtually double the capacity for which it was constructed**.

Also standing out is the fact that almost 50% of the population of this prison are foreigners. It seems that the origin of the fight was an attempt at control and an attempt to impose behavioural patterns on the part of certain Islamic prisoners on the occasion of Ramadan.



Penitentiary Centre of Villena (Alicante)
(Photo: Instituciones Penitenciarias).

Other ex officio complaints

— **On the rounding up of the price of calls to mobile phones during the first minute of them, even if users don't use all that time.**

— **On the age of access and permanence as volunteer reservists in the Armed Forces.**

— Difficulties that currently exist for gaining access to the "bonotot" by users of it.

— **Functioning of the Virtual Office for Complaints of the web site of the Directorate General of Police.**

— **Information published by a medium on driving schools in Manresa (Barcelona) denouncing a supposed case of corruption in the examinations of the Directorate General of Traffic.**

— **In relation to a worker who suffered eye injuries while providing his services at a work site, and who was released from Alicante general hospital, needing a wheelchair to leave the hospital and without later on being granted a pension for permanent disability.**

— **Delays in dealing with proceedings in Court of First Instance and Examining Court 1 of Sagunto (Valencia).**

— **Death of a pregnant woman as a result of falling from the fourth floor, due to being attacked by her partner.**

— **Death of a young man in the cells of police station on Palma beach.**

— **Economic fine which has apparently been imposed by the Department of Trade, Tourism and Consumption of the Regional Government of Catalonia, on a Barcelona businessman for not having his signs and his informative documentation provided in his store written in Catalan.**

— **On the lack of suitable treatment facilities for preventing unpurified discharges into the sea, situation attributed to the Provincial Delegation of Málaga.**

— **Information denouncing the lack of an effective response from the City Council of Córdoba, and the electricity utility owning certain posts in Calle Laurel to requests from neighbours between the years 1988 and 1995. In addition to the obstacle they represent for passers-by and their visual impact, it seems that some of the posts are acting as supports for the trees on the pavement.**

— **News on the dreadful state in which the facilities of the cycle track of Carabanchel (Madrid) are in.**

— **Delay in registration and reception of economic benefits and health care for professional servicemen who, at 31 December 2003, had terminated their professional relation with the Armed Forces.**

— **Investigation of news according to which the concessionaire company of the works on the M-50 used municipal land as a dump.**

— **Denouncement from Ecologists in Action, which has been repeated in the communications media, according to which the works on the Madrid-Valladolid high speed line between kilometres 5.9 and 17.5 are in breach of the declaration of environmental impact which is seriously affecting the Upper Manzanares Regional Park.**

— **Denouncement in the press according to which one of the waste heaps of the old mine works of the multinational company Boliden had, due to infiltration, caused a serious contamination of the water in the reservoir supplying the town of Aznalcólar (Seville).**

— **Another news item that was investigated according to which the environs of the parish of Santo Domingo de la Calzada, located right on the Royal Livestock Trail, in Valdemingómez (Madrid) have been used for some months as an illegal dump, apparently due to the fact that the fees for the Valdemingómez dump have risen from 35 euros to 80.**

— **On the option of certain local bodies to choose the competition, or competition/examination, instead of examination for selecting civil service or labour personnel, which implies a step away from the constitutional principles of equality, merit and ability.**

— **Investigation into the situation of the Civil Register of Madrid.**

— **Difficulties that immigrant women who are physically or mentally ill-treated find themselves in, due to fears of expulsion proceedings being brought against them if they file charges concerning their plight.**

— **Complaint commenced on the occasion of the publication of news according to which the works on the underground railway corridor to run from Atocha station as far as Puerto del Sol, in Madrid, are going to be constructed without having been submitted to the procedure for environmental impact evaluation, due to the project having been exempted from that requirement by the Secretariat General of Environment.**

— **Investigation on the situation of the internment centres of the Canary Islands and the jurisdiction of minors in that Autonomous Community.**

— **Investigation in relation to the denouncement of workers in the minors centre of Las Lagunillas in Jaén due to the humiliating treatment of inmates.**

— **On the conditions in which the drug consumption detection analysis is being carried out in the Armed Forces, the protocol that is followed in those processes and the instructions issued, so that the information obtained can have the nature of being**

restricted and be based on the principles of "need to know" and "express authorisation".

— **The denouncement of various informative media that eight gypsy families have been evicted by IVIMA from the houses which they occupied, in a building in Calle Amposta, in the district of San Blas (Madrid), as a consequence of its being declared to be in a state of ruin, as a result of which, since no kind of re-accommodation had been found for them and the fact that they lacked economic resources for renting a home, they were obliged to live in the street.**

— **Other information on the fact that dozens of families from Jerez de la Frontera (Cádiz), who had arranged to buy a protected home from an entity more than four years ago, and for which they had already paid more than 24,000 euros, will not be able to have their purchase materialised since the vendor company has decided to construct other free housing on the site where their protected homes were going to be built.**

— **Investigation into the news according to which the Town Council of Morzalzaral (Madrid) is planning to undertake urban development works in the sector of "Los Praderones" in that municipal district, which has so far been classified as non-developable and having special environmental protection, it furthermore being the intention of that Corporation to construct 2,672 homes on that protected sector.**

— **On the difficulties that are encountered in carrying out a road link from Vic to Olot, a matter which apparently dates from the end of the 19th century.**

— **On the situation of a slurry drying plant in Getafe (Madrid).**

— **On legal aid received by minors in the internment centre of "Azahara" in Córdoba and for also learning about the way in which transfers are carried out in that centre.**

— **Surrounding the situation in which a group of more than 20 families find themselves in, who are residents of the "Fin de Semana" estate in the district of San Blas (Madrid), who lack a telephone service in the homes in spite of having requested it more than two years ago, and having carried out and paid for certain underground pipes which were apparently not approved by Telefónica.**

— **On the execution of protection and enforcement orders for new penalties relating to domestic violence.**

— **Relating to the appearance of 310 questionnaires on the mental health of minors and psychological reports in the rubbish bins of a filling station in Pamplona.**

— Investigation initiated into the **minors internment centre of Melilla**.

— Investigation into the **death of a woman and her baby in Málaga due to being attacked by her husband**.

— Investigation in order to learn the circumstances surrounding the **death of a woman and her two children by her ex-companion in Alzira (Valencia)**.

— Investigation initiated in order to learn the possibility of accrediting the **pre-work training received by minors in the internment centre of "Pi Gros" in Castellón**.

— Into the **delays observed in drawing up medical and psychologist's reports done for soldiers and sailors of a temporary nature, by the military hospitals of the Ministry of Defence, in order to declare the suitability or otherwise for granting them a new assignment**.

— Relating to **access by alien minors in an irregular situation, attending school in the Pitiusas Islands, during their academic displacements and to discounts on sea transport on the line between Ibiza and Formentera**.

— Into presumed cases of **genital mutilation (ablation of the clitoris) suffered by girls in four schools in Valencia**.

— Investigation into the news according to which the **Regional Government of Aragon has still not introduced the drafting of the technical bases for the Ebro Environmental Plan for bidding**, more than a year after the serious flood suffered by this river and nine months after the Nature Protection Council gave its conformity to the bidding conditions detailing the questions which the technical bases of that Plan would have to contain.

— Investigation into the news according to which the **waste waters from the university campus of Somosaguas, in the municipal district of Pozuelo de Alarcón, run, unpurified, along the Antequina stream, due to the fact that the town's treatment plant has been broken down for at least a year and a half**.

— **Expulsion of a youth aged 13 in a wheelchair from a public transport bus in Madrid because, in the opinion of the driver, the chair took up too much space**.

— **Delay of twenty months in receiving a medical appointment by a patient diagnosed with bilateral coxarthrosis**.

— On **prevention measures concerning the effects of the heat wave adopted by the public administrations**.

— On the situation of chaos experienced by a large part of Andalucía, especially Sevilla, following two days of **continuous power cuts for to failures in the electrical network**.

— On the **lack of personnel in the National Police Corps of Jaén**.

— On the rejection of requests filed by civil servants belonging to the different public administrations for **authorisation of residence in municipalities other than the one in which their job is located**.

— Complaint commenced after hearing through the social communications media that associations and neighbours in Matalascañas (Huelva) have been asking the Town Council for **name plates for streets, avenues, alleys and squares for the town, since it is divided into sectors and parcels, each of which groups together around a hundred neighbours, which makes it impossible to distribute the mail properly**.

— Regarding the problems caused for maritime safety, particularly in areas where there is a greater concentration of recreational sailing, concerning the **lack of signing in the territorial waters of rocks lying close to the surface**.

— On the comparative injustice regarding the **time it takes to be promoted to the immediately higher corps for offer in the higher school of the military medical corps** in comparison with other common corps of the Armed Forces and with the general corps of the forces.

— On the state of **processing which the regulations are in for determining the psychological and physical aptitude and temporary sick leave for personnel in the Corps of the Civil Guard**.

— Regarding the **inoculation of the hepatitis C virus** to seven patients who were being treated for oncological processes in the **Alcorcón hospital foundation (Madrid)**.

— In relation to the **acknowledgement of identity of a young person in Barcelona, who was not entered into the Civil Register at birth**.

— The denouncement made by the Federation of Independent Aeronautical Unions regarding the fact that, last 20 July, the **control tower service at Lanzarote airport (Canary Islands)** was deserted, which meant that the airport had no technical supervision, and regarding the fact that the north control tower (new) at Madrid-Barajas airport

only had one technician for the technical supervision of the afternoon shift.

— Concerning the detention of a **local police officer in Madrid, for supposed sexual abuses of a woman of Ecuadorian nationality**.

— Investigation commenced for learning the circumstances surrounding the **death of a woman from a shot fired by her ex-husband in Picassent (Valencia)**.

— **Shortcomings in the care provided for alien citizens in an irregular situation**, to be found in the Autonomous City of Ceuta.

— Complaint initiated on account of the publication of a news item according to which Sevilla City Council carried out the **eviction of 43 families from the shanty-town settlement of Los Bermejales**, in exchange for 42,000 euros which each of the families had to invest in purchasing a home in its municipal district.

— Investigation of the news according to which **policed humiliated detainees in Santa Coloma de Gramanet (Barcelona)** for being Muslims.

— Investigation into whether **two national police officers assigned to the Ibiza police station (Balearic Islands) seriously ill-treated an Ecuadorian citizen legally resident in Spain**.

— Complaint regarding the problem caused by the process of consolidation of labour personnel in the State Company **Correos y Telégrafos, S.A.** regarding the carrying out of that process and the way in which new destinations have been awarded in permanent contracting, which entails the displacement of the core family of many workers affected in a short space of time.



The transformation of the Post Office into a State joint stock company has led to complaints due to transfers of jobs. In the photo, the central post office building in Madrid.



Access to the complaints presentation and information office of the Ombudsman, in Paseo de Eduardo Dato, 31.

— Relating to **the interruption of a surgical operation due to a failure in the electrical system of the Can Misses hospital (Ibiza) when the patient was already anaesthetised.**

— On the **refusal to let participants in selection processes see the examinations done**, when they disagree with the marks given.

— Investigation into **two autistic children who have ceased to attend class in the integration centre where they were being schooled** due to their parents considering that the school did not have the necessary means for ensuring the education of their children.

— **Visit made to the Consulate General of Spain in Nador (Morocco).**

— **Visits made to the refugee reception centre of Alcobendas (Madrid) and Mislata (Valencia).**

— **Visit made to the alien temporary stay centre, “Fuerte de la Purísima” minors centre and the frontier posts of the Autonomous City of Melilla.**

— On the **death of a citizen from shots fired by a local police officer in Piedras Blancas (Asturias).**

— **Procedure in selection processes conducted in the different education authorities.**

— **On exit permits granted to prisoners condemned for crimes against sexual freedom.**

— On the **arrest of the Head of the Aliens Single Office of Jaén on accusations of corruption.**

— In order to learn how **the aggression occurred of a minor in an internment centre in Tenerife.**

— **Difficulties which the town of Belvis de Jarama, coming under the district of Paracuellos de Jarama, finds when it comes**

to planning its current and possible development of residential and industrial zones especially the former, due mainly to the fact that the district is included in the sound path of the activity of Madrid-Barajas airport.

— On the breach of the agreement for the **disappearance of the high tension lines in the western area of Málaga.**

— Regarding the news that the Board of Environment and Territorial Planning of the Regional Government of the Region of Murcia has, in a meeting held in the Ministry of Environment, demonstrated and documented the fact that the majority of the **more than 170 homes, apparently illegal, located next to the coast of Murcia lie within the municipal district of Mazarrón.**

— On the occasion of the denunciations made in the information media according to which certain **telephone stations, installed on the roof of a building in Móstoles (Madrid), lack a municipal licence.**

— Investigation initiated in order to learn the circumstances surrounding the **release, by the Provincial High Court of Barcelona, of a presumed rapist due to a “problem of incorrect transcription of data”.**

— Investigation in order to learn about the **death of a minor in an internment centre in the Canary Islands.**

— Into the **health and social situation of people affected by acquired brain damage.**

Citizen information

The Ombudsman considers that it is significant to measure certain aspects reflecting the Institution's activity, such as the telephone attention service that is provided, visits attended to by Institution personnel in the head office itself and calls received by the 900 freephone line, basically asking for information.

Complaints received via the web site

During 2004, the use of the Institution's web site became consolidated, so

that numerous complaints were received via the form included in that site. As can be confirmed, almost 25% of complaints were received via the web site (table 19).

As far as the site is concerned, it has been improved in order to help citizens. In this regard, we can say that, during the course of 2004, the site *www.defensor-delpueblo.es* has been accessed a total of 10,994,376 times. The number of calls or visits received in the visitor room was 2,263. By telephone, 7,250 requests for information were dealt with and the freephone line 900 10 10 25 received 3,231 calls.



The public information and complaints reception office, in Paseo de Eduardo Dato, 31.

TABLE 19. Calls received via the Ombudsman web site and by post in 2004

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Web complaints	397	852	509	473	725	553	435	325	440	534	677	753	6,673
Postal complaints	1,026	8,362	1,789	1,519	2,121	1,485	776	1,062	658	1,77	921	716	22,205
TOTAL	1,423	9,214	2,298	1,992	2,846	2,038	1,211	1,387	1,098	2,304	1,598	1,469	28,878

Annual Report for the Year 2004

The following aspects can be highlighted in the execution of the budget for 2004:

- **High budgetary execution index: 99.15%.**
- **Continuity in the financial solvency of the Assets account of the 01 Service coming from the 05 Service**, which has not made any payment during this year. Just the quantity authorised by the Joint Boards of both chambers has been provided for meeting a restructuring of the staff due to urgent needs arising from the occupation of the new building in Calle Zurbano 42, and there are no remaining payments outstanding. At the close of 2004, the endowment of that account was 1,236,550.66 euros (205,744,718 pesetas), a figure which represents almost 12% of the initial budget of this Institution for the year 2004, which means that an adequate financial solvency is guaranteed.

- **Improvement of head offices and equipping of the Institution:** in 2004, as a result of an initiative from this Institution, the Directorate General of State Assets acquired the works intended for the **new headquarters of the Institution of the Ombudsman in Calle Zurbano 42**, the transfer to which took place

last June, which means that, during 2004, the leasing contracts on premises signed by this Institution were cancelled, with the saving that this is going to imply for the financial year.

Also, the new building has meant an improvement on customer service, due to the centralising into a single headquarters of Information and Registry, Mail and the staff of the two Assistants, in charge of handling complaints.

Likewise, at the initiative of this Institution, the Directorate General of Fine Arts and Cultural Goods of the Ministry of Culture awarded the works for the **restoration of the coffered ceiling of the offices on the ground floor of the building in Paseo de Eduardo Dato**.

Finally, 2004 saw the start of the steps so that the Directorate General of State Assets can tackle the **reform of the building in Paseo de Eduardo Dato, work on which is going to be starting in 2005**.

In this year, the Institution initiatives were formalised in a **certificate of attachment** between the Ministry of Economy and Finance, Parliament and the Ombudsman **in order to formalise the destination of the**

headquarters in Paseo de Eduardo Dato 31 for use by the Ombudsman.

- **It is important to highlight** that the budgetary efforts made during this financial year of 2004 have enabled extraordinary expenses on computing and security to be met, along with functioning expenses, without having to turn to an outside source of financing, with all these expenses being taken on by the Ombudsman's Budget for 2004.

- **Containment of spending in Phase Two of the Technology Renovation Plan:** in 2004, the tender was awarded for the development of and implementation of a security system integrated with the complaints management system, which is going to lead to improvements in the times and quality of attention to citizens. Its financing comes from the ordinary budget for the year **and does not reduce the budget of the Assets account** and the forecasts have been adjusted in line with the means and aims of this Institution.

- Notable within the framework of the **management procedures** are the efforts made to systematise contracts signed by this Institution in accordance with the Public Administrations Contracts Act and systematisation of trips made by personnel, plus the incorporation of a Lawyer from Parliament as Legal Advisor on the Contracting Board of this Institution.

- On the subject of staff, it is important to highlight the creation, at the instance of the Institution, of a Pension Plan for Ombudsman staff, which has been integrated and admitted into the Pension Fund managed by the Control Committee of Ahorromadrid XXXIII, the body awarded the contract by Parliament. Also, the Personnel Statute was updated to the Family Life and Labour Conciliation Act.

- Standing out at the institutional level are:

- Continuation of the collaboration signed with the University of Alcalá de Henares: as the most important initiatives can be highlighted the **I Master's Degree Course of Human Rights** and the awarding of the **I King of Spain Prize on human rights**, aimed at organisations and institutions that have stood out in the fight for the defence of human rights or in their investigation and publicising.

- Conclusion of the Agreement between the Sindic de Greuges (the Regional Ombudsman for Catalonia), the Bar Association of Madrid and the Ombudsman.

- Creation and publication of a **monthly magazine, *El Defensor al Día***, on the most significant activities carried out by the Institution, which can be consulted on the web site: www.defensordelpueblo.es.



Building of the new headquarters of the Ombudsman, in Calle Zurbano 42, where Information and Registry are located, which are the areas in charge of handling complaints, and also the Mail office.

Administrations which have failed to comply with or notoriously delayed in replying to requirements of the Ombudsman

The Secretariat of State for Public Works and ten town councils are included in the Ombudsman's report for 2004 among administrations who have hindered or obstructed its work, in accordance with the Organic Act regulating the Institution's actions. Listed below are those which, having been required on as many as three occasions, have not sent any report or reply whatsoever, and finally those which sent their report following the third requirement.

Hindering Administrations

General Administration of the State

— In the Ministry of Public Works, the Secretariat of State for Infrastructures, for which, in spite of this Institution acknowledging an improvement of relations with it, in 2004 had to be required on several occasions to produce reports previously requested of it on **non-payment of the assessed price and on expropriation proceedings.**

Local Administration

— **Alcalá de Xivert Town Council (Castellón)** was asked for a report on 21/1/2003 relating to a disagreement concerning a **land**

reparcelling endowment as no reply had been received. Closed on 11/1/2005.

— **Calella Town Council (Barcelona)** was asked for a report on 5/4/2002 relating to an **accusation of failure to dismantle illegal building work.** Closed on 21/4/2004.

— **Gozón Town Council (Asturias)** was asked for a report relating to **accusations concerning huts on the beach of Bañugues (Gozón).** Closed on 18/11/2004.

— **Las Rozas Town Council (Madrid)** was asked for a report on 14/3/2003 on **disturbances caused by noises from bells.** Closed on 29/4/2004.

— **Llanes Town Council (Asturias)** was asked for a report on 18/10/2002 on **road-works that were not contained in the plans.** Closed on 4/5/2004.

— **Marbella City Council (Málaga)** was twice required to produce a report on **payment of the assessed price for an expropriated**

estate and following the conclusion of the investigation in favour of the complainant, action again had to be taken because the citizen continued to disagree with the municipal actions. The City Council has again failed to reply.

— **Meco Town Council (Madrid)** was asked for a report on 28/4/2003 relating to **bad odours from a varnish factory.** Closed on 19/5/2004.

— **Sangonera la Verde Town Council (Murcia)** was asked for a report on 28/4/2003 relating to a **housing request.** Closed on 19/5/2004.

— **Segovia City Council** was asked for a report on 3/4/2003 on **disturbances originated by a chemical laboratory.** Closed on 19/5/2004.

— **Tresviso Town Council (Santander)** was asked for a report on 10/1/2002 on the **construction of a garage without a licence.** Closed on 20/9/2004.



Ministry of Public Works, whose Secretariat of State for Infrastructures has been required to produce reports, previously requested, on delays in payments for expropriations.

Complaints which have had no reply in the year, following the third requirement

General Administration of the State

— **The Ministry of Work and Social Affairs**, whose Technical General Secretariat was asked to expand on a report of 17/2/2003, in relation to the settlement resolution in the case which determined the **obligation on the beneficiary to return the sum that had been set**. The third requirement was made on 19/4/2004

Autonomous Administration

— **The Board of Health of the Autonomous Community of Andalucía** was asked for reports on 23/1/2004 on **arrears in payment to suppliers** of health products and technology. The third requirement was made on 18/11/2004.

— **The Board of Employment and Social Affairs of the Autonomous Community of the Canary Islands** was issued on 11/6/2003 with an expansion of the investigation conducted on the application of Organic Act 5/2000, regulating the **Criminal Responsibility of Minors** in order to learn of the impact which that Act has on that Autonomous Community. The third requirement was made on 4/5/2004. Information was also requested on 18/6/2003 on the **“meeting points and family mediation”**. The third requirement was made on 4/5/2004. Subsequently, on 9/12/2004, a recommendation was made to that Board.

— **The Board of Public Works. Territorial Promotion Service in Segovia, of the Autonomous Community of Castilla y León**, was asked for a report on 3/9/2003 in relation to the **parcelling plan of expropriation** which had been sent to the concerned party without there being any proportionality between the reality and the representation on paper, at least in the zone that affected him. The third requirement was made on 14/7/2004.

— **The Board of Education of the Community of Madrid, concerning the University of Alcalá de Henares**, was asked for a report (reopening of an investigation) on 1/6/2004 relating to the **disagreement of students of the old plan of the Pharmacy Faculty** with the mechanisms for adaptation

to the new plan used by the University. The third requirement was made on 28/10/2004.

— **The Board of Environment of the Community of Madrid** was asked for a report on 12/8/2003 relating to **illegal dumping in Getafe (Madrid)**. The third requirement was made on 22/11/2004.

— **The Board of the Presidency of the Autonomous City of Ceuta** was issued with a series of recommendations formulated on 7/11/2003 on the temporariness of civil servants of the local administration holding national level qualifications. The third requirement was made on 8/9/2004.

Local Administration

— **Calasparra Town Council (Murcia)** was asked for a report (reopening of investigation) on 13/4/2004 relating to the resolution of a claim presented to the concessionaire company for the water and drainage service, for **damages caused in a house as a consequence of a break in the general pipeline**. The third requirement was made on 15/9/2004.

— **Calpe Town Council (Alicante)** was asked for a report on 5/11/2003 relating to **collection of the levy for sewerage services** given that the town had not set up this service or at least its residents did not have it. The third requirement was made on 23/8/2004.

— **Castellón de la Plana City Council** was asked for a report on 1/10/2003 relating to **acoustic contamination**. The third requirement was made on 10/6/2004.

— **Castro Urdiales Town Council (Cantabria)** was asked for a report on 11/6/2003 relating to the delay in producing a resolution on a claim for proprietary responsibility for damages suffered as a consequence of a fall due to the **poor state of a pavement**. The third requirement was made on 13/9/2004.

— **El Escorial Town Council (Madrid)** was asked for a report on 14/4/2003 relating to **expropriation due to urban development plans**. The third requirement was made on 30/12/2004.

— **Els Hostalets de Pierola Town Council (Barcelona)** was asked for a report (expansion of the investigation) on 18/12/2001 relating to **high tension lines**. The third requirement was made on 28/9/2004.

— **Gijón City Council (Asturias)** was asked for a report on 4/4/2003 relating to **mis-treatment** which the complainant has received from his ex-wife. The third requirement was made on 4/5/2004.

— **Gualchos Town Council (Granada)** was asked for a report on 4/2/2003 relating to **disturbances caused by a cooperative**. The third requirement was made on 25/3/2004.

— **Huelva City Council** was asked for a report on 5/11/2003 in relation to **problems affecting the district of Marismas del Odiel** and preventive measures for improving the present situation. The third requirement was made on 17/9/2004.

— The same council was asked for a report (expansion of the investigation) on 13/4/2004, relating to the processing of a **claim for proprietary responsibility** and lack of reply to various accusations presented due to the absence of surveillance from the local police in relation to the circulation of vehicles in pedestrian areas. The third requirement was made on 15/9/2004.

