



SPANISH OMBUDSMAN

Annual Report Summary 2014

Madrid, 2015

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PRESENTATION

The functions of the Ombudsman Institution (Defensor del Pueblo), in accordance with the provisions of the Constitution and the organic law that refers to it, have not been modified. However, we must highlight some aspects of 2014 that have changed the way the institution addresses the administrations and citizens. Its main purpose was to streamline its functions, make them more understandable and accessible to citizens, and achieve the highest possible efficiency in its work.

Transparency

Over the course of 2014 the institution launched a **transparency portal**, which provides information regarding activities carried out, budgetary details and evolution over the course of the year, the fate of several budget items, companies awarded goods and service contracts including their corresponding amounts, trips abroad detailing amount and reason, the salaries of those working in the institution, as well as the new civil servants hired, following **public tenders**. Compliance with the Transparency Act of 9 December 2014 has allowed for the review of the portal and its total adaptation to the regulation.

However, transparency, for the Ombudsman and Public Administrations cannot be limited only to the exposure of their data. Transparency also means giving full information to the citizens for whom you are concerned and do it in reasonable time, and in a clear and simple manner.

In our case, we report on all proceedings undertaken and requirements drawn up Spanish Ombudsman Annual Report Summary 2014 time taken and results obtained. For the first time in an annual report this data is provided with the **average time taken by the Ombudsman** to respond to citizens and the time taken by authorities to respond to the Ombudsman. The aim is to not only ensure more complete information but also to show the degree of compliance with the duty to inform and seek to resolve that which the citizens may be entitled.

Report structure

The 2014 report is presented in two volumes; the first is divided into two parts, which include annexes in the digital version. Part I of the first volume contains, in Chapter 1, the **itemized budget**, approved by Parliament (Cortes Generales), the statistical summary of the actions undertaken: complaints, ex officio investigations, resolutions and requests for appeal on the grounds of unconstitutionality. It also includes the listing of those administrations failing to cooperate with this institution despite repeated requests to do so, and the most relevant activities representing the institution.

Part II of this volume provides a description of the main activities conducted in different working areas.

The previously mentioned annexes, published in electronic format, contain the complete listings of all the actions (complaints, resolutions, ex officio investigations, uncooperative administrations as well as all institutional activities).

The report is also published in a format to be read with a tablet or e-book. Downloadable versions are available from the section "Annual Reports" of the website, offering the possibility for persons with disabilities to listen to the report.

On-line Service "Check your Complaint"

In September, after informing the Joint Commission on Relations with the Ombudsman, **the new digital service for consulting complaints for 2014** was launched.

A person filing a complaint can obtain a password to gain access to the processing of his or her complaint. Without compromising confidentiality, one can check the status of the complaint: the date which it has been accepted after initial review; the date it has been forwarded to one or more administrations; the date of the response, a basic description and whether or not the response is sufficient and satisfactory.

This service, which has been used by 2,571 individuals at the time this report was printed, will allow everyone to expedite processing and avoid undue delays. It will also minimize the number of times (requirements) that the Ombudsman must address the same Administration to remind it of their duty to provide information.

Budget

The Ombudsman Institution's **Budget** for **2014** totaled 13,951,700.00 €. It is divided into two sections: Section I "Personnel expenses", with 11,539,700.00€ representing 82.71% of the total, and Section II, "Current expenditure in goods and services" with 2,412,000.00 € representing 17.29% of the total.

Regarding the 2013 budget, these figures represent a reduction of 0.46% under Section I and 0.65% under Section II, which represents an overall decrease of 0.50% from the previous year.

Complaints

The institution received **23,186 complaints**, which is slightly higher than those received in 2013. The issues that most concerned citizens were social issues (minimum income, care aid), problems regarding state, regional and local taxes, and delays in the Justice administration.

Ex officio investigations

The number of **ex officio investigations** initiated by the Ombudsman was 489, which represents an increase of 41% over the previous year. The institution highlights among these, those relating to **inclusive education for students with disabilities**, supervision of the **reception of immigrants**, problems in **poverty relating to access to energy**, cuts to energy supply (guarantees in procedures) and billing systems.