— **La Horcajada Town Council (Ávila)** was asked for a report on 15/12/2003 relating to the investigation being carried out into the **ownership of a path** which has been closed off by a neighbour, preventing passage to other lands. The third requirement was made on 25/5/2004.

— **Humanes Town Council (Madrid)** was issued with a suggestion on 2/1/2004 concerning the proper conservation of **files of personnel selection** so that, among other actions, they can be accessed by citizens who can then exercise the acts that they consider appropriate. The third requirement was made on 14/10/2004.

— **Mataró Town Council (Barcelona)** was asked for a report on 20/1/2004 on the taking into consideration of the allegations made by an interested party in **sanctioning proceedings on traffic matters**. The third requirement was made on 17/9/2004.

— **Navaluenga Town Council (Ávila)** was asked for a report (expansion of the investigation) on 1/7/2003 relating to **disturbances caused by a bar**. The third requirement was made on 25/3/2004.

— **Noja Town Council (Cantabria)** was asked for a report (expansion of the investigation) on 12/5/2004 relating to causes due to which a **census enrolment** did not take place until eleven months after it was requested. The third requirement was made on 28/10/2004.

— **Olivares de Duero Town Council (Valadolid)** was asked for a report on 7/11/2003



Noja Town Hall (Cantabria).

relating to **disturbances caused by a pig farm**. The third requirement was made on 13/12/2004.

— **Ponferrada Town Council (León)** was asked for a report on 4/8/2003 relating to **the poor state of the road linking the town with the reservoir** which means that residents have to make a detour of 10 kilometres. The third requirement was made on 3/2/2004.

— **Selva Town Council (Balearic Islands)** was asked for a report (reopening of the investigation) on 30/1/2004 relating to **the poor state of a public path** for access to a house. The third requirement was made on 4/8/2004.

— **Villanueva de Gállego Town Council (Zaragoza)** was asked for a report on 13/4/2004 relating to **the lack of a reply to various claims concerning the poor state of a street**. The third requirement was made on 15/9/2004.

Others

— **The Ávila Bar Association** was asked for a report on 4/8/2003 relating to **the situation of two duty lawyers** following the entry into force of the Fast Trials Act. The third requirement was made on 9/6/2004.

— **The Lanzarote Bar Association** was asked for a report on 1/8/2003 relating to **legal assistance for aliens**. The third requirement was made on 21/6/2004.

— **The Fresnedelo District Council (León)** was asked for a report on 14/4/2004 relating to an **accusation of building works being carried out in a public highway**. The third requirement was made on 29/9/2004.

Administrations which have replied to the third requirement

General Administration of the State

Ministry of Public Administrations

— **The Government Delegation in the Autonomous Community of Andalusia** was asked for a report in relation to **expropriations related to the construction of the Puente Genil –Málaga gas pipeline**. The third requirement was made on 17/3/2004 and the report was received on 28/5/2004.

— **The Ministry of Economy and Finance** was asked to expand on a report on

21/6/2003 in relation to the request for revision proceedings to be opened concerning **the single surcharge** on a certain liquidation number, without having received a reply to it, with us waiting to be informed of the conclusion of the process for the declaration of nullity as a matter of law. The third requirement was made on 14/7/2004 and the report was received on the same day.

— **The erstwhile Secretariat of State for Finance** was asked to expand on a report on 21/7/2003 in relation to the recommendation made on 25/3/2003 to take on article 7 of the Personal Income Tax Act 40/1998 of 9 December, concerning the **exemption of sums received for taking in minors**, with the Institution waiting to be informed of its acceptance of this and its inclusion in the forthcoming reform on Personal Income Tax that was to be carried out. The third requirement was made on 8/9/2004 and the report was received on 26/10/2004.

Ministry of Education and Science

— **The Under-Secretariat of the Ministry of Education and Science** was asked for a report (expansion of the investigation) on 5/1/2004 on steps carried out in order to provide a **new building or a site for the location of the Liceo Español in Rome**. The third requirement was made on 22/6/2004 and the report was received on 15/7/2004.

— **The Technical General Secretariat of that Ministry** was asked to expand on a report on 18/12/2003 on the lack of an express resolution to a **request for ratification of a child nursing qualification** as being a nursing diploma. The third requirement was made on 22/6/2004 and the report was subsequently received on 19/7/2004.

— **The same Technical General Secretariat** was asked to expand on a report on 26/12/2004 on the refusal to **ratify an academic qualification** obtained in the United States as being the Spanish qualification of infant school teacher. The third requirement was made on 22/6/2004 and the report was subsequently received on 19/7/2004.

— **Likewise, that Technical General Secretariat of the Ministry of Education and Science** was asked

to report (expansion of the investigation) on 23/12/2003 on **delays in resolving a case of ratification of a university qualification** issued by the University of Manchester. The third requirement was made on 22/6/2004 and the report was subsequently received on 19/7/2004.

— **The National University of Correspondence Education (UNED)** was asked to expand on a report on 23/3/2004 on the lack of an express resolution to a remedy of appeal filed against the **system for qualification of the doctorate programme**. The third requirement was made on 15/9/2004 and the report was subsequently received on 17/10/2004.

Ministry of Public Works

— **The Secretariat of State for Infrastructures** was asked to expand on a report on 11/3/2004 on **payment of the entire assessed price** which it owed to a concerned party on account of an expropriation, with the Institution waiting to be informed that the sum has indeed been paid. The third requirement was made on 10/11/2004 and the report was subsequently received on 3/12/2004.

— **The Directorate General of Road Transport** was asked for a report on 28/1/2004 regarding the **irregular action of a transport company**. The third requirement was made on 7/9/2004 and the report was subsequently received on 28/10/2004.



Architectural barriers is a subject which many town councils have yet to tackle when it comes to town planning regulations. (Photo Club Argon).

Ministry of Justice

— **The Secretariat of State for Justice was asked for nine reports, on different dates in the year, on requests for Spanish nationality.** In all of them a third requirement had to be made after which the corresponding reports were received.

— **The Directorate General of Registers and Notarial Acts** was asked for a report on 3/10/2003 relating to the **acknowledgement of nationality of origin.** The third requirement was made on 5/10/2004 and the report was subsequently received on 25/10/2004.

Ministry of Environment

— **The Guadiana Water Authority** was asked for a report on 6/11/2002 relating to the **registration of a well** in the private waters exploitation catalogue. The third requirement was made on 14/10/2004 and the report was subsequently received on 13/12/2004.

Autonomous Administration

Principality of Asturias

— **The Board of Education and Science** was asked for a report on 14/4/2003 on the lack of response to various writs of challenge in relation to **events that took place in a state school.** The third requirement was made on 24/3/2004 and the report was subsequently received on 22/4/2004.

— The same Board was asked for a report on 27/10/2003 on the inadequate use of the **Virginia de Sotroñdio Theatre** according to the provisions contained in the Cultural Heritage Act 1/2001 of Asturias. The third requirement was made on 6/4/2004 and the report was subsequently received on 6/6/2004.

Autonomous Community of Canary Islands

— **The Board of Health** was asked for a report on 27/10/2003 on the resumption of a **case of proprietary responsibility** as a result of damages produced by **medical malpractice** and on the provisions contained in its final resolution. The third requirement was made on 16/4/2004 and the report was received on 3/5/2004.

— **The Board of Health of the Canary islands** was asked for a report (expansion of the investigation) on 27/2/2003 relating to the approval of the regulation which has to govern the procedure for the **acknowledgement of qualifications and certificates of training** issued in Member States of the European Union in relation to **health sector**

professionals. The third requirement was made on 3/2/2004 and the report was received on 31/3/2004.

— **The Board of Tourism and Transport, Directorate General of Tourist Planning and Infrastructure of the Canary Islands** was asked for a report on 14/5/2003 on a claim filed by a concerned party. The third requirement was made on 16/3/2004 and the report was received on 12/5/2004.

Autonomous Community of Cantabria

— **The Board of Health, Consumption and Social Services** was asked for a report on 30/1/2001 in order to learn of the provisions made by the Board in order to promote **inspection programmes in centres where cosmetic surgery was being carried out.** The third requirement was made on 27/5/2004 and the report was subsequently received on 4/6/2004.

Autonomous Community of Castilla y León

— **The Board of Environment** was asked for a report on 10/12/2002 relating to the **disturbances caused by a dairy** in a built-up area. The third requirement was made on 10/6/2004 and the report was received on 25/6/2004.

Autonomous Community of Catalonia

— **The Department of Governance and Public Administrations** was issued with a set of recommendations on 7/11/2003 on **temporary personnel working for the local administration.** The third requirement was made on 8/9/2004 and the report was received on 18/10/2004.

— **The Department of Justice, Directorate General of Penitentiary and Rehabilitation Services** was asked for a report on 3/12/2002 relating to the **situation of an inmate in Ponent prison** who had been found in an isolation cell. The third requirement was made on 10/2/2004 and the report was received on 15/4/2004.

— A report was also asked on 23/4/2003 on the request for **transfer of an inmate from Lleida prison to another in the Valencia Community.** The third requirement was made on 9/6/2004 and the report was received on 30/6/2004.

Autonomous Community of Extremadura

— **The Board of Public Works** was asked for a report on 15/4/2003 on the **awarding of a home.** The third requirement was made on

2/5/2004 and the report was received on 4/6/2004.

Autonomous Community of Galicia

— **The Board of Education** was asked for a report (expansion of the investigation) on 4/6/2004 on the **refusal by the Provincial Delegation in Pontevedra to pay for school transport for a pupil with a major physical disability** and who was taking vocational training courses. The third requirement was made on 28/10/2004 and the report was received on 11/11/2004.

Autonomous Community of the Balearic Islands

— **The Board of Health and Consumption** was issued with a suggestion on 27/3/2003 on the opening of **sanctioning proceedings against the company awarded the helicopter service** which was responsible at the time for the events that took place relating to the **evacuation of a citizen.** The third requirement was made on 15/4/2004 and the report was received on 16/4/2004.

Autonomous Community of Madrid

— **The Board of Education** was asked for a report on 3/3/2004 on the **climate of violence suffered in a school** and which is affecting the safety of pupils and teachers, having very negative repercussions on the development of educational activities, without the corrective actions nor the personnel or material measures which the school has available to it having any effect in preventing the situation that has arisen. The third requirement was made on 20/9/2004 and the report was received on 18/10/2004.



The transfer of emergency patients creates a lot of complaints in different services, especially in ambulance transport in major cities, due to traffic jams, or in helicopters between islands. In the photo, the "emergencias112.net" helicopter of the SERCAM of the Madrid Community

— A report was requested (expansion of the investigation) on 26/3/2004 on provisions with regard to the **adaptation of facilities in the state school in Majadahonda** to the conditions which are set down in the regulations on minimum requirements of schools, as well as the expansion of them under the terms that are necessary for housing the present number of pupils. The third requirement was made on 20/9/2004 and the report was received on 18/10/2004.

— **The Board of Work. Regional Employment Service** was asked for a complementary report on 15/9/2003 on the **change in its position on job demands** without any real situation existing which would have required this. The third requirement was made on 26/5/2004 and the report was received on 3/12/2004.

— **The Board of Public Works, Town Planning and Transport. Directorate General of Architecture and Housing** was asked for a report on 16/10/2003 relating to the disagreement with a **mark assigned for the necessity quota**. The third requirement was made on 26/5/2004 and the report was received on 21/9/2004.

— **The Board of Health and Consumption** was asked for a report (expansion of the investigation) on 3/7/2003 on the resolution of **cases of proprietary responsibility dealt with by INSALUD** and which were pending at the moment of transfer of functions carried out by Royal Decree 1479/2001. The third requirement was made on 3/2/2004 and the report was received on 3/3/2004.

Autonomous Community of Murcia

— **The Board of Education and Culture** was asked for a report (expansion of the investigation) on 5/1/2004 on the **admission process of pupils into a school in Cartagena** and on the sufficiency of the offer of places, especially for the second cycle of infant education, existing in the zone. The third requirement was made on 22/6/2004 and the report was received on 13/9/2004.

— The same Board was asked for a report on 3/3/2004 on the **condition of the building of a state school in Cehegín** and on the adoption of appropriate measures in order to repair the structure or replace the building. The third requirement was made on 20/9/2004 and the report was received on 22/10/2004.

— A report was requested (expansion of the investigation) on 23/9/2003 on steps conducted by the **Torre Pacheco Town Council** for concluding a collaboration agreement aimed at carrying out actions on the **repair of infant education buildings in a state school** in the town. The third requirement was made on 10/3/2004 and the report was received on 6/4/2004.

Autonomous City of Ceuta

— **The Board of Economy and Finance** was asked for a report (expansion of the investigation) on 22/12/2003 on the introduction of the recommendation made at the time with regard to complementing the **indemnities provided for in State legislation for those who have suffered deprivation of freedom due to offences included under the Amnesty Act**. The third requirement was made on 22/6/2004 and the report was received on 12/7/2004.



The collection of abandoned vehicles in the street is a major economic burden for town councils.

Local administration

— **Águilas Town Council (Murcia)** was asked for a report on 1/10/2003 relating to **architectural barriers**. The third requirement was made on 22/11/2004 and the report was received on 21/12/2004.

— **Alcalá de Henares Town Council (Madrid)** was asked for a report on 6/10/2003 relating to **disturbances caused by a factory**. The third requirement was made on 10/6/2004 and the report was received on 15/7/2004.

A report was requested on 10/6/2003 on the **manner in which notifications are made referring to the management of local taxes**, which apparently makes it possible for the private company contracted to handle them to have knowledge of the content of administrative acts and processes affecting residents. The third requirement was made on 3/2/2004 and the report was received on 7/6/2004.

— **Almonte Town Council (Huelva)** was asked for a report on 10/1/2002 relating to urban development infringements. The third requirement was made on 13/1/2004 and the report was received on 11/3/2004.

— **Alzira Town Council (Valencia)** was asked for a report on 16/10/2002 relating to **an accusation due to a situation of abandonment in a district**. The third requirement was made on 21/1/2004 and the report was received on 29/1/2004.

— **Ames Town Council (A Coruña)** was asked for a report on 25/11/2003 on the **existence of four video cameras in certain nursery facilities**, one of them with audio, without having informed the parents of the children nor the staff and managerial team of the nursery. The third requirement was made on 16/4/2004 and the report was received on 5/5/2004.

— **Arenas de San Pedro Town Council (Ávila)** was asked for a report on 1/7/2003 relating to **disturbances caused by bird-scaring cannons**. The third requirement was made on 25/3/2004 and the report was received on 26/4/2004.

— **Arucas Town Council (Las Palmas)** was asked for a report on 13/3/2003 relating to **acoustic contamination from a discotheque**. The third requirement was made on 25/3/2004 and the report was received on 14/9/2004.

— **The same Town Council of Arucas** was asked for a report (expansion of the investigation) on 30/1/2004 on a **request for the issuing of a cohabitation certificate** which was improperly filed. The third requirement was made on 4/8/2004 and the report was received on 1/10/2004.

— **Badajoz City Council** was asked for an expansion of a report on 28/6/2003 in relation to the **present situation of the El Manantío aerodrome** for the purpose of learning whether it had the appropriate administrative authorisation for functioning, and for it to state its reply in view of allegations made by interested parties. The third requirement was made on 23/7/2004 and the report was received on 10/8/2004.

— **Barcelona City Council** was asked for a report on 16/4/2004 on **charges for calls made to the City Council's information line**. The third requirement was made on 15/9/2004 and the report was received on 29/9/2004.

— **Bayona Town Council (Pontevedra)** was asked for a report on 6/11/2003 referring to a **problem arising with the municipal police** on account of the non-availability of a municipal crane for removing a badly parked vehicle. The third requirement was made on 27/10/2004 and the report was received on 11/2004.

— **Beteta Town Council (Cuenca)** was asked for a report (expansion of the investigation) on 27/10/2003 on the **lack of a reply to two claims in relation to the sale of certain communal goods** without having previously released them, and on the **awarding of a hunting estate**. The third requirement was made on 16/4/2004 and the report was received on 5/5/2004.

— **Colmenar de Oreja Town Council (Madrid)** was asked for a report on 10/12/2002

relating to a **lack of electricity supply for plots of land**. The third requirement was made on 3/2/2004 and the report was received on 17/2/2004.

— **Coria Town Council (Cáceres)** was asked for a report on 16/12/2003 on the “**Sanjuanés**” festivals with the aim of preventing cruelty to animals. The third requirement was made on 25/8/2004 and the report was received on 6/9/2004.

— **Cuevas de Almanzora Town Council (Almería)** was asked for a report on 10/4/2003 relating to **disturbances caused by a bar**. The third requirement was made on 5/5/2004 and the report was received on 2/6/2004.

— **Chinchón Town Council (Madrid)** was asked for a report on 1/7/2003 relating to **disturbances originated by a sand extraction quarry**. The third requirement was made on 14/10/2004 and the report was received on 3/11/2004.

— **El Ferrol City Council (A Coruña)** was asked for a report on 5/4/2002 relating to a **lack of water due to works carried out by a neighbour**. The third requirement was made on 13/1/2004 and the report was received on 16/2/2004.

— **Getafe Town Council (Madrid)** was asked for a report on 11/3/2003 due to having knowledge via the communications media that around 20 neighbours in Calle Yuca in the district of Getafe North, were bearing the **expenses of lighting their street** since it had been connected to their owners community for the last six years. The same sources reported that this situation had been denounced to the Town Council on various occasions without having obtained any result. The third requirement was made on 26/2/2004 and the report was received on 15/3/2004.

— **Fuente Álamo Town Council (Murcia)** was asked for a report on 9/10/2003 relating to **disturbances caused by a motorbike workshop**. The third requirement was made on 22/11/2004 and the report was received on 21/9/2004.

— **Guadalcanal Town Council (Sevilla)** was asked for a report on 30/1/2004 on the lack of response to claims made by a company in relation to the **cutting off of the running water supply**. The third requirement was made on 4/8/2004 and the report was received on 20/9/2004.

— **Guadarrama Town Council (Madrid)** was asked for a report on 25/4/2002 relating to a **lack of water supply and drainage**. The third requirement was made on 13/1/2004 and the report was received on 5/3/2004.

— **Herrera de Pisuegra Town Council (Palencia)** was asked for a report on 6/11/2002 relating to a **over-exploitation of an aquifer and dump**. The third requirement was made on 21/6/2004 and the report was received on 15/7/2004.

— **Isla de Arosa Town Council (Pontevedra)** was asked for a report on 4/8/2003 relating to a **debt of a sum of money for services rendered by an electrical company**. The third requirement was made on 10/11/2004 and the report was received on 30/11/2004.

— **Jaraíz de la Vera Town Council (Cáceres)** was asked for an expansion of a report on 8/4/2003 in relation to an **insurance company which, after charging the interested party for its services, did not carry out the proper steps with the public administration** as well as the deceitful advertising by the company being denounced, and on the abuse of providing a 906 telephone line. The third requirement was made on 16/3/2004 and the report was received on 31/3/2004.

— **Las Palmas de Gran Canaria City Council** was asked for a report on 24/5/2004 on the **state of general abandonment of a street where the filer of a complaint lives**. The third requirement was made on 28/10/2004 and the report was subsequently received on 3/12/2004.

— **Los Molinos Town Council (Madrid)** was asked for a report on 3/7/2002 relating to the **silence concerning information on licences**. The third requirement was made on 13/1/2004 and the report was received on 12/2/2004.

— **Llanera Town Council (Asturias)** was asked for a report on 14/3/2003 relating to **damages caused by the activity of a company**. The third requirement was made on 25/3/2004 and the report was subsequently received on 16/4/2004.

— **Llanes Town Council (Asturias)** was asked for a report on 1/7/2003 relating to **disagreement with the General Urban Development Plan**. The third requirement was made on 2/8/2004 and the report was subsequently received on 25/8/2004.

— **Madrid City Council** was asked for a report on 20/5/2003 relating to **the duty to conserve a building**. The third requirement was made on 2/3/2004 and the report was received on 15/3/2004.

— **Marbella City Council (Málaga)** was asked for a report on 24/10/2003 relating to an **expropriation motivated by the expansion work on the Avenida del Mediterráneo in San Pedro de Alcántara**. The third requirement was made on 14/7/2004 and the report was received on 3/8/2004.

— **Marín Town Council (Pontevedra)** was issued with a suggestion on 11/6/2003 so that the Council could ask the Central Examining Court relating number 1 of the National High Court and the Examining Court number 2 of Marín for **authorisation to move abandoned vehicles in a public way to a depot** at the disposal of those Courts, and thereby be able to remove them from the public way. The third requirement was made on 17/3/2004 and the report was received on 7/4/2004.

— **Mazarrón Town Council (Murcia)** was asked for a report on 7/11/2003 relating to **acoustic contamination caused by bars**. The third requirement was made on 14/10/2004 and the report was received on 10/11/2004.

— **Méntrida Town Council (Toledo)** was asked for a report on 23/9/2003 on the **publication of a list for the organisation of a tender competition on the occasion of the local festivals** in which data appeared on the age and address of neighbours taken from the municipal census. The third requirement was made on 10/3/2004 and the report was received on 2/4/2004.

— **Mérida City Council (Badajoz)** was asked for a report on 4/6/2004 (expansion of the investigation) relating to an **accusation concerning construction on publicly owned land**. The third requirement was made on 22/9/2004 and the report was received on 26/10/2004.

— **Molina de Segura Town Council (Murcia)** was asked for a report on 17/10/2002 relating to a **municipal drain on private property**. The third requirement was made on 13/1/2004 and the report was received on 24/6/2004.

— **Móstoles Town Council (Madrid)** was asked for a report on 26/11/2002 relating to an **accusation concerning urban development infringements**. The third requirement was made on 13/1/2004 and the report was received on 6/2/2004.

— **Nájera Town Council (La Rioja)** was asked for a report on 12/5/2003 relating to **disturbances caused by a bus garage**. The third requirement was made on 25/3/2004 and the report was received on 23/4/2004.

— **Navas del Rey Town Council (Madrid)** was asked for a report on 6/11/2002 relating to a **works licence**. The third requirement was repeated on 25/5/2004 and the report was received on 5/1/2005.

— **Novelda Town Council (Alicante)** was asked for a report on 25/11/2003 relating to **disturbances caused by a marble factory**. The third requirement was made on 14/10/2004 and the report was received on 10/11/2004.

— **Nuñomoral Town Council (Cáceres)** was asked for a report on 1/7/2003 relating to a **request for a licence for opening a goat pen**. The third requirement was made on 25/3/2004 and the report was received on 7/4/2004.

— **Osuna Town Council (Sevilla)** was asked for a report on 13/1/2004 on **compliance with a recommendation in relation to the maintenance of archives and files on police premises, on paper, containing personal details of neighbours of that municipality**. The third requirement was made on 20/9/2004 and the report was received on 7/10/2004.

— **Peñíscola Town Council (Castellón)** was asked for a report on 26/5/2003 relating to

noise generated in a night-bar area. The third requirement was made on 25/3/2004 and the report was received on 22/4/2004.

— **Premiá de Mar Town Council (Barcelona)** was asked for a report on 18/6/2003 relating to **disturbances caused by the church bells**. The third requirement was made on 25/3/2004 and the report was received on 12/4/2004.

— **Pontedeume Town Council (A Coruña)** was asked for a report on 13/4/2004 on **rejection of a request for premises where three councillors of a municipal group could meet** in order to carry out works proper to the representation they hold. The third requirement was made on 15/9/2004 and the report was received on 13/10/2004.

— **Pontevedra City Council** was asked for a report on 3/9/2003 on **accessibility and elimination of barriers for disabled people in car parks providing a service for public use buildings**. The third requirement was made on 9/6/2004 and the report was received on 6/7/2004.

— **Pozuelo de Alarcón Town Council (Madrid)** was asked for a report on 15/4/2003 relating to the **works licence for the installation of a mobile telephony aerial**. The third requirement was made on 25/3/2004 and the report was received on 13/4/2004.

— The same Council was asked for a report on 10/6/2002 relating to **disagreement with the expropriation of land for a landscaped zone**. The third requirement was made on 2/1/2004 and the report was received on 9/6/2004.

— **Puebla de Don Fadrique Town Council (Granada)** was asked for a report (expansion of investigation) on 25/11/2003 on **deficient supply of running water to the District of Almaciles**. The third requirement was made on 16/4/2004 and the report was received on 27/4/2004.

— **Sagunto City Council (Valencia)** was asked for a report on 31/3/2003 relating to **disagreement with the location of street lamps on an urban estate**. The third requirement was made on 2/3/2004 and the report was received on 23/3/2004.

— **San Vitero Town Council (Zamora)** was asked for a report on 17/2/2003 on account of the **failure to issue a certain certificate**. The third requirement was made on 17/3/2004 and the report was received on 23/4/2004.

— **Sant Josep de sa Talaia Town Council (Balearic Islands)** was asked for a report on 1/8/2002 relating to **works in Can Xifré**. The third requirement was made on 13/1/2004 and the report was received on 1/3/2004.

— **Santa Cruz de Tenerife City Council** was asked for a report on 14/3/2003 on **disturbances caused by leisure premises**. The third requirement was made on 3/3/2004 and the report was received on 20/5/2004.

— **Sigüenza Town Council (Guadalajara)** was asked for a report on 27/6/2002 relating to **deficient sewerage and water supply system**. The third requirement was made on 13/1/2004 and the report was received on 29/1/2004.

— **Soto del Barco Town Council (Asturias)** was asked for an expansion of a report on 3/9/2003 in relation to the denouncement made in 1998 on proceedings opened against the interested party for an infringement committed in the **occupancy of land assigned to FEVE** in its section Gijón – El Ferrol, in a zone adjoining land owned by the interested party, plus the carrying out of expansion works on a house without having the necessary municipal licences. The third requirement was made on 18/5/2004 and the report was received on 3/8/2004.

— **Sueca Town Council (Valencia)** was asked for a report on 12/8/2003 relating to **delays in processing a some expropriation proceedings**. The third requirement was made on 26/5/2004 and the report was received on 14/10/2004.

— **Torremolinos Town Council (Málaga)** was asked for a report on 20/3/2003 relating to **the demolition of an illegal construction**. The third requirement was made on 13/1/2004 and the report was received on 11/6/2004.

— **Torreveja Town Council (Alicante)** was asked for a report on 25/4/2002 relating to **invasion of the maritime-terrestrial public domain**. The third requirement was made on 13/1/2004 and the report was received on 9/6/2004.

— **The same Council** was asked for a report (expansion of investigation) on 21/5/2002 relating to **the construction of an extra floor to a building**. The third requirement was made on 3/2/2004 and the report was received on 29/6/2004.

— **Tres Cantos Town Council (Madrid)** was asked for a report on 6/2/2003 in relation to the request from an interested party to correct the tax settlements that were being sent to him due to the fact that his **first surname appeared erroneously**. The third requirement was made on 22/1/2004 and the report was received on 10/2/2004.

— **Valdeconcha Town Council (Guadalajara)** was asked for a report (expansion of investigation) on 25/11/2003 on the **drinkability of water and provisions concerning the integration of the municipality into a waters community**. The third requirement was made on 6/4/2004 and the report was received on 21/4/2004.

— **Vélez Rubio Town Council (Almería)** was asked for a report (expansion of investigation) on 7/6/2002 relating to **non-conformity with the layout of a road**. The third requirement was made on 13/1/2004 and the report was received on 17/11/2004.

— **Villalbilla Town Council (Madrid)** was asked for a report on 21/1/2003 relating to

irregularities in construction on a plot of land. The third requirement was made on 25/5/2004 and the report was received on 15/6/2004.

— **Villanueva de la Serena Town Council (Badajoz)** was asked for a report on 3/10/2002 relating to non-conformity with works carried out on an adjoining plot of land. The third requirement was made on 13/1/2004 and the report was received on 16/2/2004.

— **The Provincial Deputation of Jaén** was informed of the suspension of actions of 27/1/2003 awaiting the conclusion of checks that were being made on **files in the name of the interested parties**. The third requirement was made on 26/5/2004 and the report was received on 23/6/2004.

Others

— **The Association of Basque Municipalities** was asked for a report on 7/11/2003 on the conclusions which, as the case might be, have been reached having consulted the different local bodies associated together, following the recommendations made by this Institution on account of the report on **temporary personnel working for the local administration**. The third requirement was made on 8/9/2004 and the report was subsequently received on 7/10/2004.

— **The Catalan Association of Municipalities and Districts** was asked for a report on 7/11/2003 on the **conclusions which, as the case might be, have been reached having consulted the different local bodies associated together, following the recommendations made by this Institution on account of the report on temporary personnel working for the local administration**. The third requirement was made on 8/9/2004 and the report was subsequently received on 7/10/2004.

— **The Huelva Bar Association** was asked for a report on 1/8/2004 relating to **legal aid for aliens**. The third requirement was made on 6/10/2004 and the report was received on 5/11/2004.

— **The Madrid Bar Association** was asked for a report on 17/12/2003 relating to **non-conformity with a lawyer in the processing of a case of matrimonial separation**. The third requirement was made on 5/10/2004 and the report was received on 20/12/2004.

— **The Segovia Bar Association** was asked for a report on 14/1/2004 relating to **lack of information on lawyers' fees**. The third requirement was made on 5/10/2004 and the report was received on 26/10/2004.

— **The General Council of Lawyers** was asked for a report on 11/10/2002 on the **existence of special duty shifts for minors in the bar associations** and on a juridical guidance service for minors. The third requirement was made on 22/1/2004 and the report was received on 10/6/2004.

124 recommendations, 183 suggestions

The Ombudsman drew up a total of 124 recommendations in 2004, of which 42 were accepted, and 183 suggestions, of which 76 were accepted. 106 reminders of legal duties were also drawn up but no warnings. On the termination of this report, the number of resolutions pending a response from different Public Administrations was 128.

A summary is given below of the recommendations accepted. A complete list of those rejected and pending can be consulted in the full report, published on the Ombudsman web site, www.defensordelpueblo.es.

Recommendations accepted

General State Administration

Public Administration Ministry

— On the system of access to the Local Civil Service. Recommendation on **residence in different municipalities from those in which the civil servants perform their duties.**

Secretariat General for Public Administration

— More rational management criteria related to the requirement for the **direct appearance of those interested in presenting aliens applications.**

— Civil Service public competitive examinations. The possibility of candidates being able to **revise their exercises to be able to have a clearer knowledge of the qualification criteria and to be able to appeal in the case of any non-conformity.**

— **Permanent Commission for the Selection of Personnel, on surveys drawn up on candidates for the Civil Service, at the time of examination and so that the candidates can keep the questionnaires and a copy of the exams that they do.**

Sub-delegation of the Cádiz Government

— On the official revocation of **resolutions for the expulsion of foreigners, without any previous requirement for the abandonment for an action for judicial review.**

Ministry of Foreign Affairs and Cooperation

— **To the Minister, on the manner in which consular assistance has to be presented to Spaniards deprived of freedom in foreign prisons.**

— **To the Directorate General for Consular Affairs and Assistance, on the admissibility of making applications for a visa for minors by means of a representative.**

— On inclusion of the **resolutions endorsed in appeals that are instituted in the texts.**

Ministry of Defence

— **By the Under Secretary, on reserved destination during leave for the care of a child.**

Ministry of Economy and the Treasury

— **By the Secretary for State for the Treasury and Budgets, on the regulation of the new Law on Income Tax for Physical persons with reference to the application of the family minimum through disabled descendants.**

Ministry of Education and Science

— **By the Secretary General for Education, on the adoption of initiatives that make the valuation of the average mark of pupils who have foreign studies standardised possible for the purpose of access to advanced level specific professional training.** In search of the fairest parameters for evaluation among pupils who have studied for the general certificate in Spain and those coming from abroad, in the selection process for professional training studies.

On the adoption of measures for complying with the order contained in the Law on Foundations, approving the rules for the preparation of **the plans for action that have to be presented annually by foundations.**

Ministry of Public Works and the Economy

— **By the Gijón Port Authority, on the processes for the selection of personnel, to avoid confusion between the requirements for qualification for competitive examinations and assessable merit.** This Authority was recommended to differentiate between these aspects in the bases for the examination session, allotting marks

that can be reached by each one and giving these the necessary publicity.

Home Office

— **By the Under Secretary, on the adoption of certain practice measures to adapt the actions of the competent bodies in matters concerning aliens to the constitutional principle of efficiency.**

— **By the Directorate General of the Guardia Civil, on the observance of the principle of secrecy established in legislation on data protection in force.**

— **On access to traffic reports by interested parties not resident in the place where the report is located, independently of the autonomous community in which they are situated.**

— **On the allotting of a post.** In cases in which the suspension of the working activities of an employee has been cancelled by judicial means, the interested party may be able to return to his/her post once more.

— **By the Directorate of Penal Institutions, on the remodelling of the surveillance stations in the Foncalent Penitentiary Centre (Alicante) with the purpose of providing better safety and habitability conditions.**

— **To the Directorate General of the Police, on the manner in which the members of the National Police Corps have to act in cases of domestic violence when the victim does not wish to report it, having to take the information to the competent bodies, independently of the wishes of the person affected.**

— **On the issue of a national identity document for minors, independently of the legal situation of his/her parents, being able to dispense with the requirement of providing the foreign identification number of the parents, the presentation of the passport being sufficient.**

Ministry of Justice

— **By the Minister, for him/her to establish his/her own, independent and autonomous jurisdiction for resolving crises**

concerned with family cohabitation with the judicial response not being extended further than a reasonable time.

— **Secretary of Estate for Justice, on indemnity for vacation days not taken.**

Ministry of the Environment

— **By the Secretariat General of the Environment**, on the nature of the “suitable evaluation” required by the Directive on (the Conservation) of Habitats (article 6.3 and passing as soon as possible to Directive 2001/42/EC), relating to the **effects of certain plans and programmes on the environment.**

Ministry of Work and Social Affairs

— **By the Secretariat of State for Immigration and Emigration**, on the need to resolve applications for **work and residence permits in a general system** refused through the application of the Agreement that establishes the contingent for 2002, in accordance with the criteria fixed by the High Court.

— For comparing de facto couples with married couples, in all that concerning to residence permits, in order to approve the legal reforms necessary for the regularisation and family re-grouping of these couples possible in the same terms as that of married couples.

— **The Under Secretary**, on the negotiating of the Royal Decree project regulating the **standardisation of the system for civil servants in the Social Security Administration with that of the personnel in Civil State Administration** and the control of their bodies, so that civil servants belonging to the no longer existing Local Administration National Mutual Provident Society (MUNPAL), receive 100% of their remuneration when in a situation of temporary incapacity.

— **Institute for the Elderly and Social Services**, on the need for expressly establishing the maximum amounts conceded as supplementary aid public for handicapped people in announcements of **public aid for handicapped people** themselves, fixing the limits not only of a monthly nature but also their daily amount, where necessary.

To various ministerial departments

— By the Ministries of Public Works and the Economy and the Interior, on the wrecking of a boat on the coast of Rota (Cádiz), to provide greater rescue measures to the competent services and improve coordination and response time when there is a shipwreck emergency.



Sub-Saharan immigrants saved from the wrecking of a boat

Autonomous Administration

Autonomous Community of Catalonia

— **The Department of Health, Catalan Institute of Health**, on the manner on which the health services have to act in cases of **assisting women who are the victims of domestic violence** and the adoption of every measure to ascertain the origin of this punishable occurrence.

Community of Madrid

— **By the Family and Social Affairs Council**, on the manner for performing **therapeutic confinement and the control of this** in which it was requested that the necessary measures should be adopted for minors sanctioned with confinement of a therapeutic nature, who have their families in the aforementioned Autonomous Community, should comply with this sanction in centres located in the said community.

Community of Valencia

— **By the Social Welfare Council**, on the **situation of the Reception Centre for Minors in Alicante**, due to the fact that this centre is failing to comply with the special, personal treatment required for minors in an unprotected situation different from those incurred in legal proceedings through having participated in punishable occurrences.

Local Administration

— **By Castellón de la Plana Town Hall**, on the **negotiating of town planning projects and licences** taking the future occupation of public land into account, requesting that it should contain permission for the

occupation of public domain and the settlement of this for private use.

— **By Elda Town Hall (Alicante)**, on the **provision of vacancies in the Local Police through internal promotion**. The recommendation is intended to avoid discriminatory situations or exclusion among civil servants based on economic inequality, through requiring a compulsory course for which the Town Hall does not provide any type of per diem expenses.

— **By the Las Palmas de Gran Canaria Town Hall**, on the **publication of announcements on selective processes in the Official State Bulletin**. In order that the necessary instructions may be dictated for removing any possible obstacles that might prevent the selective processes for personnel from being approved and published by the competent body in the shortest time possible.

— **By Madrid Town Hall on the determination of the precise place in which a traffic infringement is committed**, with the proposal that the reporting officers should determine this datum with sufficient precision and for the municipal services to take the allegations of the supposed offenders into account while maintaining the place of address indicated in their documents for the effects of any notifications.

— On the temporary validity of the **attested copy of the documents** that have to be presented by the interested parties within the framework of article 69 of the Madrid Traffic Ordinance, so that no documents other than those considered in this article are required.

— On the need to suitably inform the bodies representing the Local Administration personnel. In order to get to know the **personnel management bodies that have the condition of trade union delegates, personnel delegates or those with elective offices** and put the representational processes into effect.

— **By Plasencia Town Hall (Cáceres)**, on the **checking of noise** and decision both on the need for a licence and corrective measures.

Others

— **By the Almería Bar Association**, on the **organisation of legal assistance services to immigrants**, whose actions and services have to be direct by this Association and cannot be delegated or passed over to private entities.

— **The Sociedad Estatal de Correos y Telégrafos, S.A.**, on the **admission of documents on the matter of aliens through the Post and Telegraph services**, proceeding to hand over these to the competent bodies.

183 Suggestions

The 183 suggestions in the 2004 report of the Ombudsman are related to the different public administrations, of which 76 were accepted. On drawing up this annual balance, there were 65 suggestions pending a reply and 42 had been rejected.

Complaints about certain incidents in requests by foreign immigrants for work and residence permits, the suspension of expulsion orders, authorisations for family re-grouping, the acquisition of visas to return to the country and other matters relating to immigration and emigration stand out among the suggestions accepted – which can be consulted on the aforementioned web site of the Ombudsman, www.defensordelpueblo.es.

Another suggestion accepted was the proposal to establish means of cooperation between the Ombudsman and the Council for the promotion of equality of treatment and non-discrimination of people because of their social or ethnic origin.

Some suggestions related to the opening of disciplinary files in the case of abuse and maltreatment of citizens by the Guardia Civil were among those accepted. Finally, mention should be made of the request to the Directorate General for Traffic to act with the severity necessary when dealing with punishment



The Ombudsman requested the Directorate General for Traffic to act severely in handling traffic fine procedures. (Guardia Civil ORIS photo)

procedures, by informing and notifying interested parties of all the dimensions in the process.

In the sectors regarding territorial management and environmental protection, the Ombudsman drew up numerous suggestions in 2004 as listed in the full report and underlined in the summary for the corresponding area.

In another direction, the Ombudsman requested that public access to environmental information should be regulated, together with an improvement in the management of the different Water Catchment Areas, the conservation and good use of beaches and spaces of

public domain should be regulated and special attention given to town planning management and compliance with the subsidiary function of the public administrations of facilitating the rehousing of populations that lose their homes through natural catastrophes or other accidents, and also those of disadvantaged communities.

Warnings

No warnings were issued by the Ombudsman's office during 2004.

Request for 16 Appeals for Unconstitutionality

During the past year, the Ombudsman was asked to make appeals for unconstitutionality regarding different aspects of the sixteen laws listed below. None of these applications for an appeal was rectified by the Ombudsman, as he did not find sufficient grounds of them infringing the Constitution or through decisions having been made on them previously by other constitutional bodies legally entitled to do so.

— Law 35/2003, of 4th November, on Collective Investment Undertakings.

— Organic Law 15/2003, of 25th November, which modified Organic Law 10/1995, of 23rd November, on the Criminal Code.

— Law of Andalusia 8/2003, of 28th October, on Wild Flora and Fauna.

— Organic Law 14/2003, of 20th November, on the reform of Organic Law 4/2000, of 11th January, on the Rights and Liberties of Foreigners in Spain and their Social Integration, modified by Organic

Law 8/2000, of 22nd December, on Law 7/1985, of 2nd April, Regulating the Bases of the Municipal Code, of Law 30/1992, of 26th November, of the Law and Jurisdiction of the Public Administrations and Common Administrative Procedure and Law 3/1981, of 10th January, on Unfair Competition.

— Law 44/2003, of 21st November, on the Management of Health Occupations.

— Law 45/2003, of 21st November, modifying Law 35/1988, of 22nd November, on Assisted Reproduction Techniques.

— Law 52/2003, of 10th December, on specific provisions in the matter of Social Security.

— Law 57/2003, of 16th December, on Measures for the Modernisation of Local Government.

— Organic Law 19/2003, of 23rd December, on the modification of Organic Law 6/1985, of 1st July, on the Judiciary.

— Organic Law 20/2003, of 23rd December, on the modification of the Organic Law on the Judiciary and the Criminal Code.

— Law 55/2003, of 16th December, on the Framework Status of the Statutory Staff of the Health Services.

— Law 16/2003, of 17th December, on the Fiscal measures, Administrative and Financial management and Organisation of the Generalitat of Valencia.

— Law 62/2003, of 30th December, on Fiscal and Administrative Measures and Social Order.

— Law 61/2003, of 30th December, on General State Budgets for 2004.

— Legislative Royal Decree 3/2004, of 5th March, approving the Revised Text of the Law on Personal Income Tax.

— Law 2/2004, of 21st April creating the Coastguard Service in Galicia.

The Ombudsman did not receive **any request to make any constitutional appeal for the infringement of public rights and freedoms** in 2004.

A norm is necessary for regulating the rights of candidates for the Civil Service

Numerous complaints were received in 2004 related to the civil service and employment, many of these from "candidates" who did not agree with certain actions of the selection bodies which, according to their criterion, infringed the constitutional principles that require access to the civil service to be made in conditions of equality according to merit and ability. In some cases, particularly in Local Administration, it was appreciated that persons wishing to enter the civil service were submitted to situations that were somewhat irrational, when not actually suspected of partiality.

The excessive time that elapsed between one and another entrance examination was also reported, which causes people to give up, legal insecurity or lack of trust in the administrative action, or candidates who passed were not given the corresponding positions. The truth is that candidates who are successful in the competitive examinations for whom positions are anticipated are not always awarded these.

Also, many people made complaints because the conditions in which the selective tests were performed were not very suitable, through lack of space, overcrowding, different instructions in the different places in which the same tests were performed, leaking of questions, etc.

In order to comply with the principles of administrative information, advertising on personnel selection, transparency, good faith and legitimate expectations in the selective processes for access to the civil service, it was recommended that interested parties should be provided with small notebooks of the questions asked in examinations, together with answer guides that the examination boards considered correct and, in view of all the cases examined, the approval of a norm stating the rights of the candidate are considered appropriate.

Non-University Teaching

Complaints were received made by candidates for selective tests for joining non-university teaching bodies, in which the difficulties found in passing the different tests in the competitive examination stage were stated, in view of the lack of advertising the criteria for action of the boards, and through not having obtained the qualifications in the competitive examination tests of an preliminary nature.

From their statements, it also appeared that there was no easy way for reviewing the tests. Thus, in the concrete case of the first competitive test, considering the immediate nature of the completion of one exercise and the start of the following one, it is very difficult to obtain justification for the reasons for elimination.

With regard to the action of the boards, they stated that any appeals made to these are not attended to either in time or manner, or they do not reply, which puts them in an obvious situation of helplessness.

In another direction, attention is drawn to the fact of the corrective action laid down in article 71 of Law 30/1992, of 26th November, on the Law and Jurisdiction for Public Administrations and Common Administrative Procedure, being systematically eliminated by some autonomous communities, through including clauses in the bases of their selection processes that prevent the candidate from rectifying any simple error when completing his/her application form.

The difficulty found by participants must also be indicated in the aforementioned selection tests in taking the competitive examinations in the same body and speciality in different autonomous communities, through the fact of the exam dates coinciding.

Apart from the concrete actions followed with the educational administrations of the different autonomous communities with regard to the complaints mentioned, an official investigation was started before the Ministry of Education and Science, on the aspects indicated and, in particular, the modifications that could be considered with respect to the basic regulations and the possibility of taking the problems described to the Sectorial Conference on Education, in order to unite criteria and reach a decision among the different autonomous communities.

Finally, this Institution is concerned with the situation on non-university teaching staff who suffer from certain illnesses, through the difficulties in

adapting their work to the limitations experienced through the pathologies that affect them.

University Teaching

Complaints were made as the result of discrepancies in the evaluation procedure for contracting teaching and research personnel of the National Evaluation and Accreditation Agency (ANECA).

The present Ministry of Education and Science was asked to give a more concrete report on the terms in which the modifications anticipated in the aforementioned evaluation system can be carried out.

With regard to the evaluation procedures of the National Evaluation Commission on Research Activities (CNE-AR), complaints were received in which a request was made to investigate certain deficiencies centred on the need for greater strictness, transparency and objectivity in these processes and establishing evaluation criteria that cannot be modified in terms of the commission members.



The Ombudsman, accompanied by the First Deputy, the Second Deputy and the General Secretary of the Institution, received the Director General for Evaluation of the Ministry of Public Administrations, Juan Antonio Garde Roca, on the left of the photo, together with two of his general directors. Mr Garde delivered to the Ombudsman the report of the commission of experts for the study and creation of the State Agency for the Evaluation of Quality in Services and in Public Policies.



Civil Service candidates do not want to have opinion polls presented to them at the time of the examination. The photo shows candidates for administrative support services in Madrid Town Hall. (EFE photo).

A report was requested on the posture maintained by the aforementioned Ministry with respect to these questions and how they are dealt with in a document, signed by more than 1,700 university lecturers, with reference to the re-definition of scientific fields, the methodology followed for evaluating work and scientific validity criteria.

Administration of Justice service personnel

Civil servants who provide temporary services for the Administration of Justice service appeared before this Institution who did not obtain any remuneration as compensation for holidays not taken, once they had ceased work.

The Administration understood that it was not appropriate to take these claims into account because the right to paid holidays is not laid down in Royal Decree 391/1989, of 21st April, which establishes the amount of the supplement for posts of judges and magistrates and public prosecutors.

This Institution does not share this criterion and considers that well-founded reasons exist for recognising this right and that, for the sake of the principles of administrative efficiency and procedural economy, interested parties who support the charge should be prevented from seeking legal jurisdiction again once the legal bodies have given a favourable decision in an identical situation, as has occurred in some cases.

With regard to the selective procedures, this Institution received a considerable number of complaints in which evidence

was given of the delay caused in appointments and the award of positions for career civil servants who had passed the competitive examinations for entering official and supplementary bodies of the Justice Administration.

Prison personnel

Complaints continue to be received wishing to enter the corps of assistants in Prisons questioning the difference in the times announced on the female scale and that on the male scale.

The Ombudsman's Office made a recommendation on these aspects in which it was requested that the necessary modification to the regulations should be made that would allow the two corps to be unified, in such a way that only one special corps would exist plus another corps of Prison assistants. The Home Office issued a communiqué stating that, in spite of deeming it necessary to maintain separate scales according to sex in the corps of assistants for the moment, it has given the necessary instructions for studying the effects of the steps involved in doing

away with the two scales in the aforementioned corps.

Military Administration Service Personnel

Standby, troop and naval military personnel who have ceased their professional services relationships in accordance with that established in Law 17/1999, of 18th May, of



The new Professional Army is giving problems, among standby, troop and navy military personnel, through ceasing their service relationships. The photo shows a review of a military detachment posted to Bosnia-Herzegovina at the time. (EFE photo).

the Personnel System of the Armed Forces continue to appear in this Ombudsman's Office to express the wear and tear both on families and personnel caused by this situation.

The situation of a corporal in the Army should be highlighted. In December 2003, his professional service relationship with the Armed Forces shows that he was not working through medical reasons having suffered an accident while in service and, having proved his legal situation of unemployed and applied for the provisions corresponding to him for this item, found that neither the Armed Forces Social Institute or the National Institute of Social Security was responsible for attending to him.

As the situation of temporary incapacity is not considered in the rules governing the personnel system in the Armed Forces, it was recommended that the Ministry of Defence should perform the actions necessary to permit the approval of new regulations or the modification of the current ones, in the fastest time possible, so that military personnel unable to work temporarily through psycho-physical conditions when their commitment to the Armed Forces has come to an end, may receive the provisions to which they are entitled and not be left, after years of providing professional services, in a situation of abandonment.

Other actions were centred on the changes necessary in the Armed Forces field as a consequence of the growing inclusion of women in the professional Army, with precise respect to reserved posts after a period of personal leave to attend to the care of children, together with the scope for taking advantage of this right in the case of multiple birth, since it is these persons who request permission for this most frequently.