Investigations have been launched with the Ministry of Health, Social Services and Equality, to find out if there are delays introducing new innovative **medicines** particularly suitable for the **treatment of oncological diseases**. Information was also requested from the Public Administration to determine whether access to new drugs to fight cancer is equal in all regions.

The Secretary of Economic Affairs and Support for Business was requested to urge financial institutions to implement the Supreme Court Ruling dated 9 May 2013, which declared **floor clauses** invalid when there exists a lack transparency. The Bank of Spain sent a letter to the banking sector on the need to review the legitimacy of floor clauses based on the criteria established by the ruling, if there are entities that continue to hold such clauses.

Recommendations

467 **Recommendations** have been issued, which means an increase of 97.4% over 2013. Some are highlighted in the following.

The **Tax Reform** passed this year includes recommendations by the Ombudsman: the tax on the increased value of urban land (known as municipal goodwill) in cases in which they are used in lieu of payment has been removed, leaving the equity gain on main homes made in lieu of payment exempt from income tax. Subsidies and government aid do not need to be reported until they have been received and the regulation for minimum per descendant has been modified, taking into account different family models. Offset coefficients are still valid, with a limit of 400,000 euros on the sale of property, although the update coefficients have been removed.

The Ombudsman will insist on the need to reestablish the deduction for investment in homes, when construction and installations are made to adapt houses for disabilities.

The institution has repeated the **Recommendation** for an independent insolvency procedure, or **second-chance law**, for individuals and indebted consumers of good faith, which is detailed in the study, *Economic Crisis and Personal Insolvency: measures and proposals* published in October 2013.

As a continuation of the investigations carried out by the Ombudsman in relation to **poverty and child nutrition**, the institution has put forth a **Recommendation** to all autonomous communities and cities to take the necessary initiatives to provide meals or strengthen meal provisions for the most vulnerable children during school holidays.

The institution has found that there is widespread awareness within the administrations regarding the importance of acting to avoid the consequences of child poverty and, more specifically, the problems of child nutrition. However, further progress is necessary to give this issue the highest possible importance and ensure collaboration between institutions.

Taking stock of the implementation of the Ruling of the European Court of Human Rights, of 21 October 2013, the Ombudsman made Recommendations for a better understanding in international forums for damage caused by terrorism and to promote, in the Victim Statute, measures to facilitate the legal representation of **victims of terrorism** in the processes that take place before the European Court of Human Rights or other courts located outside national territory.

The Recommendations have been accepted, and there have been some efforts made to obtain a better understanding in international forums regarding the damage caused by terrorism. It

remains to be specified by the Ministry of Justice the specific pathways to streamline the legal representation of victims in the processes that take place before the European Court of Human Rights.

Appeals of unconstitutionality

The Ombudsman has analyzed 23 **requests for filing appeals of unconstitutionality**. Of these requests, the ones made against the Royal Decree-Law 14/2013 of 29 November; have been esteemed by the Ombudsman, which presented a constitutional motion. The institution has challenged before the Constitutional Court two sections of the third additional provision of the aforementioned Royal Decree. The Ombudsman has found that these two sections attribute the municipal executive powers, which are of the Full Council.

It shall be noted that a significant number of requests of appeal not esteemed by the Ombudsman were the subject of ex officio investigations and recommendations for better implementation of these rules.

Monographic Studies

Telecommunications: Requests and needs of citizens

This study aims to improve the monitoring of the Public Administration over the behavior and transparency of companies offering the services: price, customer service, advertising and hiring methods.

The Process of Hearing and the Best Interest of the Child: Judicial review of family processes and protection measures

The study focuses on the "right to be heard", a concept that is more rigorous than "listen to the child", as raised by the International Convention on the Rights of the Child.

Injury Reports on People Deprived of Their Liberty

The study carried out in 2014 was presented to the Commission simultaneously with the presentation of the 2013 Annual Report on the National Preventive Mechanism against Torture (NPM)¹. The study aims, among other goals, to unify criteria for the preparation of medical reports that should be subsequently submitted to the judicial authority for assessment due to their high importance for the prevention of torture.