In the case of personal leave to attend to the care of a son/daughter, in the Armed Forces posts are reserved for the first six months, while civil servants in Civil Administration have the right to have the job they do reserved for one year and, once this period has passed, to a similar post in the same locality with the same level and remuneration.

This Institution showed the Ministry of Defence the discrimination that this supposed for members of the Armed Forces, recommending that the wording of the Regulations on Posts for Professional Military Personnel should be modified. The aforementioned recommendation has been accepted.

Closely linked with that stated, it was recommended that in cases of multiple birth both periods for reserving posts and

the children born should be recognised when it is a case of the personal leave category for attending to the care of children.

State Security Forces and Bodies and Local Police

Actions were carried out with different town halls referring to their local police forces. The investigation carried out on the application of article 83.1 e) of Law 42/1999, of 25th November, on the System for Guardia Civil Personnel, should be emphasised, which states that Guardias Civiles pass to a situation of personal leave when they request it to attend to the care of natural or adopted children or through them on permanently or in a pre-adoption situation, for a period of not more than three years.

A Guardia Civil association declared that, within the aforementioned framework, a member of the Armed Institute that remains in a situation of personal leave for the care of a son/daughter, for one month, for example, would lose his/her job, considering that discrimination would occur for members of the Armed Institute with respect to other public civil servants included in the field of application of Law 30/1984, of 2nd August, on Measures for the Reform of the Civil Service.

The Armed Institute stated that, in order to resolve this lack of regulatory foresight, it had prepared a Royal Decree project modifying the corresponding articles of the Regulations on the provision of posts for the Guardia Civil Corps, establishing that when passing to a situation of leave for the reason indicated, the job would be held for one year or up to a maximum of fifteen or eighteen months in the case of large families of a general or special category, respectively, establishing a preferential right to occupy jobs provided through the time spent in the same province, if the established time periods are exceeded.

Personnel working in the service of public administrations and bodies

Slow implementation of the provisions included in Law 31/1995, of 8th November, on the Prevention of Labour Risks can be seen.



Female members of the Guardia Civil want the same treatment as other civil servants in cases of leave to attend to sons/daughters or maternity permits. The photo shows the interior of an air ambulance of the Guardia Civil.

The Dwellings and Social Welfare Council of the Principality has stated its willingness to adapt its actions to the current legislation in the matter of prevention of labour risks, particularly regarding the protection of the maternity rights of its workers.

State action has been carried out on an examination session called by Humanes Town Hall (Madrid) for selection for the position of a socio-cultural coordinator, in a working regime and an indefinite contract by means of a contest system, with free turns, because in the opinion of this Institution, this notification did not guarantee compliance with the constitutional principles governing access to public employment, such as the principles of equality, merit and capacity. So that the requirements for access to this examination session should maintain due proportion between the qualifications required and the job.

Another example of lack of adjustment of a selective procedure to our legal system was that called by the Gijón Port Authority for the recruitment personnel for permanent work, in which so-called requirements of value were referred to, since these merits cannot, by their very nature, be essential requirements for participating in the procedure, but can be taken into account once the candidate complies with the requirements properly stated. Of necessity, this reasoning implies that the two aspects will have to be differentiated in subsequent announcements of public examinations.

It is also opportune to mention state intervention in the problem that arose in the process of consolidation of working personnel in the Sociedad Anónima Estatal Correos y Telégrafos, precisely in that concerning the development of this and the award of new jobs in the fixed contracting acquired, that lead to the displacement of many family nuclei of many of the workers affected.

In the information supplied by the interested parties, there is reference to the high degree to which this problem affected the worker group and the possibility of seeking a solution of a general nature or, at least, for the most serious cases, with a view to

alleviate the negative effects of these moves, for which reason it was decided to set up a state investigation. As stated by the aforementioned State Company, the solution to this problem should be sought through a permanent contest for relocating called for 27th April 2004.

In another direction, the intervention related to the moving of working personnel between various public administrations has continued, from which it is possible to conclude, after the signing of the "Framework Agreement for encouraging the mobility of public employees", that certain autonomous communities joined and, lastly, those of the Canaries, Cantabria, Madrid,

Murcia and the Autonomous City of Melilla, it was seen that the actions undertaken to encourage this mobility, due to the continuance of the negotiating attitude, allow an important approach to the intended objective.

However, achievement of the measures proposed does not exclusively depend on the will of the General State Administration, since it is subject to the acquiescence of the different autonomous communities, the provisions on this matter considered in the corresponding lists of jobs, to that stated in the collective agreements of this personnel and collective negotiation with both sides of industry.

Civil Servants' Complaints

With regard to complaints made by those who already have the position of civil servants, the problems mentioned refer to remuneration, job provision, the valuation of merit in competitions, passive classes, administrative situations, integration, etc.

However, it should be emphasised that the appearance of civil servants who feel themselves to be the object of **psychological harassment at work** have increased.

Concerning this, it appears that "mobbing" occurs with some frequency within the Public Administration and has a tendency to be on the increase. For this, it is considered necessary to prepare a protocol for the prevention of harassment at work to avoid this administrative organisation being propitious to the impunity of those who carry out these practices which have such a direct effect on the fundamental rights of people who are in the service of society and to provide them with instruments that are more efficient than those existing so that those affected can successfully defend themselves.

Official personnel in the health services

The basic differences observed in aspects of remuneration have been observed among collective groups of personnel subject to a different legal system from those that provide services in the same autonomous community. Thus, in the Madrid Community Health Administration, on the one hand, there is a more numerous group, under the official system, of the former National Health Institute, that was transferred by means of Royal Decree 1479/2001, of 27th

December, and, on the other hand, civil servant personnel and, finally, workers.

Until each one of these professional collective groups has carried out the inclusions laid down in Additional Provision Five of Law 55/2003, of 16th December, on the Framework Status of official personnel in the Health Service, they have to continue co-existing with their respective regulations, through which, in this transitory period, some feel comparatively offended. Nevertheless, advances are being made in achieving equalisation through some Agreements of the Sectorial Table and, particularly, concerning increases in remuneration.

Actions started regarding labour conditions and the social welfare of the collective group formed by the so-called backup personnel for providing continuous attention continue. From the information supplied by the Asturian Health Administration, it was deduced that the problem generally affecting the backup personnel in this Autonomous Community is being channelled through the progressive equalisation of their working conditions, with regard to working times and the remuneration system, with professionals in primary health care, which has been undertaken in other autonomous communities such as Castile and León.



Temporary doctors protesting against their professional and salary situation.

The Risk of Collapse in Spanish Prisons

In 2004, 491 new complaints were received in the prison field and 29 state investigations were started related to this matter. The number of prisoners in Spanish prisons continued to increase in 2004, just as in the previous year, although with a slight reduction. If the increase in inmates was 8.15% in 2003, it was 6.08% in 2004. The number of inmates on remand has increased with respect to sentenced prisoners and female prisoners. The increase was contained in the second half of 2004 with the prison population being left at 59,421 inmates at the end of the year, which means the highest prison population since Democracy was founded.

With regard to the problem of overcrowding in prisons, the Institution started an official enquiry considering the risk of collapse of the prisons.

Deaths in prison

The prisons in which the most deaths occurred that reached the ears of the Ombudsman were, as already stated on page 12, those of Zuera, Dueñas, El Acebuche, Nanclares de la Oca, Burgos, Badajoz, Alicante and Brians. It should be emphasised that deaths occur as a consequence of deterioration in health associated with the drug problem, including overdosing. On occasions, when legally dispensed drugs, mainly methadone, are mixed with pills, overdosing episodes occur that can lead to death.

Prisoner health

Both the Directorate General of Prison Institutions managed by the previous Government and that managed by the current one, were recommended during this year to perform medical checks in the transit centres, at the time that the inmates are transferred. In both cases, the recommendation was rejected.

The Institution also recommended that maximum severity should be given to the requesting and obtaining of medical reports on inmates, when the latter are to be transferred from prisons, with the purpose of the medical appointments arranged with a house doctor being carried out before the transfer from the prison occurs.

In the health field, the encouragement of new technologies such as tele-consulting and tele-diagnosis and the travelling of specialists and medical instruments to prisons are necessary to avoid taking the prisoners to outside hospitals wherever medically possible.

State of the prisons

In 2004, the Institution visited fifteen prisons: Cáceres, Córdoba, Burgos, Dueñas



Directorate General for Prison Institutions in the Calle de Alcalá in Madrid

(Palencia), Tarragona, Santander, Teixeiro (A Coruña), Monterroso (Lugo), Lleida, Villena (Alicante), Melilla, Picassent (Valencia), Fontcalent Cumplimiento (Alicante), Psychiatric Prison Hospital of Fontcalent (Alicante) and Soto del Real (Madrid).

The problem of overcrowding persists, which requires more and better infrastructures. Because of this, it would be better to speed up and therefore reduce the construction times and opening of the new prisons anticipated.

Shortages in modules for women in prison

Although the living conditions for women in modern centres are practically the same as those for the men, in others, they are worse. The cells are smaller, the yards are smaller, there is a lack of productive

workshops and access to occupational activities and sports is less. It is therefore necessary to take this reality into account in the infrastructure plans and give it suitable priority.

The Institution has continued to show its interest in the situation of children under the age of three years in prison, whose number in the field of the Directorate General of Prison Institutions was slightly above 200 in 2004.

Victims of terrorism

The rejection of all Spanish society of the brutal attack of 11th March that occurred in Madrid also reached the Institution, which received numerous letters of condemnation.

At the same time, a member of the public approached the Institution, after 11th March, expressing his concern about the



One of the trains in the attacks of 11th March 2004, is looked over by members of the Police, after removing it from Atocha station. (Photo Manos Blancas.org)

security measures existing on the railway line that joins the capital Madrid with villages in the north-east of the community, managing to obtain a report from the Government Delegation in Madrid and the Chairman of Renfe.

Likewise, the Ombudsman took an interest in the Spanish victims of terrorist attacks that occurred abroad before 1st September 2001, that do not receive aid in accordance with the Law on Solidarity or extraordinary pensions.

Finally, in this field, it is necessary to state that the recommendation drawn up by the Ombudsman regarding decorating the victims of the fire in the Hotel Corona de Aragón in Zaragoza in July 1979 was rejected, as the Administration did not consider that the terrorist nature of that event had been legally accredited. The Ombudsman based his recommendation on the fact that the victims in this case have obtained the correct indemnities and pensions for terrorism victims by virtue, respectively, of an old ruling of the Council of State and a law of the year 2003.

Traffic

There are numerous complaints on the matter of vehicle traffic, above all referring to **guarantees in disciplinary proceedings**. Recently, resolving an appeal made by an association, by means of a decision in Court Three, of 27th October 2004, the High Court stated that article 77.2 of the Law on Road Safety does not purport that the reaction of the person charged, making allegations in the proceeding or making an appeal against the decision that ends it, does not cause him to lose the right to the 30% reduction in

the amount of the fine correctly imposed through the infringement committed.

This means that the High Court backs up a thesis traditionally maintained by the Ombudsman in numerous traffic actions: that **the person who pays a traffic fine with a 30% reduction in the amount for prompt payment, has the right to appeal against the fine without any fear of losing this reduction** always, of course, that the amount imposed is correct with regard to the infringement committed.

The Institution made several suggestions during this year with regard to traffic matters, such as identification of the owner of the vehicle and of the person driving it at the time that the infringement was committed; the inclusion of the entire texts of the reports in notifications; obtaining the resident's name tag for parking in regulated areas; the precise identification of the place in which an infringement is committed, etc.

Emergencies

The Institution made three recommendations to the Home Office and the Ministry of Public Works and the Economy with regard to the **rescue of persons wrecked from boats** who need to land in national territory, so that emergency situations at sea can be attended to promptly and efficiently, as these cases unfortunately occur repeatedly along the Spanish coastlines.

Military administration

Information was received from the Ministry of Defence during this year with regard to complaints relating to the accident of the aircraft *Yakoloz-42*, that crashed in Turkey in May 2003, with the aforementioned Ministry reporting various conclusions on the facts and the range of measures of all kinds adopted to make amends to the families of the victims, to the extent that this is possible.

Likewise, the Institution showed interest in the possible rescue of the C-3 submarine that sank in the waters off Málaga in December 1936, during the Spanish Civil War; in possible compensation for damages suffered by a citizen within the framework of the Inter-Ministerial Commission for Studying the Situation of Victims of the Civil War and Francoism, created by Royal decree 1891/2004, of 10th September; and, finally, in the situation of the military firing range of Camposoto in San Fernando (Cádiz).

Security Forces and Bodies

The Institution continued its line of action in the sense of promoting governmental or disciplinary files on members of the Security Forces or Bodies charged with any crime or misdemeanour, without prejudice to the suspension of the file procedures until a firm decision is made and, where necessary, making a pertinent suggestion to the corresponding Administration.

An investigation has been started before the Secretary of State for Security with regard to any provisions or plans that may exist for the **improvement of security, hygiene and habitability conditions of the Police and Guardia Civil cells**.

Reports made by the public on the commission of a crime is a basic right and a primary expression of the effective right to the protection of the courts (article 24.1 of the Constitution) in the field of crime. For this, it is necessary to move any obstacles that may impede the exercise of this right. With regard to this matter, the Institution has shown interest in the functioning of the Virtual Report Office on the Directorate General of Police web site.



The ombudsman recommended the Home Office and the Ministry of Public Works and the Economy to increase the means for attending to immigrants from boats that are wrecked. In the photo, an immigrant is attended to by Maritime Rescue.

Law on Public Safety

As a basic norm for the maintenance of public order, the Law on Public Safety has to be applied strictly respecting the principles of legal safety, in such a way that maintaining order does not mean any harm to citizen's rights. This year, the Institution suggested that the Home Office should revoke any fines that they had imposed under the Organic Law on the Protection of Public Safety, through considering that their actions did not correctly fit in with the type of infringement in the aforementioned law that had been applied.

Delays and postponements in legal proceedings

Yet another year, making references to the delays produced in the negotiation and resolution of legal proceedings has been inevitable. Unfortunately, this section has become a constant one in the annual reports of the Ombudsman. Among the collegiate bodies, special attention has to be paid to the High Court. In precise terms, Chamber One (Chamber for Civil Matters) and Chamber Three (Chamber for Contentious Administrative Proceedings).

Some of the complaints that were handled during 2004 illustrate the situation of Chamber One. An appeal made in 1999 by a Homeowners Association in the province of Toledo, was found to be still unsolved in 2004. In another case investigated, the person who made the complaint stated that the legal proceeding was started in 1973 as the consequence of a fire. On 12th June 1998, the Court in Barcelona came to a decision against which an appeal was made in cassation before the High Court, which has still not been resolved in 2004. Chamber Three also showed similar waiting times to those indicated above.

Concrete measures have been proposed by the Ombudsman, on occasions, for alleviating his work load and outlining what his function should be; however, as shown, when mention was made to Chamber One, actual facts show how fragmentary and successive reforms (years 1966, 1984, 1992 and 2000) made with regard to appeals in cassation, were not sufficient to configure a Court that has to make legal security, on the one hand, and speed and efficiency, on the other hand, compatible.

Other collegiate bodies that have also been the object of investigation during 2004 were Chambers for Contentious Administrative Proceedings of the High Courts of Justice in the Canaries, Andalusia and Asturias.

Evictions

With regard to any postponements detected in eviction proceedings and their corresponding execution, it must be stated that the reform carried out in the month of December 2003, with the creation of "offices for immediate appointments" are not having the desired effects. One of the complaints made was that it is not possible to speed up proceedings solely with legal reforms. One member of the public expressed his surprise when presenting a demand for eviction in the city of Madrid through failure to pay on 16th April 2004, the hearing to be held on 22nd February 2005 and execution of the decision on 2nd June 2005. It is evident that "slow justice is not justice at all" and that the application of new laws must be accompanied by the necessary means.

Minors who commit punishable offences

In 2004 last, the centres for minors visited by advisers of the Ombudsman were:

"Azahara" in Córdoba, The Educational Centre of Minors in Melilla, "Parayas" in Cantabria, "Zambrana" in Valladolid, "Pi Gros" in Castellón de la Plana, "Altamira", "Renasco", "El Madroño" and "El Pinar" in Madrid.

It must be emphasised that the number of complaints related to this matter increases every year, particularly due to the lawyers of the minors starting to send letters with complaints in the name of the people they defend. Also, workers in centres for minors inform the Institution of those situations that they consider infringe fundamental rights.

In this section, the situation of the residential centres for minors in the Autonomous Community of the Canaries must be highlighted. In 2004, three official investigations were started. One of these began as the consequence of news that appeared in different means of communication stating that "24 condemned minors are in the street awaiting places in centres" and "judges in Las Palmas warned that these are young people condemned for serious offences" was added. It was also stated that "a judge, a secretary and five civil servants are working in the busiest Juvenile Court in the country".

The other two official investigations were started in the month of November. One of these referred to the aggression that a Moroccan minor had received inside a centre through being set alight and having his face disfigured. It was also stated in different means of communication that two minors, in the same centre, forced two others to have oral sex. The other investigation was started through the death of a minor that occurred in a centre for minors. He appeared asphyxiated by a plastic bag around his neck.

All the cases are being investigated in collaboration with the General State Public Prosecution Service and the Ministry of Employment and Social Affairs of the Autonomous Community of the Canaries.

Actions on domestic violence

The three main actions carried out in this matter were centred on official investigations started through the death of women who were victims of domestic violence, in a recommendation on the situation of the courts that resolve procedures relating to the right of the family and on a study on family mediation and meeting points.

With respect to the official investigations, the most relevant one was that regarding a woman assassinated in Barcelona after having made 54 charges against her husband in the past ten years. This complaint ended with two recommendations to the Catalan Health Institute and the Directorate General of Police. Furthermore, the conclusions obtained were sent to the General State Public Prosecution Service.



The Chambers for Civil Matters and Contentious Administrative Proceedings of the High Court have considerable delays. The photo shows the main entrance to the High Court.

Only 0.1% of crime victims claim the help provided

Traditionally this section tends to mention those situations in which, due to lack of human or material means, correct administration of justice is slowed up or made difficult, prejudicing the legal work corresponding to judges and magistrates.

This year, as well as these two matters, special mention has been made to the attention received by victims when they are the object of some criminal offence and also to special harm occasioned with delays in proceedings referring to persons with a mental illness and those that resolve hearings for eviction through failure to pay the rent.

In the concrete case of victims, the information provided by the Directorate General for Personnel Costs and Public Pensions, on the use made of Law 35/1995, shows that in the period between April 1997 and December 2004, the annual average for files started was 435, entries having increased from 362 files in 1997 to 550 in 2004.

These data show that the number of victims who have information on aid and start the proceedings is slowly increasing, but if these data are compared with those included on delinquency in the annual reports of the General State Public Prosecution Service, it can be checked that the number of crime victims who receive the aid laid down in Law 35/1995 is almost insignificant.

Thus, for example, in the report of the General State Public Prosecution Service for 2004, only counting the homicides, crimes against sexual freedom, family maltreatment and injuries, it can be seen that all these in 2003 lead to 594,429 previous procedures and there were 540 files for requesting aid presented to the aforementioned Directorate General in 2003.

By a simple check on the data, of course taking the fact that the field of application of the law is restricted and limited into account, it can be seen that if only files for 0.1% victims of these 594,429 crimes are started, something is going wrong and it is logical to suppose that the fault lies in the fact that the victim does not receive the information that he would like.

With regard to the situation of the family courts, the excessive volume of work that they have is ascertained and, what is more, on some occasions it was possible to see that no coordination exists between criminal jurisdiction and civil jurisdiction; because of this a recommendation was made to the Ministry of Justice, requesting the creation of its own independent and autonomous jurisdiction, with the task of resolving all the consequences derived from crises arising from coexistence, adding to this all those questions which, being related to these crises arising from coexistence, are today shared between civil and criminal jurisdiction.

Another of the measures proposed was concerned with the need, in this jurisdiction, to study the convenience of including all that related to guardianship, disabilities, adoption, claims or contesting of paternity actions, recognition and execution of resolutions relating to the international abduction of minors by any parent and actions which, related to family right, may be presented by de facto couples.

With respect to **family mediation and meeting points**, the immense majority of communities, in spite of lacking a legal framework in which to regulate the requirements for any mediation process, those who are qualified for this, the professional qualifications of the mediators and the matters that are suitable for mediation, offer a mediation service that hinges on collaboration agreements between the corresponding ministry and private entities. It was recommended that the Autonomous Communities, that still do not have a regulatory framework, should adopt the initiatives necessary for the approval of the corresponding laws that regulate family mediation in each territory.

On "meeting points", the actions carried out by the majority of the Administrations show that the Autonomous Communities are ahead of the regulatory provisions and, still without having any legal framework to develop the function of these "meeting points" and the professionals that have to head this service, have offered the public some means of overcoming the needs that appear within families. In the opinion of this Institution, the authorities have the obligation to seek formulae to facilitate paternal-filial relations, either when conflict exists in the family unit or when the Administration has had to deploy its intuitive function.

It is necessary to determine the functioning, location, competence, performance and professional qualifications of the people who work at these "meeting

points", if one considers that on many occasions the use of this service is preceded by a court resolution on the "right to visits".

Complaints about the Municipal Registry of Births, Marriages and Deaths

Another section referred to complaints relating to the Municipal Registry of Births, Marriages and Deaths. The important number of this type of complaint shows how this part of the Administration has not known how to adapt to the new reality of Spanish society, which has passed from being a country of emigrants to being a country that receives immigrants. This fact has direct repercussions on the Municipal Registry of Births, Marriages and Deaths, particularly with regard to nationalities and the recognition of marriages of Spanish citizens with citizens of other countries. It can be stated that, **at this moment, the Municipal Registry of Births, Marriages and Deaths is a part of the Administration that urgently needs immediate reform in order to be able to offer citizens the services they require.**



The Central Municipal Registry of Births, Marriages and Deaths in Madrid in the Calle de la Montera

Spanish prisoners abroad

Aside from the complaints received, the most relevant actions have been **the visits that the First Deputy Ombudsman made to the Preventive Detention Centre in Santiago de Chile, the Centre for Female Guidance in the same country and the García Moreno Prison in Quito in Ecuador.** In all these, interviews were held with the Spanish prisoners interned there, while advantage was taken of the occasion to ensure that any complaints or requests received from our compatriots reached the competent authorities.

Flight information at airports

Information given out over a loudspeaker to keep travellers informed on flight times, departure gates, etc. has disappeared from Barajas Airport in Madrid, which has, on occasions, negative consequences for the correct provision of the service to travellers, particularly for those people who are handicapped in some way when keeping them informed.

The public company Aeropuertos Nacionales y Navegación Aérea informed the Ombudsman that there were more than 1,200 flights operating daily at Barajas Airport in Madrid, for which reason it is not feasible to issue all the messages on the departure, arrival or changes of gate for these via loudspeaker systems in all the terminals, since all the warnings would coincide in time some overlapping others, a situation that would create great confusion and trouble for the passengers.

For this reason, messages are given on monitors in the embarkation area and information given on the corresponding services. It is only when a change of gate occurs 45 minutes or less than the time estimated for departure, that a message is given out over the loudspeakers in the area affected. The trend all over the world is for passengers to read the information on the informative panels or information points, using the loudspeaker system exclusively for warnings concerned with airport security.

With respect to people who suffer from some type of handicap, above all the blind, we were informed that they were studying various ways of maintaining an adequate level of information, for which reason this Institution requested information on the systems under study to give them the correct attention in the provision of the service, without all the responsibility falling on the public.

In the specific case of the complaint, the family in question found itself at the embarkation gate indicated by the airport

personnel for its flight, a gate that was later changed without any warning over the loudspeakers in the area, causing the flight to be lost and having to acquire a new ticket.

On the date of the occurrence, 22nd May 2004, the silent airport system had still not come into force, which happened on 1st October of the same year, but no information was given out on the loudspeakers in the area, and it was affirmed that the computer system in the informative panels at the airport showed the change of gate for embarkation for the flight 2 hours and 38 minutes in advance. Neither were the interested parties given any warning of an absolute need to keep watch on the monitors, as the sole source of reliable and real information.

From 1st October 2004, the loudspeakers have warned passengers of the need to keep watch on the informative monitors and the circumstances of the flight. However, as this caused harm to citizens who had to pay for the same tickets twice, the Ombudsman requested the public company Aeropuertos Nacionales y Navegación Aérea to open a file on automatic responsibility for property, in order to make amends to the interested party and his family for the harm occasioned.

The impotence of consumers faced with Internet servers

In the past few years, a real avalanche of complaints have occurred on problems of citizens in their relationship with

companies that provide advanced telecommunications services and very particularly in all aspects related to the provision and billing of the Internet access service. The very high volume of these complaints, together with the tone and content of them, show the maladjustment existing between the aspiration of the citizen to access the Internet and the necessary guarantees for protecting the rights of telecommunications users. As long as, for the moment, the rule, far from adapting to the new times and new problems, appears to have opted for asking these questions within the field of supervision of the competent Administration in the matter of telecommunications.

The regulatory norms on telecommunications attributes competence to the Secretary of State for Telecommunications and for the Information Society of the Ministry of Industry, Tourism and Commerce, for resolving any claims made by subscribers to the telephone service available to the public and end users of service lines likely to be rented.

However, this same norm defines the telephone service available to the public as "commercial operating for the public of the direct transport and switching of the voice in real time with the origin and destination in a public switched telecommunications network between users of both fixed and mobile terminals" which, in practice, implies excluding this Secretary of State from competence for resolving claims on the Internet service.



Flight information panel in Barajas airport.



Operators that offer Internet access services are the cause of many complaints. The photo shows an Internet café.

Difficulties regarding arbitration

In these circumstances, the only ways of claiming available for the user of these services are the consumer arbitration system and a civil judgment.

The problem is that many companies that provide access to the Internet and other advances telephony services refuse to submit themselves to the consumer arbitration system, as this is voluntary for the parts, which ends up by implying that the only defence for the user is recourse to a civil judgment, a way which is, in practice, difficult to use for resolving these small conflicts, of a reduced economic importance, that require the capacity for immediate, agile and free mediation.

Lacking any suitable policy for processing claims, for the payment of amounts that are the object of a complaint, it must be added that these companies use the inclusion of their data in a register for information on credit and defaulters, a system that leads, in many cases, to the citizen giving up the claim and paying the amount claimed from him, where there is a risk of difficulties in access to bank credit. In these cases, registration of data on the debtor only requires a communication from the company considered to be the creditor while its cancellation requires demonstrating the non-existence of the debt or its payment.

All these matters lead to a feeling of helplessness on the part of the user in view of the actions of companies providing access to the Internet which, in the opinion of this Institution, advises the establishment of means for extra-judicial, fast and effective claims.

Having passed these criteria to the Ministry of Industry, Tourism and Commerce, the latter replied that the royal decree that approved the regulations for the development of the General Law on Telecommunications regarding the conditions for the provision of services or the operating of electronic communications services available to the public, among which is included, together with the telephone service, the service for access to the Internet, although limited to aspects such as the right to a contract, the minimum content and modification of this, etc. This Royal Decree 2296/2004 was enacted on 10th December 2004.

The Ombudsman suggested that the Administration should take measures to encourage these companies to submit themselves to the consumer arbitration system, to which the Ministry replied that, given the voluntary nature of this and the fact that the General Law on Telecommunications

abolishes the requirement of entitlement for providing electronic communications services, the Administration is not able to impose this obligation.

However, this Ministry strongly recommends the companies to submit to the arbitration system and users to take this circumstance into account when selecting the operator that they wish to contract on a free, competitive market.

The administrative decision of not attending to claims on the electronic communications services does not appear to be in accord with the obligation imposed on the authorities by article 51 of the Constitution, even more so when article 88 of the General Law on Telecommunications 32/2003, of 3rd November, lays down the establishment of a procedure in accordance with which end users may submit these controversies, that will have to be fast and free and with a maximum resolution time, after which the contentious administrative system will be used. One year after approval of the law, this precept still remains undeveloped.

From the complaints received, it appears that any powers of inspection and imposition of fines are practically non-existent.

State taxes

As in the past few years, complaints referring to income tax on wages are most numerous. Of the claims received throughout 2004, the majority of these refer to requests for a modification of the legal regulations on concrete aspects that the interested parties consider cause harm in their application. In view of the forecast of future reform of income tax on wages for the year 2005, it appears that many of the problems suggested by this Institution will be the object of a study within the framework of this reform.

For example, a group of citizens who were doomed to requesting the international adoption of minors are suggesting the possibility of **deducting the huge expenses that this adoption** has caused for them. The Secretary of State to the Treasury considers the current fiscal regulation on minors to be sufficient.

The need for the Law on Income Tax on Wages to consider **de facto couples** as a family unit, permitting them the option of paying tax jointly, could be the object of a study within the framework of the future reform on the tax.

Those suffering from Alzheimer's disease receive aid for home support from MUFACE, which is subject to income tax on wages, through being considered professional

income, when it is a consequence of a previous labour or civil servant relationship, which implies that parallel liquidations of this tax are reverted to those citizens who do not declare them.

It is impossible for these sick people to care for themselves, so the majority of cases require the help of third parties. If serious disability is understood to be a situation of the worker affected with absolute permanent disability and as a consequence of his bodily or functional losses he/she needs the assistance of other people for performing the most essential acts in life, it can be said that those suffering from Alzheimer's are seriously disabled. From the physical point of view, they are free from the features perceived as typifying absolute permanent disability and serious disability, precisely through the compensating nature of them, and also others with marked needs for human protection.

Nothing prevents the legislator from including exemption from income tax of the amounts received by taxpayers who suffer from Alzheimer's, for which reason the Secretary of State for the Treasury and Budgets was recommended that the amounts that MUFACE pays as home aid to those suffering from Alzheimer's disease who need the assistance of a third party should be exempt from this tax.

The Secretary of State for the Treasury did not consider it convenient to make any modification whatsoever because he stated that in the next reform of Income Tax on Wages, the amount paid by taxpayers with the lowest incomes will be reduced in general, this being an objective that widens the content of the recommendation made.

The Treasury also stated its non-conformity with the low amount of the reductions in the family minimum for descendants, by understanding that it is not adapted to the real measurement of expenditure and, on the other hand, accepts a higher deduction in the case of making contributions to a pension scheme. Furthermore, it considers the present system of family tax payment to



Day centre for the elderly suffering from Alzheimer's disease (Photo Azdem)

be unfair and estimates that the technique of dividing the income of the family unit among the spouses to be more suitable.

Updating of the CPI to family minimums for descendants

In the same sense, the interposition of the Ombudsman was requested in an appeal for unconstitutionality against Law 61/2003, of 30th December, on General State Budgets for the year 2004, through omitting the increase in family minimums for descendants and the personal minimum contained in articles 20 and 25 of Law 46/2002, of 18th December, on the partial reform of the Law on Income tax on Wages.

The question lies in the omission of the standard modification, which was dealt with by the Constitutional Court that reached the conclusion that this provision did not exist either in the Spanish Constitution or in the Organic Law of the Constitutional Court. This question of unconstitutionality by omission was also brought up in the matter of tax, precisely in decision 45/1989, and was resolved in similar terms.

The different requests for an appeal having been analysed, following the aforementioned constitutional jurisprudence, it was concluded that no unconstitutionality by omission of the aforementioned law was applicable. However, the subsistence minimums are anchored in the Constitution and cannot be left unattended. Article 10 of the Spanish Constitution, that recognises the dignity of people and the free development of personality, prevents people who do not receive a subsistence minimum from paying tax and the principles of the tax system established in article 31 indicate **non-subjection to subsistence minimum as an essential requirement for distributing the tax load according to the economic capacity of the taxpayers.**

Law 40/1998 required disposable income to be taxed, this being understood to be the income of the taxpayer minus the minimums, considered as the essential amount for subsisting. The existence of these minimums is justified in the Explanatory Statement in the Law, by the need to adapt the tax to the current model in surrounding countries and to improve the fiscal treatment of people with greater family loads.

Since its origin, the amount of the minimums has not been coherent with the fixing of other essential minimums established by the authorities, such as minimum and non-contributory pensions, for which reason if the lack of adaptation to the index of inflation suffered it is intended to include the initial imbalance in social reality, the previous

minimums are placed at a distance from the objective pursued. Since the introduction of the aforementioned concept, the amount to be reduced has been increased on a sole occasion which, as well as preventing the end foreseen in the norm, causes taxation to start on a non-existent economic capacity, since payment is made on wealth that is not really so.

For the income effectively taxed to be disposable income, as intended in the current legislation, a periodic adjustment of the amounts is necessary, in such a way that taxpayers do not see their economic capacity reduced solely and exclusively as a consequence of distancing from the provisions of the Income Tax on Wages at the economic moment at which it has to be applied, in the same way that the Legislator sees the need to increase minimum pensions on understanding that these do not reach the essential minimum. Because of all this, **the Secretary of State for the Treasury has been recommended to adopt the opportune measures for the increase in the amount of personal minimums and family minimums for descendants to adapt automatically every year to the increases in the consumer price index.**

The recommendation is assumed to have been accepted; however, as Law 2/2004, of 27th December, on General State Budgets for 2005 does not include the updating requested, it was agreed to request a new report.

Lateness in the payment of fair compensation and the interest on delay in compulsory expropriations

This Institution received the draft of the Law on Compulsory Expropriation with satisfaction and great expectation, on which he made some observations that are included in the report corresponding to 2002. These observations referred to the establishment of Expropriation Valuation Committees as non-permanent bodies; the lack of knowledge of citizens about their own rights and the procedure to follow when they are affected by a compulsory expropriation and not establishing a time for negotiating the interest on delay and the consequent payment of this. Even more so when, in some cases, the Ministry of Public Works and the Economy was refusing the payment of interest on delay, arguing the undertaking of these even when they had been requested by the interested parties.

The expectations aroused by knowledge of the draft of the Law on Compulsory Expropriation appears to have been frustrated, since no further news has been heard about it.

However, the Ombudsman is continuing to receive a large number of complaints with regard to this matter, among these a large percentage refers to the **lateness in payment of fair compensation and interest on delay, which causes great harm to those affected, of necessity deprived of their properties or rights, without receiving fair compensation at the time legally established.**

In some cases a delay of up to three hours could be seen in the payment of fair compensation. This is the case of a lady who stated that in 2001 Marbella Town Hall agreed a price for the property expropriated of 26,116,500 pesetas, the legal interest on the delay being approved on 5th February 2002 for a sum of 16,328.40 euros, without these amounts being paid. After various requests, the aforementioned Town Hall replied that two payments had been drawn pending completion in favour of the interested party for the amounts indicated, these actions having been contested before the Contentious Administrative Chamber of the High Court of Justice of Andalusia. It was stated that this delay in payment was due to a lack of liquidity of the Treasurer's office. The Town Hall wanted to pay the debt with a good property of an equivalent value to that expropriated, plus the interest, which had been accepted. The affected party stated that she did not agree with the property offered, stating that a lack of liquidity of the Municipal Treasurer's office was not preventing this from making other payments with a date later than hers. By reason of the new allegations made, the investigation is being re-opened.



The ombudsman recommended to the Secretary of State for the Treasury that the amount of the personal minimums and family minimums for descendants should be increased.

Informative restrictions of the Environmental Administration

Year by year the progress in the administrative activities regarding the procurement of suitable environment can be seen, but a standstill in certain fields of action through lack of interest or skill in activating controls and remedies is also true, which combine to give the erroneous idea of a licence or permit understood as “permits to contaminate”: lack of coordination between bodies and administrations; the absence of material means for replacing the environment harmed and the problem of insufficiency in the correct instrumentation of reports made by authorities and agents of the Administration.

It has often been stated that the public Administrations interpret the legal causes for refusing access to the environmental information in their hands extensively and erroneously. Concepts such as intellectual property, confidentiality of personal data or provisional or inconclusive documents or actions are frequently spun out more than is logical or established in the regulations to deny a right conceived in the widest manner.

Paradoxically, the content of the environmental information refused is, more often than not, innocuous in its form and at rock bottom in terms of the spread of public opinion, which is only explained by the rare habit of our administrations functioning in a participative and transparent manner.

With regard to the Evaluation of Impact, the absence of a regulatory framework for the so-called “strategic evaluation” must be emphasised, on the one hand, as the “suitable evaluation” referred to in the Habitat Directive (Directive 92/43/EEC) through lack of transposition to the classification of Directive 2001/42/EC and, on the other hand, the spurious use by the administrations of the duality of concepts “body with the substantial Competence/environmental body” for marking the boundaries of responsibility of all the administrations in an artificial manner in defence of the environment, unaware that “substantial” is also included in “environmental”.

Air pollution in Madrid

In the matter of atmospheric contamination, it has been emphasised in the Community of Madrid that it is essential to spread truthful information on exceeding the warning and alert levels through the concentration of ozone in the atmosphere.

These levels are intended to avoid, prevent or reduce the harmful effects of ozone on human health and the environment in general, which implies making citizens aware of a risk situation. This spread of information is not achieved by giving reference data on a

web site; it is necessary for it to be supplied – or provided to the public by the competent administrations – together with recommendations and precautions have to be adopted without the public accessing a web site by its own initiative.

Possibly the most efficient manner of reaching the affected population on a large scale and as fast as possible, is by sending it to the communications media with the widest scope, such as radio and television (public and private) in the same way, for example, as the temperature, pollen levels, water levels in the reservoirs or traffic density are broadcast, independently of this information being shown on a web site.

Preservation of a suitable environment

Once again this year we are highlighting the attention paid to the local and essential municipal phenomenon in the matter of preserving the environment suitably. The institution of classified activities is essentially a group of basic and common

environmental rules, in the sense of location and proximity in the detection and solution of problems. It is not possible to even give a summarised account of the variety of cases dealt with, for which reason it seemed more useful to give a selection of four problems detected and their treatment: a) the effects of a cautionary measure on third parties; b) a delay in the municipal reaction linked to the persistence of an incorrect understanding of the principles that govern the power of public administrative authorities to impose administrative sanctions or penalties; c) purely formal action with a guarantee of the rights of the offender forgetting that environmental functions do not end in documentary aspects, and d) the possibility of encouraging a corrective material action on contamination through mere manifestations by the interested party on the correction occurring.

With regard to the high voltage lines whose problems required preferential attention in reports in recent years, advances



Station for measuring environmental, acoustic and pollen contamination in a street in Madrid.

have been made by some autonomous communities by means of instruments for organisation and planning which, in accordance with statutes on autonomy and the Law on the Regulation of the Electricity Sector require: 1. That for the approval of town planning developments, networks should be underground, except where they pass through defined electricity corridors; 2. That pre-existing overhead lines should become underground or their route modified, always provided that this can be done via an electricity corridor; 3. That the land usable as corridors should be defined in the instruments for planning and that there should be no buildings in their area of influence nor may these be constructed in the future, and 4. That existing overhead lines that are not in corridors should be transferred to these or become underground by stages.

These advances reflect the criteria that have been maintained by the Ombudsman since approximately 1997. Complaints are decreasing in number and administrative treatment is becoming progressively better. The main difficulty lies in financing the work and its effective execution.

Town planning

The right to a decent dwelling, the rational use of natural resources, among which land is undoubtedly to be found, defence of the historic, town planning heritage, participation of the community in the capital gains created by public action, the need to regulate the use of the land in order to prevent land speculation, are principles included in the Constitution which, therefore, have to impregnate legislation on the land and building.

A simple approximation to the legal system shows that the authorities have been sensitive to these constitutional principles to such a point that it can be affirmed that legislation on the environment, town and country planning and the historic, artistic heritage today contain undoubted advances to the point that we find ourselves faced with a generation of provisions on town and country planning, in general terms, of which the laws on town and country planning in the Balearic Islands and the Community of the Canaries are evident examples, which use efficient instruments such as the Directives on Town and Country Planning, that considerably condition municipal town planning organisation.

One of the most outstanding peculiarities of this new legislation is the tendency to integrate the exercise of regulatory powers, town and country planning and urbanism in a different manner from previous efforts

characterised by the isolation of each of those matters and predominance of urban regulations over legislation on the environment and town and country planning. Thus, fortunately, it is increasingly frequent to find the concept of "sustained development" in an exposition of the reasons in the different laws, approached from the point of view that this concept is not contrary to economic development, but rather tries not to exhaust it so that future generations can continue to progress.

This Institution has been able to ascertain that two important branches exist linked to sustainability. In the first place, insistence on urban renovation processes or, in general, integral rehabilitation of spaces, whose interest lies precisely in getting better advantage from occupied or built-up areas, by means of re-modelling, before continuing to advance in new town planning processes, and in second place, that aimed at guaranteeing sustained development, is the so-called re-classification – and even de-classification – technique for the land through conceptual planning, whose main objective is aimed at preventing indiscriminate use of land appropriate for development.

Measures against land speculation

It has also been stated that public administrations competent in the matter of conceptual planning are slowly becoming aware that it is necessary to introduce environmental protection measures in these instruments. Even less ambitious plans in this sense are introducing measures of a certain environmental importance, such as **limitations related to building customs** in general, measures more proper to town planning that are concerned with the prohibition of certain uses and the use of the land as a natural resource, and those that tend to **guarantee adaptation of construction work to the natural surroundings**.

However, in spite of this progressive integration of regulations, it is necessary to emphasise that a certain resistance has been shown by landowners regarding the introduction of these measures for the conservation of nature or other **limitations on uses and development of the land** in the general plans, when these directly affect them, limiting any possibilities of town planning development of their land. Nevertheless, it is fair to say that, in the opposite sense, citizens also make claims when they deem that the plans authorise town planning actions that they consider aggressive to the environment, or they alter or destroy natural spaces, or that without being such aggressive actions, predict town planning

developments in natural spaces of doubtful value and interest.

The execution of town planning continues to be characterised by being too slow due to the excessive complexity of the administrative process to which they are subject. Traditional action systems have often reiterated problems that, as they are known, require systematisation and simplification formulae to avoid delays in their application. There are countless occasions in which this Institution has underlined the importance **assumed by the local administrations in taking on the leading role in town planning management**, these administrations invoking **lack of technical and legal means in municipal services** to justify their inactivity in this aspect.

Thus, that which has been expressed in previous years about the deficiencies warned about in the application of systems for the execution of historic town planning must be ratified, with special emphasis on the compensation system, inasmuch as this constitutes the most frequent method of execution for plan development and, once more, it is necessary to insist on the need for more efficient intervention by the public administrations, for the effects of making many of the internal steps of the Compensation Committee itself easier and guaranteeing the true collaboration intended with the application of this system.

The assumption of municipal prominence in town planning management proposed also reaches public execution systems, particularly that of cooperation, which is sporadically applied in practice and when it is, in many cases, this is only to avoid the problems produced by the compensation system.

Even when understanding the lack of means that affects a large number of Spanish municipalities, one cannot cease to affirm that it would be of great use if those responsible in the municipalities were to take on this system of acting in a professional manner with their own teams or with specific technical assistance, in order to resolve many conflictive actions, above all those intended to complete the development of semi-consolidated land, which is being delayed in time in an unjustified manner, depriving the owners of dwellings of basic services and infrastructures.

But, undoubtedly, the progressive increase in the number of complaints made by both Spanish, and increasingly foreign, citizens in the Community of Valencia has to be emphasised yet again this year, in which they state their discontent and concern regarding the effects that the current town planning model in this community is having on its properties and, in particular, **with the figure of the development agent**.



Montecarmelo Estate for Planning and Development in Madrid, where there are still many dwellings to be built, in spite of the fact that others have already been handed over, with people living there without even the elementary services, just as in other Programmes for Urban Action.

The public is unable to comprehend that a Town Hall can award the management of land development, without their consent, to a developer who, without being the owner of the land, can present a programme of the development work to be carried out. They also report that the promoter, as a general rule, gives insufficient value on the price of the land and the existing buildings so that, if the owner opts for payment in land, as this has little value, he is obliged to cede a good proportion of this or, if he does not have sufficient land or money to pay the development quotas, even recur to expropriation, normally with a corresponding indemnity that is far behind market values. Because of this, it is necessary for the public administrations to maximise control over the valuations made by the developers with the object of these showing the real value that the market gives to this type of land and the buildings existing on it with the greatest exactitude possible.

Claims are also frequent in which the owners affected by a development action report the lack of defence they have against what they call the abuse of the Town hall and the development agent which is caused by two reasons: in the first place, the absence of information and time to form a group interested in the development and agree on conditions of equality with the developer on the award of the programme of integrated action and, in second place, the irresponsible relaxation of municipal control during the entire procedure. It would, therefore, seem convenient to strengthen the guarantees of the owners in these cases and to modify some of the pro-

cedural aspects for the effect of improving the practical application of the model and its adaptation to social demands, such as those related to the re-organisation of the time periods established for the competition to present alternatives.

Finally, once again, complaints regarding the methods of publicising and notifying the opening of **proceedings for public examination** established in Valencian law - and also in that of Castile-La Mancha - for integrated action programmes. In precise terms, no formal, individual notification to the owners affected is required, only notice previous to the publication of the edict, sent to the address for tax purposes of those who appear in the property register as owners affected by the action proposed.

Therefore it is not a notification, but a mere communication that does not require its receipt to be recorded by the owner affected, it is sufficient for the sending of the notice to be faithfully recorded. Furthermore, this communication is sent to the address for tax purposes of those who appear in the property register as the rightful owners, without taking any **lack of understanding of the cadastral census with legal reality and the property register** into account.

As is now becoming the custom in different parliamentary reports of this Institution, once more it must be repeated that in order to alleviate the inconveniences described by the citizens as far as possible, both in the Community of Valencia and in that of Castile-La Mancha, it would appear to be convenient in their complaints to establish measures to reinforce transparency and

publicity to the maximum in decision taking processes relating to the award of development actions and require the administrations acting to guarantee that citizen participation in the development process shall be satisfactory, ensuring their rights to information and initiative.

Finally, neither is the system for the transfer of developed land a matter devoid of controversy, as the majority if the landowners demonstrate absolute rejection to those, in their opinion, exaggerated transfers that in many cases are imposed on them by conceptual planning, an obligation that, on the majority of occasions, leads to a drastic reduction of the total surface areas of their estates, even depriving them of their right to build - as the plot does not have the minimum amount of building land - and they are forced to accept either compensations in cash or a *pro indiviso* award together with other owners.

It is necessary to clarify that the majority of these people accept the obligation to transfer the lands to be used as inherent elements in the development (roads, squares, public parks, etc.) without further ado, but not those others that are intended for public installations with a general vocation that serve not only the action unit in which they are included but also the entire community, or, of course - and these transfers are those which give the most conflict - land in which lucrative development is located established in favour of the town halls.

To this conflict must be added increasingly frequent reports through the uncontrolled application without any uniform criterion of the system of development agreements, sometimes used in an abusive manner by the town halls to require greater transfers by the developers of those legally established, with arbitrary criteria that carry with them inadmissible comparative damages.

Problems of the lack of a home

The concern of Spaniards about having a home has taken third place after unemployment and terrorism according to the latest barometer of the Scientific Research Centre (CIS), referring to the month of October 2004.

It is quite probable that this growing concern of Spanish citizens has its justification in the demonstrable increase in the effort that has to be made to find a home, both in the system of buying and selling and in the rental system, in the latter case because only 15% of the free property existing is intended for rental and the rents asked for these, on occasions, vastly exceed the amounts that can be paid. For these effects,

the datum that affirms that a latent or potential demand for rental exists that affects approximately a million people has to be born in mind, which cannot be attended to by the market because they cannot pay more than 450 or 500 euros per month.

Restrictions on the promotion of renting

If, as has been suggested, there are more than a million people in this country who are currently unable to find a home at a rent that is within the scope of their possibilities, it is logical to consider that a percentage of this number is made up of older people.

Too many restrictions have been placed on access to subsidies for leaseholders under thirty-five years of age since the family unit (or people who are occupying the dwelling permanently independently of the family relationship) is required to give proof of income not exceeding 15,792 euros, without taking into consideration whether the dwelling is suitable to the family composition or not, and those who are forced to share a dwelling in an overcrowded situation are punished by its loss through their low income level. No regulation has been made on the right of the leaseholder to receive a subsidy again, if in a short space of time he/she recovers the conditions required for its recognition, which appears to be fair if situations of lack of security at work are considered.

Furthermore, disproportion can be seen between the maximum amount of the subsidy considered for those who decide to make their dwellings free for rent and the commitments that the subsidised person has to make with the authorities as the subsidy cannot exceed six thousand euros, he/she is obligated to rent his/her dwelling for a minimum period of five years, receiving a rent equal to that permitted to those who have qualified financing for the promotion and rehabilitation of homes, or for the acquisition of existing homes, without having considered that these persons in exchange for the commitment of letting their home for rent that is taken on by the Administration, receive the grants and subsidies stated in Royal decree 1/2002 and in the modification made on this point by Royal Decree 1521/2004.

Through all this, it is understood that this measure will not be very efficient for encouraging those who possess free dwellings and enjoy the ability to agree its rental to decide this is for them.