¹ The official name is: National Preventive Mechanism against Torture and other types of cruel punishment, inhuman or degrading treatment or punishment.

Study in progress, initiated in 2014, on **Emergency Hospital Services: Rights and guarantees of patients.**

This study, which was conducted in collaboration with the Ombudsman Institutions of the Autonomous Communities, aims to evaluate the implementation of the rights and interests of patients in hospital emergency services. It has been drawn up from the conclusions reached after working meetings held with technical experts from the Ombudsman Institutions, the Association of Emergency Room Doctors, representatives from twelve patient associations and managers of health services from the autonomous communities.

Studies in progress regarding **processing times for urban planning licensing** and regarding the outcome of the recommendations made in connection with **empty subsidized housing.**

National Preventive Mechanism against Torture (NPM)

The Ombudsman also ensures that human rights are met in all places where there are persons deprived of liberty, in its function as the National Preventive Mechanism against Torture (NPM). There were 61 visits to these centers. They were intensive visits, in which data was requested and personal interviews were held. On 20 occasions external experts accompanied this institution's technical personnel, making the visits as rigorous and demanding as possible. Moreover, in several visits technical personnel from the Ombudsman of different autonomous communities also attended.

In addition, Ombudsman staff has accompanied and supervised, from beginning to end, four flights repatriating foreigners, organized by Frontex.

In order to observe the facilities and operations of **Immigrant Detention Centers** and improve those existing in Spain, the Ombudsman has visited centers in Paris, Rotterdam and London. The findings, which are reported in this report, have been forwarded to the Ministry of Interior.

Hearings

In 2014, the Ombudsman Institution appeared before the Joint Committee on Relations with the Ombudsman on three occasions. On March 18, 2013, the annual report was presented, and on June 17 and September 16, the following reports were presented: *NPM 2013 Annual Report*, *Injury Reports on People Deprived of their Liberty*, *¿Children or Adults? Age assessment procedures*; *The Process of Hearing and the Best Interest of the Child*; *Telecommunications: Requests and needs of citizens*; and *Cadastral Reality in Spain: From the Ombudsman's*

perspective.

The institution also appeared before the full Congress and Senate in March and April for the required processes of accountabilities.

Also, at the request of parliamentary committees, the institution has gone to Congress three times to report on "Children and social networks", "Trafficking in human beings" and "Minors, victims of trafficking".

Following these hearings, we can say that all reports made over the course of 2014 have been **duly presented and explained.**

International Project

In March 2014, **the Twinning Project of the European Union began with the new Ombudsman of Turkey.** Twinning ("twinning" between institutions) is a tool that initially arose to expand the number of Member States in the European Union, that is, to facilitate the conditions for accession. It is also used to improve relations with neighboring countries, and one of its objectives is to mobilize grassroots support and regulate community standards.

This Twinning Project was awarded by the European Commission to a consortium formed by the Spanish Ombudsman (in the condition of project leader) and the Ombudsman for the Rights of France, and aims to help the implementation of the Ombudsman of Turkey. The Ombudsman of Spain has the support of Ombudsman from the Autonomous Community Regions and officials from other institutions to carry out this project. All funding is provided by the European Commission.

The Ombudsman Institution Award

Convened for the first time, an award was given to recognize the work of institutions or non-governmental organizations (NGOs) that contribute to the work of the Ombudsman in an outstanding way.

The jury, is made up of the deputies of the Ombudsman; the journalist, Pilar Cernuda; the theologian and writer, Isabel Gomez-Acebo; Coordinating Prosecutor for Minors, Consuelo Madrigal; the Secretary General of the Spanish Association of Commercial Broadcasters, Alfonso Ruiz de Assín, and the Professor of Moral and Political Philosophy, Amelia Valcárcel. Chaired by the Ombudsman, the jury unanimously agreed to award the prize to Spanish Caritas. This organization has been recognized for its ongoing and renewed efforts in the defense of the rights of people who are going through difficult times. Their in-depth reports and

high number of volunteers were also praised.

We understand the difficulties for some government agencies to respond quickly to the many issues for which we show interest; we understand that we make countless questions and requests for information about facts and reasons for decisions. However, that does not prevent us from manifesting that we still observe reservations and excuses regarding the due explanations or information, and, in many cases, we must insist and insist sending several official requests to achieve a response.

“The complaint” is the term that the law uses to refer to the action citizens take before the Ombudsman; it is not the Ombudsman who is issuing the complaint. It should not be, then, the Administration who complains about “the complaint”. If “the complaint” exists, there may be some reason for it and we must find that out. The response of all those who have public responsibilities is to explain motives, account for the reasons that we have or carry out the necessary corrections, even though it may require extra effort.

In many cases, the institution appreciates adequate and rapid response, correction of an error or acceptance of a recommendation, and makes record of it. However, we must not expect the institution to be passive before founded complaints nor praise the government for meeting its obligations.

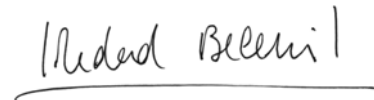
The disaffection and alienation that sometimes exists towards those who exercise public office can be at times justified. It is therefore prudent to review our criteria, identify our own mistakes and be more demanding on ourselves. Simply lamenting over it will not comfort anyone nor solve the problem. In addition, the social democratic state for which we have bestowed and are proud of, always allows for reforms to bring us closer to the needs of the citizens and to improve the political system based on rights and freedoms, as opposed to others who do not support such reforms.

The Ombudsman is an institution, which since its origin in 1809 in Sweden has aimed to improve the functioning of democracy; it is not an authority added to other existing authorities; it is not an addition to the Judicial Power. It is an institution that oversees that rules conform as closely as possible to the requests of the citizens and do so in a way that is lawful and legitimate. It is action linked to duty, behavior and reason. It is closer to Kant's categorical imperative than to the models that require more power to intervene even more, control more and become more renown.

Data from the latest quarterly report from the Bank of Spain for 2014 gives us hope, due to the efforts made by Spanish citizens, “in an environment of continued improvement in financial conditions, increased confidence and positive labor market developments”. This institution

wishes that these basic features will be reverted to the vast majority of Spaniards and that they can bring positive outcomes to the difficulties we are experiencing.

We would like to give special thanks to the Joint Commission for the interest shown in all the aforementioned hearings, as well its suggestions and proposals for the near future. The annual report will be presented in the Chambers, as is mandatory, to be submitted to the deputies and senators.

A handwritten signature in black ink that reads "Soledad Becerril". The signature is written in a cursive style and is underlined with a single horizontal line.

Soledad Becerril

SPANISH OMBUDSMAN

Statistics and
Budgetary Management
2014

Statistics

The Administration accepted 72% of the recommendations made by the Ombudsman

In 2014, the Ombudsman received 23,186 written complaints and made 467 recommendations, which were accepted in 72.09% of cases. The issues that most concerned citizens were related to social issues (minimum income, care aid), problems regarding state, regional and local taxes, and delays in the Administration of Justice. The institution also increased their ex officio activities by 41%, reaching 489 files.

This year, the Ombudsman has received 23,186 written complaints from citizens, to which 289 written requests for judicial review must be added. Keep in mind that some of these complaints are accompanied by a significant number of signatures, so the total amount of citizens who have addressed the institution in writing is 69,916.

We must also consider those citizens who have been served in-person by the institution: a total of 20,089, 3,426 in-person visits and 16,662 by telephone (of which 6,908 were served via the toll free 900 number).

The Intuition's website received 457,467 visits and a total of 8,310,182 pages were visited within the website.

Over the course of this year the Ombudsman opened 489 ex officio investigations, that is, actions opened by the initiative of the institution.

As a result of these complaints and investigations, the Ombudsman has made 467 recommendations, 604 suggestions to different administrations. The resolutions have been resolved in the following manner:

- 217 recommendations have been accepted, 84 rejected y 166 are pending response by the concerned Administration, at the time of printing this report;
- 234 suggestions have been accepted, 103 rejected and 267 are pending response.