The increase in citizen complaints against **deficient building in protected housing** has to be reported, having



Complaints about the rise in prices of housing, lack of flats to rent, empty houses and defects in constructions increase every year. The photo shows VPO housing.

demonstrated in the course of the investigations carried out that it is habitual for the authorities to take the attitude, in the best of the cases, of a mere declaration of intent or a promise to act while overruling any reports presented.

Even greater repulsion can be attributed towards the action of the authorities when dealing with the subject of the execution of minor importance of that invested, when the execution of the repair work necessary for adapting the building to the building rules applicable has not been attended to by the company.

Emphasis should also be placed on the important increase in complaints registered by those who have bought a free dwelling in view of the serious difficulties when they try **to repair the construction defects** when they are handed over to them.

Given the seriousness of the situations that are occurring in this area, it is necessary to draw up a royal decree that will make it possible to require the contracting insurances for material damages through infringements or defects in construction that affect the completion elements or finishes, and those caused by infringements or defects in the building elements or installations that lead to non-compliance with the habitability requirements demanded in article 3.1 of the same Law 38/1999, on Building Management.

Finally, it has to be said that a check has been made on the failure of the Community of Madrid to comply with the objectives laid down by Law 8/1993, of 22nd June, on the Endorsing of Accessibility and Withdrawal of **Architectonic Barriers** since, after ordering their regulatory development in a maximum period of one year from coming into force in August 1993, a recommendation had to be drawn up for compliance with this provision.

Illegal works on Spanish coasts

The Spanish coast continued to be plagued with illegal works that have been definitively suspended and on which a restitution order has even been placed, which is also of an irreversible nature. But the fact is that the works continue where they are, in a good state and in use or in ruins that, in part, is due to a defective concept by the Administration of the organic attributes derived from the allotting of competence on the coast. We also find difficulties in the installation and operating of the **coastline drainage** system, that is to say, the dumping and treatment of waste.

There are many complaints in chapter 1 on continental water regarding irregular dumping – direct or indirect – in public river beds, either because they do not have the mandatory permit from the river basin organisation, or because they have exceeded the qualitative or quantitative limits fixed or do not comply with their conditions. In this respect, problems still persist from previous years: the Hydrographical Confederation has difficulty in detecting, preventing and avoiding dumping, conforming the majority of times with drawing up resolutions or requirements for the offenders.

Furthermore, investigations carried out show that on too many occasions the Hydrographical Confederations forget many of their duties in the matter of **inspection and control of dumping** partly because through the scarcity of river guards, whose work ranges from reviewing the dumping conditions to the possibility of revoking the permits and declaring the expiry of the concessions granted, passing through the adoption of temporary, cautionary measures, such as the precautionary and temporary suspension of the activities that cause the dumping (and even final in particular serious cases) or the direct intervention of the treatment installations, without prejudice to a possible demand for civil, criminal and administrative responsibilities from those causing the problem.

Neither does the imposition of fines always dissuade the offender from performing unauthorised dumping on public domain (in spite of their amount having been increased). On too many occasions, unauthorised dumping persists in time, even for years, while the Hydrographical Confederation imposes fines on repeated offences, without achieving anything else than a certain improvement in the dumping, but not complying with their permit conditions.

Satisfaction of users and patients diminishes with regard to the public health system

The satisfaction of users and patients with regard to the public health system is progressively worsening and it is necessary to face up to old problems and new challenges efficiently, among these that relating to inequalities due to gender, social class or, even, the nature of the illness. These conclusions are derived from the opinion of citizens given to the Ombudsman, through complaints that are basically about three nuclear aspects: information, participation and organisation.

Complaints of citizens with regard to health, received throughout 2004, are centred on the inadequacy of the structure of assistance in the National Health System, on occasions preventing attention being provided for citizens that are included within the provisions to be financed by this system; the persistence of problems in attending old, disabled or chronically ill people; insufficient assistance suffered by patients affected by rare or infrequent illnesses; poor knowledge on the recognition of errors in clinical practices; delays in the provision of health assistance; territorial imbalances with regard to resources and service portfolios; the overwhelming weight on Spanish families who have mentally ill or dependent persons; together with the insufficient participation of patient associations in taking decisions directly affecting them and complexity and bureaucracy in some assistance areas.

Although health is financed by means of taxes, globalisation of assistance constitutes one of the principles that preside over and characterise national health systems, and in Spain it is frequently stated that the health assistance system is universal, the truth is that, at present, the cover percentage is 99.1% of the population, which means approximately **389,000 citizens are without the right to health assistance** and these, therefore, have to finance assistance when going to centres and services in this system.

The rights of the patients

On the other hand, although it is true that the coming into force, in May 2003, of Law 41/2002, of 14th November, on the Basic Regulations on the Autonomy of Patients and on Rights and Obligations regarding Clinical Information and Documentation Issues, was in response to the growing importance of and concern regarding the rights of patients in our society, the aforementioned law does not, however, seem to resolve, at least in a sufficiently clear manner, such relevant aspects as those relating to the elimination of the subjective notes made by professionals seen in medical files; to determination of the criteria that will prevail over the maturity of a person under sixteen years of age, and the procedure and time periods for making right of access to medical files effective.

In this respect and with regard to specific complaints on documentation issues, it should be indicated that those referring to **access to**

medical files by the patients themselves or their heirs, ancestors or descendants of deceased persons, or those that affect the loss or misplacement of medical files persist, with the subsequent affect on the treatment and clinical follow-up of patients.

With regard to complaints on **clinical information**, those related to the presence of parents in the case of minors staying in hospitals, malfunctions in the handling of claims regarding health assistance and the assigning of professional staff in health centres should be included.

Insufficient attention for the mentally ill

Special reference must also be made to the mentally ill taken into health centres. On this, there have been many complaints made in the past few years to the Ombudsman. This problem gave rise to the Ombudsman, at the time, making it known to the Ministry of Justice that, in health or social internment centres, an absence of any regulation to sufficiently guarantee the basic rights of users and the possible restrictions of these, necessary for protecting their lives, health and physical integrity, was stated. Given that this regulation has not been established, it is therefore necessary to complete some questions regarding the situation of these patients, highlighting the system guaranteeing their basic rights due because of its relevance.

Mental health continues to be one of the great challenges pending in the Spanish health system. This is indicated by the high volume of complaints that are still received by the Ombudsman regarding mental health, that have an influence on the fact of there not being any rehabilitation structures with defined action programmes or these being insufficient; on the need to encourage effective coordination of the different networks and services, and on the situation of families of the mentally sick, on which a large part of



Inequalities in health assistance provided by the different health services persist, most of all in external consultancies and diagnosis tests. In the photo, the Ministry of Health and Consumption, responsible for the coordination of the health services in the autonomous communities.



The management and operating of hospitals are the causes for the decreasing satisfaction of users and patients with regard to the sanitary system as a whole. In the photo, the Hospital 12 de Octubre in Madrid, near to which work on the new building to substitute this has commenced.

the load of providing assistance for these sick people falls.

The organisation of assistance constitutes one of the chapters in which the complaints made by citizens to the Ombudsman with regard to health matters has particular impact. Many of these citizens refer to issues such as the scope of this assistance and have been awaiting a pronouncement – for years in some cases – by the Inter-territorial Council of the National Health System, such as, among others, that relating to the preparation of a report on fibromyalgia; sex reaffirmation surgery; attention to people affected by rare illnesses, among these epidermolytic bullosis; assistance for patients suffering from achondroplasia, and determination of the bases for social and health attention.

Management and functioning of hospitals

The structure, organisation and functioning of hospitals caused a great number of complaints that were not easy to systematise, taking into account the disparity of the issues reflected in these.

From accessibility to centres and services to the existence of **territorial imbalances**; the quality of the assistance processes and results; the situation in emergency departments in public hospitals in the Community of Madrid, an area in which the Ombudsman had started an

official investigation, proposing that measures should be taken to promote quality attention in these areas, and problems of the organisation and functioning of hospitals.

Ever-increasing public awareness of the rights recognised by the Constitution and the law, in the past few years, caused claims against health professionals and the public health service to have experienced a notable increase.

Particular consideration should be paid to complaints received with regard to chronically sick patients or those who are in a very advanced stage of an illness and, therefore, cannot be treated at home or cannot find alternative residential assistance to which they can be admitted. This proves a need for configuring sufficient social and health resources to attend to these ill people thus removing some of the excessive pressure that care of these means to their families.

Inactivity of the National Health System Inter-territorial Council

This Institution was directed in its time to the Ministry of Health and Consumption to request information regarding **social and health assistance**, and also with regard to the Plan for Attention for Alzheimer Patients, which was presented in its day to the National Health System Inter-territorial Council, although it remains inactive.

The **priority of Spanish families is development of attention for dependant people**. 68% of those interviewed by the Sociological Investigation Centre consider that aid for people who cannot fend for themselves should be the priority measure of the Government for families. Also, those interviewed (94.3%) consider that social services should cover the need for attention for the elderly.

The requests made to the Ombudsman insist on lack of support for the elderly who remain in their homes. Family difficulties in attending to elderly people twenty four hours a day, who progressively lose their physical and, sometimes,

mental faculties, make it necessary for help to be requested from the social services. However, there are difficulties in obtaining this aid.

Lack of places in public old people's homes

Without prejudice to the above, applications for places in old people's homes continue to be the ones leading to the greatest number of complaints to the Ombudsman. In this area, as in previous years, it must be stated that the continuous increase in places offered by the public administrations does not manage to cover the progressive needs of the elderly and their families.

Another aspect that would deserve attention in a future regulation on dependency refers to applications for **transfers to old people's homes in different autonomous communities**, from that in which the old person had his/her home.

The Ombudsman must insist on the need to remove obstacles concerning the moving of the elderly. Therefore, actions have re-started with the Ministry of Work and Social Affairs, in order to study possible formulae for setting up systems enabling users to be moved between different autonomous communities, without this meaning any loss in competence of any of them.



The lack of places in public old people's homes. In the photo, the Doctor González Bueno old people's home in Madrid.

Unprotected minors

Complaints were received during the year that this reports refers to in which, in some cases, parents themselves and, in others, relatives or social workers reported the inactivity of the Administration with regard to the situation of unprotected minors.

The speeding up of actions referring to underage minors must be a priority for competent public administrations, more so taking into account the importance that the passage of time has for children and the possibility of changes that can occur in family relations.

In another direction, delays in the issue of the certificate regarding suitability for adopting a foreign minor have continued to be a cause for complaint.

Tax deductions for assistance to elderly people

The report on last year stated approval of Law 40/2003, of 18th November, on the Protection of Large Families. However, lack of regulatory development in this provision has forced a considerable number of interested people to approach the Ombudsman.

Citizens state that they cannot apply for the benefits considered in article 9 of the aforementioned law, on a 45% bonus on the Social Security quotas by the employer, in the case of contracting a carer in the home of a large family, as it is not applicable until the conditions of the aforementioned bonus have been established in a legal or regulatory manner.

In this respect, the Ministry of Work and Social Affairs has stated that the greater part of the protective action of the law requires later regulatory development that constitutes a complex task since different ministerial departments are involved.

Other complaints have been received in which those making them considered the issue of receiving a pension for total permanent incapacity being incompatible with doing work that is different from that which leads to the disability.

On this issue, it should be emphasised that **there is a possibility of remuneration for total permanent incapacity compatible with remunerated activities**, by means of a decision of the Chamber for Social and Labour Matters of the High Court, on 15th October 2004, when the profession is different from that for which the disability was declared, for which reason this criterion should be taken into account in new interventions on this issue.

Widow's pensions

The report corresponding to 2003 made reference to a study carried out by the Institution on problems regarding widows' pensions in the Social Security System, taking into account the complaints received. As a conclusion to this, a series of proposals on possible modifications of the rules regulating this provision were given.

Some of these proposals have already been put into practice. However, there are still other important proposals to be

developed, among which could be the establishment of a temporary subsidy for widows in charge of children, lack of resources, or the **protection of the so called "de facto unions"**, for which reason it would be considered to be appropriate to regulate the issues considered.

Another important problem highlighted by citizens made reference to the different interpretation of the calculation of income from minimum or basic salaries, recognised by autonomous communities, up until the date on which beneficiaries reach sixty-five years of age since, from this date onwards, they may receive a **retirement pension in non-contributory mode**. In this respect, certain autonomous communities do not include the aforementioned incomes, as they consider it to be a provision through need. On the contrary, others consider these to be incomes that should be included in order to award non-contributory pensions.

Taking into account the significance of the matter for a considerable number of citizens who are in situations of serious economic precariousness, the Ombudsman considers it appropriate to once again insist on the need to revise the criteria for the management of non-contributory pensions.

According to the criterion of the Ombudsman, the amounts received as minimum income for entry should not be included when it is equal to or less than that of the non-contributory pension, since the cancellation of this is precisely conditioned by reaching the age of sixty-five.

Long waiting lists in outside surgeries and diagnosis tests

In the monographic study prepared by the Ombudsman on waiting lists in the public health system, recommendations sent to administrations involved in the management of health assistance were detailed. These recommendations had five dimensions: information systems, management of waiting lists, clinical indication and priority criteria, maximum waiting times and information for the population.

Even when almost all the health services in the autonomous communities have regulated maximum time periods for access to services and systems designed that allow information to be available with regard to patient registers and the calculation, classification and

measurement of waiting periods, it is necessary to indicate, on the one hand, that, although the plans designed by the health administrations have an effect, in some cases, there are still long waits in the health services and, on the other hand, the majority of these services have prepared corporate plans in which a reduction in surgical delays plays a main role, as opposed to the scarce interest shown, in general terms, by external surgery and diagnostic test areas.

From the contents of these complaints it is inferred that, in general terms, times for surgical procedures have been reduced, although an analysis of the web sites on waiting periods published by some health services shows the exist-

tence, in 2004, of delays of over one year in surgical procedures, in some cases, together with long waiting periods for external surgery and diagnostic techniques and tests on some occasions.

Last year's report qualified the **abnormal operating of health transport in the Community of Madrid** as worrying. Although the Health and Consumption Council of this community has informed on the adoption of a wide range of measures for the standardisation of health assistance transport in Madrid, there are still marked inadequacies in this important means of attention, with significant delays having been registered – up to seven hours in some cases – in the transport of patients to hospitals.

The Ombudsman requests that the almost “prison-like” model of internment centres for foreigners should be changed

The Ombudsman values negotiation with social agents very positively, which has led to a widespread consensus with which the Regulations of the Law on Aliens have been approved. However, it should be indicated that the text finally approved does not totally include the postulates maintained by this Institution, although the Secretary of State has guaranteed that many of these postulates will be included in development norms or, even, in legislative modifications that will have to be introduced to adapt the regulation of this issue to the European Union Directives.

Together with the preparation work for the aforementioned Regulation of the Law, the Administration was informed on what the guidelines should be, in different meetings with those responsible for policies on migration. The Ombudsman believes the structural modification that has encouraged immigration affairs, with the exception of asylum, to cease to be the competence of the Home Office in order to be that of the Ministry of Work and Social Affairs is correct. It is understood that this modification follows the correct principle and allows questions related to aliens and immigration to be viewed from a wider and more integrating perspective.

Recommendations for the Regulations on the Law on Aliens

From among the lines proposed by the Ombudsman for inclusion in the aforementioned Regulations, the convenience of the new regulations including the possibility of authorising residence to foreigners who have had a residence permit and have been unable to renew this, remaining in Spain in an irregular situation for two years and even reducing this period of stay, should be highlighted, for example, with regard to residence permits based on roots in the country in the strictest sense. This suggestion has been accepted although only exclusively linked to roots regarding work.

The consolidation of the concept of roots regarding work, developed by the new regulations as a means of access to work and a residence permit from irregular situations is positive.

With regard to humanitarian reasons, the Institution pleaded for the new regulation to refer expressly to the possibility of awarding temporary residence to people who, as a result of their health or having a serious illness, were receiving or needed to receive medical treatment in Spain, as long as a lack of this could cause

a substantial deterioration in their health and when this treatment could not be given in their country of origin or residence.

The proposal of the Ombudsman with regard to the need for considering a case that foresees the possibility of granting authorisation for residence of a temporary nature to those foreigners collaborating with the Administration or the Law, in the persecution of any kind of crime, was accepted.

Inspection of offices belonging to foreigners

A follow-up has been carried out of the situation of offices belonging to foreigners which has the greatest volume of files. Specifically, the investigation was on the situation in the Community of Madrid and offices belonging to foreigners in Alicante, Almeria, Barcelona, Cantabria, Huelva, Malaga, Valencia and Vizcaya.

In general, it can be stated that considerable effort was made in 2004 to make the situation in these offices normal, although the delay in the situation has still not been overcome.

The situation in internment centres for foreigners

The terrible situation of those who lose their lives attempting to reach the Spanish coast in precarious boats has been followed with great concern, and information has been requested from the Home Office on procedures that can be followed to identify the dead and deliver the corpses to their families.

Likewise, the situation was investigated of the Centre for Temporary Residence of Immigrants (CETI) in Ceuta which, in spite of having increased its capacity, is insufficient for housing the foreigners who have reached this autonomous city and require housing, even causing an

outbreak of scabies among these people which was controlled in collaboration with the Council for Health and Social Well-being of the city.

A visit was also made to the Centre for Temporary Residence of Immigrants (CETI) in Melilla, whose capacity has also been increased by a hundred places by using tents. The saturation of the centre is a cyclical phenomenon, for which reason providing it with the means to cope with these fluctuations with less provisional and more complete installations is unavoidable.

In the course of 2004, the Government Office in Melilla started to document residents in the CETI who have been resident for over two years for humanitarian reasons. This initiative is worth a positive valuation, although it would be convenient if this documentation were not only dependent on the time spent there but also on other factors, such as the attitude in the centre, family links in Spain and making use of the training courses.

Special attention should be paid to the situation of persons, generally with a Sub-Saharan origin, who after reaching Spanish territory through a non-entitled position



The Centre for Internment of Foreigners of Fuente de la Purisima in Melilla has had to be enlarged with tents, as can be seen in the photo of Diario Sur.

find themselves with an order for expulsion that cannot be executed as their nationality is not known or their country of origin will not accept their return, for which reason they remain in Spain without any chance of regularising their situation, doomed to exploitation at work and marginalisation. The will of the Administration is to achieve agreements to be signed with the countries of origin for readmission. As long as these agreements are signed it does not seem logical or consistent for these people to remain in Spain without the options of surviving with dignity. Therefore, this Institution considers it necessary to allow them access to certain work environments, in this case providing a contribution fund that could be redirected to any of the Social Security systems in the case of the situation of the beneficiaries being regulated.

With regard to internment centres for foreigners, the need for the Administration to take on a new concept and design of the centres should be reiterated, far from the prison-like model in existence at present, in which safety elements will have preference over any other consideration.

Within the framework for protection of foreigners in an irregular situation who are victims of violent crimes, the Directorate General of Police has been recommended not to proceed with a file for the expulsion of these people when they go to the Police Station to report crimes, due to the higher public interest in pursuing the illicit crime than the administrative infringement. This recommendation was not accepted, despite the fact that as a result of another investigation relating to police treatment of foreign women in an irregular situation who were victims of violence in the family environment, the Directorate General of the Police itself coincided with the criteria maintained by this Institution of a general nature for any kind of violent crime.

Repatriation of foreign minors

Regarding the issue of protection of foreign minors in a situation of abandonment, the automatic nature with which, in many cases, the Administrations understand that minors must be repatriated to their countries of origin should be denounced one year more.

In the Autonomous Community of Madrid it has been observed that residence permits for foreign minors with guardians are requested nine months from the start of the guardianship, even though

this is the period set in the Regulations for granting the permit, which of necessity seems to require the request to be made before this period has elapsed. The issue has its importance when a foreigner who has a guardian reaches legal age in the controversial dates, leading to the end of the guardianship and to non-application for a residence permit on the part of the guardian, together with the file for the document started at the time for award of this permit.

In another action, the practices of the Melilla Protection Organisation have been condemned. This body has on occasions requested a residence permit for certain minors from the Government Office scarcely a month before the date on which they reached legal age, even when it was in a position to make out this application much earlier. Once the legal age has been reached and the application for this purpose has been filed, the Government Office maintained a rigid criterion by denying that the fact of having been cared for by the competent bodies in the Spanish Administration in the situation described can be considered an exceptional circumstance that allows a residence permit to be obtained.

The Administration of the Autonomous City of Melilla was also sent the conclusions obtained from the visit to the Fuerte de la Purísima centre for minors. The need for the preparation of protocols for action to rationalise different aspects of life in the centre (educational, hygienic-sanitary, etc.) were indicated. The need to close part of the installations, which in the view of the Institution do not comply with the appropriate habitability conditions, was also indicated, together with the need to solve certain geo-technical problems that have rendered some recently built modules unusable.

In another direction, the State Public Prosecution Service stated that it left Instruction 3/2003, on the return of foreign minors, without effect accepting the postulates of the Ombudsman in all their terms. It ended thus, with the practice reported by this Institution, which consisted of considering foreigners over sixteen years of age emancipated and, therefore, comparable with a person of legal age for the effects of the Law on Aliens.

The assistance of lawyers

A recommendation has also been directed to the Secretary of State on Immigration and Emigration on the convenience of notifications of enactment of sanctioning

files on foreigners that may involve expulsion from Spain being made personally, not by means of registered mail, as the Government sub-delegation of Cuenca did in a large number of cases in which it had previously refused an application for a residence permit based on roots. Unfortunately, this recommendation was not accepted, in spite of the fact that personal notification is a substantial guarantee for the interested parties to know about the file and for assistance by lawyers to be provided under efficient terms, particularly in those files followed by the so-called preferential procedure.

This Institution recommended government authority to put interned foreigners in liberty immediately by virtue of a legal authorisation as soon as there is evidence that expulsion will not be carried out, without waiting for legal authorisation to be set free. A response has still not been received from the Administration, although this recommendation was not included in the Regulations on Aliens.

Deficiencies in the consulates

With regard to assistance from consulates, of a general nature, deficiencies have been observed in information on web sites of an important number of consulates regarding the requirements necessary for obtaining a residence permit, in telephone attention services, together with delays in the handling of files in consulates of countries with a higher index of immigrants. Delays in the legalisation service in the Spanish Consulate in Quito (Ecuador), a delay of several months in appointments for making applications for visas for staying in the country in the Spanish Consulate in Bogota (Colombia), deficient telephone attention in the handling of visas in the Consulate in Kiev (Ukraine) and a similar situation in the



In the majority of consulates where visas are issued for immigrants who wish to travel to our country there are delays, like in the one in the photo, corresponding to the Consulate of Spain in Havana.

Consulate of Havana (Cuba) could be mentioned as particularly relevant problems.

In the Spanish Consulate in Bogota, excess zeal in avoiding the intervention of intermediaries with lucrative purposes in the request for visas in favour of minors lead to the practice of demanding that representation for this type of request was necessarily conferred on a direct relative. The Administration was informed that, even if establishment of protection and control means are positive, this practice has no legal protection. The Directorate General for Consulate Affairs and Assistance assumed the criterion of this Institution.

It was also noticed that in many consulates the practice still persists of omitting, in resolutions refusing visas for staying in the country, the possibility of appealing for these as replacement in spite of being a legal obligation. On this issue, the Administration dictated an instruction in 2001, following a recommendation of the Ombudsman, an instruction of which the consulates were reminded that they did not comply with this year on the request of this Institution.

Special mention should be made of the visit made to the Spanish Consulate in Nador (Morocco), confirming the structural deficiencies of the building in which this consulate is located, understaffing and various malfunctions in the appointment system, some of which have already been resolved.

As a corollary to the above, **the Ombudsman considers that integral**

reform of the external service should be demanded, placing the emphasis on the need for our consular system to perform a leap in quality to allow attention to users to improve substantially. This reform must take into account the practically exponential growth of needs with regard to visas that the Spanish consulates have suffered in the past ten years.

In the chapter on the right to **family re-grouping**, the need to set common parameters for determining the economic requirements necessary for family re-grouping has become obvious to the Administration.

A recommendation has also been directed to the Secretary of State of Immigration and Emigration in order to carry out the legal or regulatory modifications necessary for **putting de facto couples at the same level in terms of family re-grouping**.

Contingencies

During the past years it has been a general practice to refuse an application for general work and residence permits in attention to the national situation of employment, in spite of the fact that, in many cases, the employment services did not seem to have managed the offer appropriately or certified that there were not enough workers available to attend to it.

In cases arriving at this Institution, the Ombudsman stated his non-conformity with the resolutions adopted, without the criterion of this Institution being accepted.

Double nationality

This criterion was accepted with regard to the validity of the Double Nationality Agreement signed with Chile, in accordance with which **Chilean citizens can work in Spain in equal conditions with Spaniards**, leaving two resolutions that refused work permits to two Chilean citizens as a result of the national situation of employment without effect.

It is also doubtful that the article in the Peace and Friendship Treaty signed with Uruguay in 1870 has lost its validity, according to which **Uruguayan citizens can access the Spanish labour market in equal conditions with Spaniards**, a criterion maintained by the Administration the revision of which was requested by this Institution and which, in principle, was not accepted.

The last reform of the Law on Aliens demanded the personal presentation of applications for work and residence permits and consequently expressly established an irregular stay in Spain as a cause for these applications not to be processed.

This requirement for personal application does not refer to any other applications than those indicated. However, the Administration is demanding this for the presentation of other applications, such as the assignment of an identification number (NIE) to a foreigner. This interpretation has no legal cover as the Administration has been informed. This, however, maintains this practice.

The lack of admission for handling applications for the work and residence permits presented in favour of persons in an irregular situation took the Government Office for Aliens and Immigration to the point of dictating an instruction for the postal services to refuse to send these applications by administrative mail. This Institution stated the illegality of this measure in two recommendations directed to the Sociedad Estatal Correos y Telégrafos and the State Secretariat of Immigration and Emigration. The first of these bodies has already stated its full acceptance of the recommendation.

With reference to the community system, in 2004 the High Court dictated a decision by which it declared the requirement, included in Regulation 178/2003, of 14th February, for accrediting living together in Spain for at least one year in order to **obtain a residence permit for the spouse of a community citizen**, to be invalid. With the delay appreciated in the publication of the decision, this Institution performed actions leading to its immediate publication in order to guarantee the exercise of rights of those affected.



In spite of successive standardisation or regularisation processes for illegal immigrants and of the collaboration of Spanish and Moroccan police to prevent this, the arrival of boats on Spanish coasts does not stop. The photo of EFE captures the moment at which a boat arrives at a beach in Almeria.

Assistance by lawyers to stowaways

With regard to asylum, compliance with the Instruction of 9th April 2002, of the Government Office for Aliens and Immigration, on the treatment of stowaways, was examined. In essence, this Instruction states that assistance by lawyers to stowaways only takes place when the latter state their wish to enter Spanish territory or to request asylum, the assistance of lawyers not being, therefore, necessary in the first interview held by Spanish authorities with the stowaway in order to know his/her general situation on the ship.

Rigid interpretation of the Instruction has also been noted. As an example, it can be indicated that, in some cases, it was considered that the Instruction was not applicable when the ship was anchored outside the dock in a port, for which reason access of policemen to the ship to know the state and wishes of the stowaway was not mandatory. In no case was a request for asylum processed due to a statement of persecution, this only happened when the stowaway expressed a wish to request asylum in precise terms. Likewise, access of the lawyer to the ship has frequently been prevented when called by the captain or the consignee.

After an examination of compliance with this Instruction, a recommendation was directed to the Secretary of State for Immigration and Emigration for its modification, allowing access to the official lawyer on duty, from the first interview and, in any case, for the defence by a lawyer not to be prevented by any other means.

Asylum

With regard to the situation of those requesting asylum, while their request is being resolved, a programme of visits to refugee centres has commenced. In 2004 the centres in Alcobendas (Madrid) and Mislata (Valencia) were visited.

Also, this Institution estimated that, **after the period of six months from the time a request for asylum was admitted for processing without this being resolved, it became necessary to authorise the person requesting asylum to work in a general and automatic manner. This criterion was finally included in the new Regulations on Aliens.**

With regard to racism and xenophobia, the 2004 report contains a series of reflections, in line with recommendation number 8 in the general policy of the ECRI, for combating racism in the fight against terrorism.

Deficient assistance for Spaniards abroad

Assistance to Spaniards with permanent residence or temporarily abroad constitutes one of the objectives that have priority for this Institution. Generally, the geographical dispersion of interested parties and distancing from Spanish reality caused in many cases, makes it difficult for this sector of citizens to know about the Ombudsman, his competences and means of protection. For this reason, it is intended to improve the means of communication with these citizens.

One of the most significant lacks that has been detected in the Foreign Service is attention to the public, which is particularly worrying since bodies representing Spain abroad are the main contact with citizens living outside our frontiers and must also constitute a source of effective protection. The Institution appreciates the need to include important modifications in procedures for action of these services, improving the quality of the attention given.

Along the same lines, the Ombudsman has reminded the Administration on the urgent need to undertake a Training Plan for its personnel abroad, emphasizing attention to users, together with improvement of the consular emergency system to enable communication with citizens to be achieved through the greatest number of means possible at critical moments.

The forming of a Committee for integral reform of the Foreign Service has been valued positively, although the Institution considers that some participation by bodies representing users should be provided in same to make their voices heard with regard to this issue.

With regard to emigrants, the bulk of the complaints received refer to access to services for people in precarious situations. In many of these, the Ombudsman has requested the Administration to take into consideration practical obstacles, derived from the distance to the administrative centres, the

age of those making the request, their cultural level, or deficiency in communications of the country welcoming them which, in many cases, form an impassable wall for certain persons when accessing services established precisely for the situations that they are enduring. In other cases, the need to increase the level of efficiency with regard to attention and fast resolution of the requests presented has been insisted on.

Another important issue has been the provision of pensions for assistance in old age. The Ombudsman transmitted to the Directorate General for Emigration his conviction that it was necessary to complete the protective action on this group of emigrants, considering the situation of Spaniards not receiving pensions for assistance in old age abroad (or who did not receive them for more than two years) since they could be left in a situation of maximum economic vulnerability on their return to Spain. The Administration coincided with the arguments of this Institution and stated that work is commencing to resolve this situation.

Finally, it is necessary to state the high number of complaints received from Spaniards adopting girls in China, due to the delays in recording these minors in the registers in the Consular Section of the Spanish Embassy in the Popular Republic of China. The Embassy informed that personnel for attending to this need which is on an upward trend is increasing, causing a reduction in the waiting time to more reasonable limits.



Meeting with Spanish immigrants in Argentina to inform them of the health care they receive from Spain, in the Work and Social Affairs Council of the Embassy of Spain in Argentina (Photo La Región).

There is a lack of stability, flexibility and foresight in resources for the changing educational system

Regarding educational issues, the report of the Ombudsman in 2004 places emphasis on the description of some problems that give proof of deficient planning and incorrect foresight regarding the needs that appear in the educational system, with a lack of sufficient resources, at the time they should start to be used, to attend to needs such as the evermore frequent incorporation of women in the labour market; the growing presence of families of immigrant origin, or the planning and construction of new districts in large cities that generate new pupils at the different teaching levels.

Since planning and foresight are not always ideal, a lack of school places is detected far too frequently in certain areas, with greater frequency at the levels of kindergarten education or the schooling of pupils in centres that do not comply with the minimum requirements or which suffer from serious construction deficiencies, or in schools made up of prefabricated classrooms that are used as an emergency solution to attend to schooling needs not planned previously.

Apart from these deficiencies, the distribution of pupils requiring educational compensation measures continues to be irregular, both among the present public educational centres and between these and private centres subject to agreements.

Deficient results of the educational system

The so-called PISA report (OECD), made known in 2004, revealed the very deficient results of the present educational system in comparison with those obtained in other similar countries. Since it is expected that in-depth reform of the current educational system is to be carried out, this Institution would like to make a request to the public powers and political parties for them to take both the results and the conclusions of the report mentioned above into consideration, together with those contained in the successive yearly reports of this Institution, so that specific measures may be included in the reform to avoid the repetition in time of problems already known and described.

On the other hand, this Institution understands that the educational system must have the characteristics of **stability and flexibility**, as a result of the first of these, to allow for planning and applying the system in a wide time horizon without any uncertainties, and, as a result of the second characteristic, to be able to adapt to the variable demands and needs that knowledge and employment consider at any moment.

Regarding this, **an educational system subject to changes and variations as a**

result of the political interest or criterion of whomever is in power at any moment in time is undesirable as it cannot deploy its effects in time and will be permanently in question. A call must also be made to political parties and representatives for them to make an additional effort at negotiation and consensus in which common interest in providing a good educational

system will take prime importance over any other consideration.

University education

Times of change are also being felt in the area of university education. At present, modifications in the system for access to



The instability of the educational system and its lack of resources give rise to the deficient results at different levels of education, in comparison with neighbouring countries.

higher studies are being considered, studies whose configuration has suffered successive revision and reforms in which, since the original conception of an examination to measure the aptitude and capacity of students to undertake higher studies, a different one has been progressively reached whose main function is not so much to determine the aptitude or capacity of students to access university, but that of putting applications for these in order and assigning places to them for the degree they choose or in different ones if vacancies in the first have already been covered.

It would be of great interest for the reform now considered to serve to reach some objectives demanded for a long time by this Institution, which are reflected in this and in earlier reports, in order to make it possible for students with appropriate aptitudes and capacities to access university and study the degrees they choose and that the criteria for assigning the places available should respond, in any case, to the principles of merit, capacity and non-discrimination.

On the other hand, the process for creating European space for higher education demands an in-depth review of the degrees awarded at present by universities. Also, this reform process should be carried out after reaching the greatest consensus possible and taking into consideration the observations that this constitutional Institution has been making throughout its successive annual reports.

The contents of television programmes

In the matter of contents and programming of the public broadcasting and communications media and particularly with



The Ombudsman had an interview with the First Vice-president of the Government, María Teresa Fernández de la Vega, to talk about the need for the Government to promote an agreement with television channels to adapt the contents of programming in the timetable for children and youngsters, eliminating so-called "tele-rubbish" (Photo EFE).

reference to television, the complaints received by the Ombudsman have been very numerous throughout 2004, both from viewers or their associations, and from other bodies with purposes connected to education or the protection of young people and children. In the presentation of the annual report corresponding to 2003, the Ombudsman had already called attention to certain contents of television programmes, stating his serious concern about the negative effect that all this has on education and minors and young people.

As a result of calling attention to these, government initiatives were taken resulting in the self-regulation agreement adopted by the main television channels. This Institution wants to trust that compliance with this agreement, which is to be rigorously followed, will redirect the situation to acceptable terms and that, in parallel, reform of the regulations and systems for control in television, which are

also underway at present and have been demanded by this Institution for so long, will also become reality.



The programming of television channels for children and youngsters, full of so-called "tele-rubbish", gave rise to a social debate, and later to an agreement between the Government and the national and autonomic channels, in order to adapt this programming.

Delays in homologation of foreign qualifications

The standardisation of university qualifications in higher education obtained abroad continues to be one of the main reasons for complaints to the Ombudsman. In particular, last year, complaints for this reason increased by 13% over the previous year. Therefore, it is essential to adopt and apply corrective measures immediately. The Ministry of Education and Science, fully aware of the problem, has been informing the Ombudsman on the situation existing at each moment and on the specific measures

taken to solve the growing avalanche of requests for standardisation. However, up until now this has not prevented a systematic and serious failure to comply with the time periods laid down in the current regulations for resolve these matters and the subsequent prejudice this involves for those requesting standardisation.

The still recent approval of Royal Decree 285/2004, of 20th February, which came fully into force in the month of March 2005, contains provisions aimed at

solving the problems existing up until now. However, in the period that the report refers to, these effects could still not be seen, among other things because, after the approval of this Royal Decree, one of the first measures adopted was to postpone the coming into force of its most innovating aspects for a period of six months.

In any case, this Institution trusts that the situation will improve in 2005 and has the intention of performing a close follow-up of all of it.

Institutional relations

The activities that have been denominated “institutional relations” of the Ombudsman and the Deputy Ombudsmen in these reports have multiplied in the past few years, with the General Courts and the autonomic commissioners and their international counterparts or supranational organisations, and the Latin American Federation of Ombudsman, the International Ombudsman Institute and the European Ombudsman Institute. In the same way, institutional participation in international events, visits and official ceremonies, agreements, together with activities of technical cooperation, broadcasting and spreading, have shown an important increase.

As already occurred in the previous Report, that corresponding to 2004 includes specific documents for reference and consultation (conclusions of the framework address, on assistance for the elderly, the Conference on the Coordination of Ombudsmen; the Declaration of Quito, signed by the Ombudsmen at the 9th Annual Congress of the F.I.O. and the resolution of the Latin American Network of Ombudswomen) the complete report of which can be consulted on the institution web site: www.defensor-delpueblo.es

Parliamentary activities

During the year corresponding to 2004, the annual Report for 2003 was delivered to the presidents of the Congress of Deputies and the Senate, on 14th June. The appearances made for its presentation took place before the Mixed Relations Commission with the Ombudsman, on 22nd September; before the Plenary Session of the Congress, on 30th September; and before the Plenary Session of the Senate, on 19th October.

Relations with the Autonomous Commissioners

The detailed list of the reunions, meetings and visits that gave rise to formal documents can be verified in the complete report, in which the dates on which they were held are stated. Personal meetings with all the Autonomous Commissioners are highlighted below.

— Meeting with the **Ombudswoman from Castile-La Mancha, Henar Merino Senovilla**, and those responsible for non-governmental organisations, with regard to complaints by Colombian detainees and missing people; **signing of the Relationship Protocol between the Requests for Basic Rights Committee of the General Junta of the Principality of Asturias and an institutional meeting with the Ombudsman, and that of the latter with the Housing and Social Wellbeing Minister, Laura González Álvarez.**

— Attendance at the **investiture of the Síndic de Greuges of Catalonia, Rafael Ribó I Massó**; interview with the **Ombudsman for Marbella** (Malaga), Manuel Rodríguez

Hernández; attendance at the **ceremony commemorating the 20th anniversary of the Ley del Síndic de Greuges of Catalonia**; **presentation of the book *The Ombudsman in the Provincial Community of Navarre.***

International activity

The international ceremonies and meetings in which the Ombudsman or any of the Deputy Ombudsmen participated, in his name, during 2004 should be highlighted:

— Participation in the **preparatory Programme of the Ombudsman Institution, organised by the Presidential Commission of the Chilean Ombudsman Chapter** (Santiago and Punta Arenas, Chile, 9th-18th January).

— **1st International Congress on Victims of Terrorism**, organised by the San Pablo-CEU University and the Victims of Terrorism Foundation. Conference at the Fourth Round Table on “The commitment of the institutions to the victims” (Boadilla del Monte, Madrid, 26th and 27th January).



The First Deputy Ombudsman, María Luisa Cava de Llano I Carrió, attended, in the name of the Ombudsman, the 8th International Conference of the International Ombudsman Institute, held in Quebec (Canada). In the photo, the First Deputy, accompanied by the Head of her Office, Carmen Comas Mata-Mira, on the left.



The Ombudsman presented a book in the Faculty of Law of the Universidad de Navarra on “The Ombudsman in the “Foral” Community”, written by doctors Mercedes Asunción de la Iglesia and María Amparo Salvador Amendáriz. In the photo, to the right of the Ombudsman, his counterpart in Navarre, María Jesús Aranda; the President of the “Foral” Parliament, María Asunción de la Iglesia.



The First Deputy Ombudsman, María Luisa Cava de Llano I Carrió, accompanied by the Head of her Office, Carmen Comas Mata-Mira, on the left. In the photo they appear with the Minister of the Presidency of Chile, Mr Huanchumilla, in the centre. To his right, the then ambassador for Spain, Alfonso Ortiz Ramos, and Francisco Fernández, President of the Presidential Advisory Commission for the Protection of the Rights of People, in Chile. To the right in the picture, the Cultural Advisor of the Embassy of Spain in Chile, Mr León de la Torre.



The Second Deputy Ombudsman, Manuel Aguilar Belda, participated in the name of the Ombudsman, in the International Seminar "Causes, Effects and Consequences of the Migration Phenomenon in the Protection of Human Rights", organised by the State Human Rights Commission of Zacatecas (Zacatecas, Mexico, 11th-17th October).

— Participation in the **5th Meeting of Experts on the "Reinforcement of Cooperation between specialised Bodies" Project**, related to the European Directive on Racial Equality (London, 29th and 30th January).

— **European Conference on the Contribution of Refugees to Europe** in the Institute of Migration and Social Services (Madrid, 6th February).

— Attendance at a **meeting with members of different associations of young people in the Middle East and Southern Europe** (Madrid, 1st March).

— Participation in a **Meeting of Experts on the "Reinforcement of Cooperation between specialised Bodies" Project**, relating to the European Directive on Racial Equality (Dublin, Ireland, 4th and 5th March).

— **Meeting with a Delegation from the Safety and Cooperation in Europe Organisation (OSCE)** (Madrid, 12th March).

— **Meeting of the International Committee for Coordination of the National Institutions for the Promotion and Protection of Human Rights**, organised by the Office of the High Commissioner for Human Rights (Palace of Nations, Geneva, Switzerland, 15th and 16th April).

— **Conference on Anti-Semitism of the Organisation for Safety and Cooperation in Europe**. The Ombudsman formed part of the Spanish delegation as Vice-president, in response to the invitation by the Ministry of Foreign Affairs and Cooperation (Berlin, Germany, 27th and 28th April).

— **Attendance at the World Forum on Human Rights**, organised by Nantes Town Hall, on the initiative of UNESCO (Nantes, France, 16th May).

— **Course on "New dangers for our world: terrorism, bio-terrorism and new emerging and renovated microbe pathologies"**, organised by the Dipartimento di Scienze di Sanità Pubblica G. Senarelli of the Università degli Studi di Roma *La Sapienza*, with a master class on "Terrorism, a crime against humanity" (Rome, 18th May).

— **First International Congress on Piracy and Human Rights**, sponsored and promoted by the National Human Rights Commission of Mexico, the Autonomous University of the State of Morelos and the World Artists NGO, with an intervention on "Piracy of artistic work and the right to intellectual property" (Morelos, Mexico, 31st May).

— Paper at the International Seminar organised by the Federation of Latin American Ombudsmen and the University of Alcalá to analyse "**The rights of women in Latin America: challenges and perspectives**" (Cartagena de Indias, Colombia, 15th–18th June). The General Secretary of the Institution, M^a Mar España Marti, read a paper, on behalf of the Ombudsman on the rights of women in Latin America: challenges and perspectives.

— Second National Meeting between the National Human Rights Commission, local Commissions and Non-governmental Organisations, "In permanent dialogue", organised by the **National Human Rights Commission of Mexico**, with participation in the inaugurating conference on "The relation of the Ombudsman with Non-governmental Organisations in Spain" (Cancun, Quintana Roo, Mexico, 8th-10th September).

— Inauguration of the **Seminar "Spain and 21st Century Terrorism"**, organised by the

Faculty of Humanities and Communication Sciences and the International Observatory on Victims of Terrorism, with an intervention on "Terrorism, a crime against humanity" (San Pablo-CEU University, 28th October).

— Attendance and participation in the **Seminar on "Human Rights in Education in National Human Rights Institutions (NHRD) in Europe"** with an address on "The Ombudsman in Spain and human rights education" (Berlin, Germany, 2nd-4th December).

Visits and ceremonies

— **Visit of the Attorney General of the Federal District of Brasilia**, José Paes.

— **Visit of the Second Deputy Ombudsman in Argentina**, Jorge Cermesoni.

— **Attendance, with the Minister of Work and Wellbeing of Israel, Zebulun Orlev, at the tribute by the Organisation of Israeli Victims of Terrorism in Jerusalem.**

— **Meeting with the Ombudsman in Israel, Eliezer Golberg**

— **Visit of the Person Responsible for Business in the Embassy of the Republic of Irak**, Hassan Abdul Aziz.

— **Visit and interview with the Special Secretary Minister for Human Rights of the Presidency of the Republic of Brazil**, Nilmario Miranda.

— **Visit to the Ombudsman in Rumania**, Ioan Muraru, and to different Rumanian institutions.

— **Meeting with the Delegation from the Commission on the Migration of the Parliament of Renania/Westfalia** (Germany).

Technical cooperation, disclosure and diffusion activities

— Some of the most important ones are highlighted below:

— Conference given in the **Sociedad del Sitio** (Bilbao), entitled “Consolidating democracy for everyone”.

— Interview with the **Director General for Consular Affairs**, Rafael Fernández-Pita, and the Sub-director, Soledad Fuentes.

— Attendance at the **ceremony for handing over a cheque to the Association of Victims of Terrorism, by the Rotary Club of Oklahoma**.

— Meeting with representatives of the **Chair of Human Rights of the University of Alcalá**.

— Visit of the **President of the Movement against Intolerance**, Esteban Ibarra.

— Preparatory meeting for the execution of the **project for cooperation with the Ombudsman of Kazakhstan**.

— Conference given in the Faculty of Law of the University of Chile, entitled

“**Considerations on the importance of the creation of the Ombudsman institution in Chile**”.

— Attendance at the **signing of the declaration of Principles of the Forum for Justice, called by the General Council of Spanish Lawyers**.

— **Meeting with the General Secretaries of UGT and C.O. of Madrid**.

— Intervention in the opening act of the **1st Master on the Protection of Human Rights, in the Main Hall of the University of Alcalá** (Alcalá de Henares, Madrid).

— **Meeting with the pupils of the Course for entry to a Degree for qualification as a Public Prosecutor** (154th year).

— Attendance at the **Fourth Meeting of the Management Committee of the Special Fund for the Ombudsman and National Human Rights Institutions in Latin America and the Caribbean, in Quito** (Ecuador).

— **Meeting with the trades’ unions’ representatives of UGT, CCOO and CSIT-UP**, on diverse subjects of common interest.

— Meeting with the **Director General for Evaluation of the Ministry of Public Administrations, Juan Antonio Garde Roca**.

— Attendance by an invitation of the Embassy of the United States of America in Spain to a **meeting on “NATO and dialogue in the Mediterranean” information programme**.

— **Interview with the Manager of the Data Protection Agency, José Luis Piñar Mañas**.

— **Meeting with the GRECO Group (fight against corruption)**, invited by the General Secretary for Affairs regarding Justice in the European Union and International Bodies.

— **Attendance at the First National Congress on Mobbing in Public Administrations**, organised by the Gestha syndicate and Professional Associations of the Technical Corps in the Ministry of Economy and the Treasury.

— **Meeting with representatives of the Substitute Judges Organisation, Juan Félix Luque and Dolores Martín Muñoz**.

— Attendance at the act held by the President of the General Council of Notaries on “The technological response of Notaries”.

Re-election of the European Ombudsman, Nikiforos Diamandouros



Nikiforos Diamandouros, European Ombudsman

Visit of the European Ombudsman, Nikiforos Diamandouros to Enrique Múgica. Diamandouros, the former first Ombudsman in Greece, was re-elected for a second term of office by the European Parliament, on 11th January, by 564 votes of the 643 cast.

— The Ombudsman, Enrique Múgica, attended the ceremony for the investiture of the European Ombudsman, who has held the post since his first election on 1st April 2003.

— **During his stay in Quito, the Ombudsman gave a talk on “Human Rights in the Spanish Constitution”, in the SEK International University in Quito** (Ecuador).

— **Meeting with the Uzbekistan Ombudsman, S. Rashidova**.

— **Meeting with the Ombudsmen from the Kingdom of Thailand, Mr**

Poounsap Piya-Anant and General Teeradej Meepien.

— **Visit of the Ambassador of the Islamic Republic of Iran, Morteza Alviri**.

— **Visit of the President of UNICEF-Spain, Francisco González-Bueno**.

— **Visit to Spanish prisoners in Chile**.

— **Work meeting with members of “Human Rights Watch”, Judith Sunderland and Ben Ward, on anti-terrorist measures in Spain within the context of International Law on Human Rights**.



In the photo above, the Ombudsman leaving with the Councillor of the Embassy of Spain in Ecuador, Felipe de la Morena; Beatriz Caro, Dean of the Faculty of Law, and to her right, the Vice-chancellor of this University in Quito, José Luis Cagigal.



The Ombudsman, Enrique Múgica, received the Ombudsman from the Kingdom of Thailand, Mr Poounsap Piya-Anant and General Teeradej Meepien.



The First Deputy Ombudsman, María Luisa Cava de Llano / Carrió, gave a conference in Gijón (asturias), in the Bio-ethics Society, with whose president, doctor Marcelo Palacios, she appears in the photo.

— Interview with the President of the Clara Campoamor Women's Association, Lucía García.

— Meeting with the Sub-secretary of the Treasury, Francisco Uría, and the Director General for State Heritage, Marina Serrano.

— Participation in the meeting on the "Need for establishing a National Audiovisual Council".

— Meeting with the Government Spokesman for the National Drug Plan, Gonzalo Robles.

— Talk given in the Conference on "Globality and immigration policies", organised by the Euro-Arab Foundation together with the Faculty of Law of the University of Granada, entitled "The Ombudsman's view on immigration".

— Participation in a project for **collaboration and support for the Ombudsman in Chile**.

— Intervention with a talk on "The rights of patients and the Ombudsman" conference, in the International Bio-ethics Society Congress, in Gijón (Asturias).

— Meeting on the Management of Equal Opportunities of Madrid Town Hall, concerning "Prostitution and the traffic of women".

— Attendance at the Seminar on "Anti-discriminatory bodies in the promotion of equality and non-discrimination due to racial or ethnic origin", transposition of Directive 200/43/EEC of the European Union Council".

— Participation in the Round Table held as a result of the presentation of the 8th General Political Recommendation of the ECRI for combating racism in the fight against terrorism, organised by IMSERSO.

— Participation in the Summer Course on "Sex related and family violence", organised by the Polytechnic University of Cartagena (Murcia), with a talk on "Institutional resources of the State and sex related and family violence".

— Meeting with the Mission for Inspection of the Central Office of the High Commissioner for Refugees (ACNUR).

— Attendance at the 26th Conference for the Study of General State Attorneys, on "Constitutional reform", organised by the Ministry of Justice.

— Meeting with the Secretary of State for Immigration and Emigration, Consuelo Rumí.

— Participation in the Conference for Reflection on "Victims of trafficking in persons and their need for protection", organised by the United Nations High Commissioner for Refugees, with a talk on "Practical aspects of the protection of victims within the national framework".

— Interview with the Director General for Human Rights of the Ministry of Health and Wellbeing, Jauna Aubía Marimón.

— Attendance at the Conference of the Spanish Confederation of Associations for the Elderly (CEOMA), in collaboration with the Europe AGE Platform, in a Conference organised by IMSERSO, on the subject "Discrimination due to age; Directive 2000/78", and intervention in the programme *Lo que es la vida (That's Life)*, on Radio Nacional de España.

— Attendance at the world presentation of the Report by the UNICEF Investigative Centre in the Spanish International Cooperation Agency, with the motto "Ensure the rights of indigenous children".

— Attendance at the ceremony commemorating the 65th anniversary of the National Organisation for the Blind (ONCE) and at the presentation by the Minister of Work and Social Affairs of the book published for this reason.

— Meeting with the ALPE Foundation.

— Participation in the 3rd Conference on Data Protection and New Technologies in Local Administrations, with a talk entitled "Data protection from the Ombudsman's Institution".

— Participation in the Inaugural Table of the Spanish Congress of Doctors, promoted by the Abbot Foundation, the Collegiate Medical Organisation and Fundamed.

— Intervention in the Round Table of the "1st Conference for updating of Health Administration: legal reform" with a talk entitled "Respect for patient autonomy".

— Participation in the Summer Course of the Autonomous University of Madrid, on the invitation of UNICEF, with a talk on "The situation of girls in the world".

— Participation in the Round Table on "Rights and realities of infancy in a rich world and in a poor world", within the Conference organised by UNICEF and the General Council of the Judiciary.

— Attendance at the Meeting with the Child Organisations Platform. Proposals for a strategy promoting childhood rights.

— Intervention in the closing ceremony of the 7th State Meeting of University Ombudsmen, organised by the Universitat de les Illes Balears on "Ombudsman, ombudsmen and University".

— Meeting with the Secretary of State for International Cooperation in the Ministry of Foreign Affairs and Cooperation, Leire Pajín Iranola.

— Participation in the Course on "Ombudsman and State reform", organised by the Centre of Initiatives for Cooperation in Development (CICODE).

— Attendance at the presentation of the report on "The state of infancy in the world", by UNICEF.

— Address in the closing ceremony of the Conference of Entrepreneurs regarding Old People's Homes: "The situation of assistance for the elderly in Spain", in the 2nd Congress of the National Democratic Federation of Residences and Social Services for the elderly.

— Address in the Conference on "The Mentally Ill: Legal Protection and Social and Health Attention", organised by the Public Administration Institute of Navarre and the Association of Health Lawyers: to study "Protection and social and health assistance for the mentally ill:

1st King of Spain Prize for Human Rights

On the initiative of the Ombudsman of Spain and the Democracy and Human Rights Chair of the University of Alcalá, it was agreed to create the King of Spain Prize for Human Rights, the first of which was awarded by a panel that, out of 47 candidates from 17 countries, chose the Brazilian entity Pastoral da Criança, created by the paediatrician from that country, Doctor Zilda Arns Neumann, who, on 25th February 2005, received it from His Majesty the King, in a solemn ceremony held in the Main Hall of the University of Alcalá.

Pastoral da Criança, which works with 240,000 volunteers, has reduced infant mortality and malnutrition in children by half wherever it works. 1,825,000 children and pregnant women and 1,300,000 families in Brazil have benefited from its health, nutrition, education and citizenship programmes. The Brazilian publisher also carries out similar programmes in Angola, Guinea-Bissau, Mozambique, East Timor, the Philippines, Argentina, Bolivia, Chile, Uruguay, Colombia,

The King of Spain, Juan Carlos I, presenting the first prize for Human Rights with his name to Doctor Zilda Arns Neumann, in a ceremony held on 24th January 2005 in the Paraninfo of the Universidad de Alcalá. (Photo Dalda).



Ecuador, Paraguay, Peru, Venezuela, Mexico and the Dominican Republic.

The jury agreed to make special mention of the National Widows Commission in

Guatemala and the Mexican Red Cross candidates due to their social commitment and defence and promotion of human rights.



From right to left, Monsignor Aloysio José Leal Penna, President of "Pastoral da Criança"; Virgilio Zapatero, Vice-chancellor of the Universidad de Alcalá; Doctor Zilda Arns Neuman; Their Majesties the King and Queen, Juan Carlos and Sofía; Enrique Múgica, Ombudsman; Juan Fernando López Aguilar, Minister of Justice, and Manuel Marín, President of the Congress of Deputies (Photo Dalda).



Meeting with the Jury of the 1st King of Spain Human Rights Prize, instituted by the Democracy and Human Rights Chair of the University of Alcalá and the Ombudsman. In the photo, the Jury, at a meeting in the head offices of the Ombudsman in the act of making its choice (Photo Dalda).

current shortages", that the General Secretary of the Institution, M^a Mar España Marti, attended as a speaker on "The mentally ill: legal protection and social and health attention".

Disclosure and diffusion of activities

— Message of the Ombudsman for the Project "School, the promoter of a culture of peace, Decade 2001-2010" (Seville).

— Meeting with the Latin American representatives and those of countries recently

included in the European Union or candidates yet to be accepted, as a result of the 2nd Course for Parliamentary Legal Advisors held in the Congress of Deputies.

— Meeting with participants in the Conference on Education for Peace by the Spanish YMCA (Madrid).

— Conference "Spain: paths towards freedom", given by the Hebrew University of Jerusalem (Israel).

— Conference given in the University of Tel-Aviv, entitled "Spain: from dictatorship to democracy" (Israel).

— Participation in the Discussion Forum on "The Basque society and the new political

cycle", organised by the Department of Social Sciences and the Administration of the University of the Basque Country, with a talk on "Human rights and the new century" (Bilbao).

— Intervention in the commemoration of the 25th Anniversary of the Professor Cantera Burgos Cultural Foundation, with a talk on "25 years of democracy and freedom" (Miranda de Ebro, Burgos).

— Intervention in the cycle of conferences on "Latin America: key speeches", organised by the Casa de América, entitled "The Latin American model for the defence of human rights" (Madrid).

— Participation in the **First National Congress on Noise**, organised by the State Platform against Noise, in the University of Zaragoza, with the intervention “Acoustic contamination. The Ombudsman’s view” (Zaragoza).

— Address by the Ombudsman, on the invitation of **Ateneo Jovellanos**, on “Human rights and development in the 21st Century” (Gijón, Asturias).

— Words by the Ombudsman in the inauguration of the **Seventh Edition of the Summer University in La Gomera**: “The desire for liberty and the reality of liberties” (San Sebastián de la Gomera, the Canaries).

— Conference and breakfast, in the “State Institutions” cycle, of the **Europa Forum**, organised by Nueva Economía Fórum, with the collaboration of Europa Press: “The Ombudsman, a State Institution” (Ritz Hotel, Madrid).

— Inauguration of the **Cultural Course 2004, organised by the Future Century Club of Guadalajara**, with the masterly talk “Family violence. The Ombudsman’s view” (Main Hall of the Guadalajara University Campus).

— Words at the inauguration of the **Cádiz Forum**: “Human Rights and the Ombudsman” (Cádiz).

— Intervention at the **closing ceremony of the Symposium Commemorating the International Year of the Family 2004**, organised by the Spanish Family Forum, with a message on “The strategic functions of the family” (Madrid).

— Participation in the inauguration of the **Córdoba Discussion Forum** with a talk entitled “The Spanish Constitution, between dignity and freedom” (Córdoba).



The Schoolchildren awarded prizes, with their pictures.

Competition for schoolchildren on human rights pictures

On 10th December last, on which Human Rights Day is commemorated worldwide, the Ombudsman, in a ceremony in the Congress of Deputies presided over by the President of the Congress, Manuel Marín, awarded the prizes to the schoolchildren who were the winners of the “Ombudsman Competition 2004”, with pictures representing human rights. The competition, in which almost 2,000

schoolchildren throughout Spain participated, was organised by the Congress of Deputies, the Ombudsman and the “Globalisation of Human Rights” NGO, with the participation of schools from different autonomous communities.

Other disclosure and diffusion activities

— Conference in the **Cervantes Chair** cycle, organised by the General Military Academy and entitled “What do Spaniards worry about?” (Zaragoza).

— Talk and discussion with university students, organised by the **Deusto Hall of Residence**, of the University of Deusto (Bilbao).

— Attendance at the **presentation of the work “Impressions of the Constitution of 1978”** on the invitation of the King Juan Carlos University (Madrid).

— Talk given on the **Parliamentary Commission for Constitution, Legislation and Justice of the Parliament of Chile**, entitled “Comparative study of the law on the Spanish Ombudsman and the Bill for the Ombudsman in Chile” (Santiago de Chile).

— Attendance at the **presentation of the prize awarded to Iciar Bollain**, Director of the film *Te doy mis ojos*, for her work against domestic violence, by the President of the Observatory on Domestic Violence and Violence concerning Sex in the General Council of the Judiciary.



The President of the Congress, Manuel Marín, and the Ombudsman, Enrique Múgica, presenting one of the prizes in the competition for pictures on Human Rights to Álvaro Guerrero, pupil of the IES Fuente San Luis (Valencia).

Interviews in the media

Apart from the declarations and interviews given by the Ombudsman in the majority of the public acts in which he is required to do so by the communications media, the Ombudsman, Enrique Múgica, has attended interviews in written information media for the ONCE Magazine, *Perfiles*, on justice, domestic violence, immigration and disability; for the *Clave* Magazine on torture; for the *En Mente Magazine* on attendance to Alzheimer patients; for *Aula* on the figure of the Ombudsman and his competence; for *Tiempo de Hoy*, on the 11-M terrorist attack; for *ABC*, on aspects of national life that concern the Ombudsman: Spanish unity, territorial cohesion, immigration, the Law on Minors, domestic violence and the disaster of the Prestige; the **prologue to the book by Felio José Bauza Martorell** *Legal regime of video surveillance*, for an article in *La Razón*, "On problems and solutions" and his opinion on the point of view of development of the publication and usefulness of the **Magazine** *Actualidad del Derecho Sanitario*, in its hundredth number:

— Participation in the **TV2 programme "Debate" on Organic Law 5/2000, on criminal responsibility of minors.**

— **Interview for the programme "Punto de Vista", by Antena Aragón Televisión**, on complaints from the General Council of Aragón with regard to Justice.

— **Radio intervention on Cadena SER radio with regard to complaints made on the behaviour of the National Quality and Accreditation Agency (ANECA).**

Visits, tributes and official ceremonies

— **Ceremony of investiture of Manuel Jiménez de Parga as Doctor *honoris causa* of the King Juan Carlos University.**

— **Attendance at the award of the Cermi.es 2003 Prizes.**

— **Ceremony for the award of the Great Cross of San Raimundo de Peñafort** to the Presidents of the General Council of Notaries, the General Council of Spanish Lawyers, the General Bar Council for Spanish Courts and the School of Registrars of Property, Movable and Mercantile Goods of Spain, in the Centre for Legal Studies of the Administration of Justice.

— **Attendance at the Solemn Opening Session of the 8th Legislature of the General Courts.**

— **Attendance at the investiture of the President of the Council of State, Francisco Rubio Llorente and the Councillor, Joaquín Fuentes.**



The Ombudsman greets the President of the Commission, the ERC deputy, Agustí Cerdá i Argent, and the deputy spokesman of the Mixed Group, José Antonio Labordeta.

Visit of the table and spokespersons of the Mixed Congress-Senate Commission for the Ombudsman

— Attendance at the **investiture of the Director of Public Prosecutions, Cándido Conde-Pumpido Tourón.**

— **Award of the Special A.E.B.E. (Association of Epidermolytic Bullosis in Spain) Prize to the Ombudsman.**

— **Visit of the pupils of the 1st Year Master course on the Protection of Human Rights**, organised by the University of Alcalá.

— **Meeting with the Spanish Federation of Heart Transplant Patients (FETCO).**

— Participation in the **presentation ceremony for the 5th European Dialogue Prize** to the special envoy of the European Union for the Middle Eastern conflict, Miguel Ángel Moratinos, organised by Diálogo Europeo.

— Participation in the **welcoming ceremony to "The citizen's initiative Basta**

YA", organised by the Town Hall of Madrid.

— Attendance at the **Ceremony for Awarding the Constitutional Order of Merit Medals on the invitation of the Presidency of the Government.**

— **Interview with the General Coordinator of Izquierda Unida, Gaspar Llamazares Trigo**, on the occasion of presenting a request for making a claim for unconstitutionality against Organic Law 14/2003, on Aliens.

— **Attendance at a tribute in memory of the Teacher Roberto Mesa Garrido**, organised by the Department of Public International Law and International Relations of the Faculty of Political Sciences and Sociology of the Complutense University of Madrid.

— **Ceremony held in "Memory of the Holocaust"**, invited by the Jewish Organisations of Madrid.

— **Attendance at the opening of the Judicial Year of the Supreme Court.**

— **Greeting to the Internal Controller of the National Commission on Human Rights in Mexico**, Luis Orsi Gándara.

— **Attendance at a reception on the occasion of National Holiday day, offered by Their Majesties the King and Queen, in the Royal Palace in Madrid.**

— **Visit of the Ombudsman of the Bolivarian Republic of Venezuela and President of the FIO, Germán Mundarain.**

— **Tribute and presentation of the Paul Harris Prize by the Rotary Club to the First Deputy Ombudsman, María Luisa Cava de Llano y Carrió, for her political and humanitarian work.**

— Attendance at the **10th Conference on Pharmaceutical Specialities.**



Meeting of the Ombudsman and the Second Deputy Ombudsman with representatives of the Spanish Federation of Heart Transplant Patients who informed him on organ transplant in Spain.

— Attendance at the **institutional act of the President of the Parliament of the Balearic Islands**, Pere Rotger I Llabrés.

— **Attendance at the Round Table on “Violence concerning Sex” and later presentation of the prizes for Human Rights awarded by the General Council of Lawyers.**

Own courses

— **Conference and workshop on Humanitarian Action and Social Exclusion in Developed Countries**, organised by the Ombudsman, the Síndic de Greuges of the Valencian Community, and the Department of Public Health and History of Science of the Miguel Hernández University in Elche (Alicante). (Casa Encendida de Madrid, 10th-12th June).

— **Summer Courses of the Menéndez Pelayo International University.** Meeting on “Basic

rights: their jurisdictional and extra-jurisdictional guarantees” (Santander, 23rd-25th June).

— **Summer Course 2004 in the Complutense University of Madrid** on “The basic rights in the Constitution and the role of the Ombudsman in their protection and guarantee” (El Escorial, Madrid, 5th-9th July).

— **July Courses in Aranjuez 2004, by the King Juan Carlos University.** Course on “Family violence” (Aranjuez, Madrid, 19th-23rd July), in which, apart from the Ombudsman and the Deputy Ombudsmen, there was participation by the General Secretary of the Institution with an address on “Women in the face of family violence: measures for prevention and protection”.

Agreements

— **Agreement for collaboration between the Ombudsman Institution and the Menéndez Pelayo International University** on the



The Ombudsman with the Secretary of State for Immigration and Emigration M^{ra} Consuelo Rumi, participating in a summer course in the Universidad Menéndez Pelayo of Santander.

organisation of a Meeting on “Basic rights and their jurisdictional and extra-jurisdictional guarantees”. Signed on 25th March.

— **Meeting with the Rector of the University of Alcalá**, Virgilio Zapatero, for a follow-up of the agreement (13th April).

Attention to the elderly in the 19th Conference on Ombudsmen Coordination

The 19th Conference for the Coordination of Ombudsmen was held between 29th and 30th June in Santiago de Compostela (La Coruña), organised by the Valedor do Pobo of Galicia. After its inauguration by the President of the Xunta of Galicia, Manuel Fraga Iribarne, the participants reviewed the subjects studied previously by work teams in different workshops and reflected on the issues that arose from the main subject of this 19th Conference, attention to the elderly.

Issues such as **management quality** (at a meeting held in Pamplona) and **education of children up to three years old** (in Barcelona) were studied in the workshops previous to this Conference.

The work tables centred on discussions on different speeches on attention to the elderly, such as “The elderly in present society. Equipping for the elderly”; and “Systems for aid and attention to elderly people in their environment. Considering specific problems”.

In the conclusions, the parliamentary commissioners attending agreed to request their respective governments, following the recommendations of the United Nations, to include the principles of independence, participation, care, self-achievement and dignity in their programmes for action referring to the elderly.

They propose services for attention to the elderly that are universally accessible and financed by general taxes; they demand the regulation by law of an integral system for

economic and social and health protection for dependant elderly people, and that basic rights relating to homes for the elderly (privacy and confidentiality, dignity, autonomy, quality of life, knowledge of and defence of their rights and participation in management) should be applied.

The Autonomous Commissioners consider that it is necessary to encourage and provide sufficient home aid services for the elderly, and also adequate professional training for assistants. In the same way, they estimate that the authorities cannot cease in the role that corresponds to them as being ultimately responsible for guaranteeing the public systems of social protection for attention to the elderly, and, in this sense, they recommend the necessary measures should be adopted for controlling the right of the elderly to decent housing that is adequate to their needs in an effective manner.

In another direction, they highlight the serious problem of physical abuse of the elderly.

Equally, the lack of places in public residences is recorded. In this sense, at the meeting in Santiago de Compostela, the Autonomous Commissioners demanded an effort from the State and autonomous communities to invest and increase the number of residential places as quickly as possible, above all those of a public nature, and for assisted ones, in order to comply with the National Gerontological Plan and to correct the waiting lists.



Photo of the Ombudsmen and Autonomous Commissioners attending the 19th Conference on Coordination held in Santiago de Compostela from 28th to 30th June 2004.

— **Agreement for collaboration between the King Juan Carlos University Foundation and the Ombudsman** on the organisation of the Summer Course “Family violence”. Signed on 15th April.

— Participation in the Third Meeting for the follow-up and setting out of conditions for donors of the **Management Committee of the Special Fund for Ombudsmen/INDH** (Geneva, Switzerland, 17th and 18th April).

— **Agreement for collaboration between the General Foundation of the Complutense University of Madrid and the Ombudsman** for the organisation of the Course on “Basic rights in the Constitution and the role of the Ombudsman in their defence and guarantee”. Signed on 11th March.

— **Agreement for collaboration between the Miguel Hernández University in Elche (Alicante) and the Ombudsman** for the organisation of a Conference and Workshop on

“Humanitarian action and social exclusion in developed countries”. Signed on 3rd May.

— **Protocol for collaboration between the Latin American Federation of the Ombudsman and l'Association des Ombudsmans et Médiateurs de la Francophonie**. Signed on 11th November.

— **Agreement for collaboration between the Spanish Brain Damage Federation and the Institution of the Ombudsman**. Signed on 29th November.

The 9th Congress of the FIO declares itself in favour of organising migration flows in Latin America

The Ombudsmen, Prosecutors, Justice Providers, Commissioners and Presidents of Public Commissions for Human Rights, who attended the 9th Yearly Congress of the Latin American Federation of Ombudsmen (FIO), in the City of Quito, Ecuador, from 8th to 11th November 2004, signed the so-called “Declaration of Quito”, in which 41 commitments, exhortations or recommendations were stated, which can be fully consulted on the web site of the Ombudsman: www.defensordelpueblo.es

Spain, Enrique Múgica, accompanied by his First Deputy, María Luisa Cava de Llano, who also attended the meeting held simultaneously by the Latin American Network of Ombudsmen for Women of the FIO, and the Second Deputy Ombudsman, Manuel Aguilar Belda, together with the General Secretary, Mar España.

The Ombudsmen belonging to the FIO committed themselves in the “Declaration of Quito” to promoting the creation of simi-

lar figures in countries in the region in which they still have not been instituted and to working for the organisation of migration flows in Latin America.

The Seminar on International Systems for Promotion and Protection of Human Rights was held within the framework of the 9th Congress of the FIO, a meeting of the Network Ombudswomen also being held (Quito – Ecuador, from 8th to 11th November), attended by the First Deputy Ombudsman,

María Luisa Cava de Llano y Carrió, and the General Secretary of the Institution, M^a Mar España Martí which was held simultaneously with the 9th Yearly Congress and Assembly of the FIO, from which a resolution arose concerning the work carried out in defence and promotion of human rights for women, from the creation of this NETWORK, in the General Assembly of the FIO, held in Toledo in 1997.

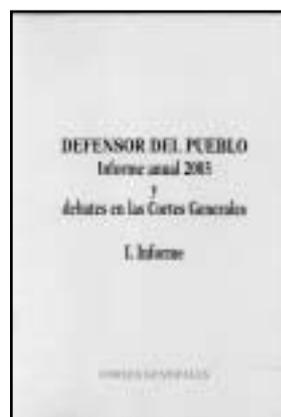
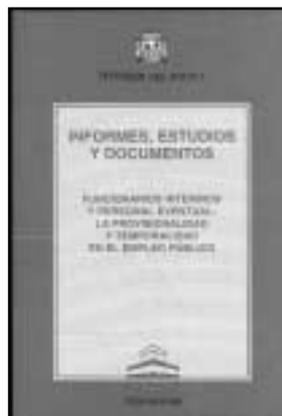


Photo of the Ombudsmen, Lawyers and Human Rights Commissioners attending the 9th Congress of the Latin American Federation of Ombudsmen, held in Quito (Ecuador), from 8th to 11th November 2004.

Publications of the Ombudsman in 2004

— The Annual Report of the Ombudsman for 2003 and debates corresponding to the General Courts.

— The monographic study *Interim civil servants and temporary personnel: provision and time in public employment*.



How to access the Ombudsman? Complaints via the Internet

Enter the following web site:

http://www.defensordelpueblo.es/index.asp?destino=quejas_internet.asp

QUEJAS POR INTERNET

Nombre _____ 1er Apellido _____ 2º Apellido _____

País: 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 make a complaint?

Any physical or legal person who invokes a legitimate interest without nationality, residence, sex, being underage, legal incapacity, internment in a penitentiary or confinement centre, or any special binding or dependent rela-

tionship on an Administration or public power constituting an impediment.

The complaint must be made within a maximum period of one year, starting from the time at which the facts that are the object of this are known, and does not cancel any periods laid down by law in which to appeal, either by administrative or legal procedures, or the execution of the resolution or act affected.



How to follow up your complaint?

An acknowledgement of receipt and other communications with the Ombudsman will be sent to the postal address that you provide.

However, should you wish to have information on the status of processing your complaint, you can call the telephone number 91 432 79 00.

Services of interest

Postal address: Paseo de Eduardo Dato, 31 – 28010 MADRID

Web site: www.defensordelpueblo.es

The room for visits: located in Paseo de Eduardo Dato, 31, personal consultations attended to from Monday to Friday, from 9 to 14 hours, and from Monday to Thursday, from 16 to 18 hours (except afternoons in August).

Telephones and fax

- Switchboard 91 432 79 00
- General information 900 10 10 25
- Telephone attending those with hearing impaired 91 432 79 75
- Fax 91 308 11 58

E-mails

- General information: registro@defensordelpueblo.es
- Press office: prensa@defensordelpueblo.es



Access to the information office of the Ombudsman, in Paseo de Eduardo Dato, 31