CASES OF COMPLAINT, EX OFFICIO INVESTIGATION AND REQUEST FOR APPEALS

In 2014 the institution handled 23,964 cases, which correspond to the three major subject groups in this annual report: Complaints, ex officio investigations and requests for filing of appeals on the grounds of unconstitutionality.

Both complaints and requests for filing of appeals before the Constitutional Court are divided into those processed individually and those processed jointly; therefore they will be referred to as individual and joint cases (complaints and requests).

TABLE 1

Number of complaint cases, ex officio investigations and requests for appeal opened in 2014, including comparison with 2013

		2014	2013
Complaints	Individual	16,797	18,422
	*Joint	6,389	4,270
	Total	23,186	22,692
Ex officio investigations	Ex Officio	489	347
	Total	489	347
Requests for appeal	Individual	57	99
	*Joint	232	10,029
	Total	289	10,128
TOTAL		23,964	33,167

*Complaints and requests on the same subject or for the same purpose grouped together for joint processing.

Number of citizens that addressed the institution based on one same documentation. Years 2014 y 2013

	2014	2013
Total ciudadanos	69.916	280.852

Average response time

The following tables show the average times the Ombudsman takes to reply to citizens, in which the initial response communicates the acceptance or rejection of the complaint file. They also reflect the average response time by the institution to the Administration, after having received its initial communication (Table 2); as well as the average response time by the administrations to the Ombudsman (Table 3). Figure 1 only represents percentages for complaint cases and ex officio investigations.

FIGURE 1

Percentage spread of complaint cases and ex officio investigations (excluding requests for appeals) opened in 2014 and compared to 2013



Individual 70.95%, Ex officio 2.06%, Joint 26.99%-Individual 79.95%, Ex officio 1.52%, Joint 18.53%

CUADRO 2

Average response time by the Spanish Ombudsman to citizens and administrations in 2014

AVERAGE RESPONSE TIME BY THE SPANISH OMBUDSMAN	DAYS
Initial response to citizens for admission and start or non-admission	36.42
Spanish Ombudsman resolution after response by Administration	57.36

TABLE 3

Average response times by the Administration to requests for information on cases processed in 2014

ADMINISTRATIONS	Days
Central Government	70
Autonomous Administration	89
Local Administration	95
Office of the Attorney General*	102
Other public institutions	82
TOTAL AVERAGE	78

* The Office of the Attorney General keeps the Ombudsman regularly informed on pending cases, every three or four months.

Breakdown of complaints and requests for appeals

According to the channels by which they were submitted

Citizens submit their communications to the Ombudsman using several outlets. In the two tables below the submission of these communications by different channels, such as, by conventional postal service, by fax, by e-mail, using the web platform of the Ombudsman, or in-person visits.

TABLE 4

Number of complaints by the channels in which they were submitted in 2014 and comparison with 2013

CHANNELS COMPLAINTS WERE SUBMITTED	2014		2013	
	Number	%	Number	%
Conventional Postal Service	9,026	38.93	8,380	36.93
Fax	498	2.15	381	1.68
E-mail	3,497	15.08	2,943	12.97
In person	2,472	10.66	1,431	6.31
Web form	7,693	33.18	9,557	42.12
TOTAL	23,186	100.00	22,692	100.00

CUADRO 5

Number of requests for filing appeals before the Constitutional Court by channels by which they were submitted in 2014 and comparison with 2013

VÍA DE ENTRADA DE SOLICITUDES	2014		2013	
	Número	%	Número	%
Conventional Postal Service	22	7.64	585	5.78
Fax	1	0.35	14	0.14
E-mail	238	82.64	192	1.90
In person	11	3.82	21	0.21
Web form	16	5.56	9,316	91.98
TOTAL	288	100.00	10,128	100.0

According to the channel by which they were submitted

The vast majority of complaints and requests are submitted directly by citizens before the Spanish Ombudsman. The following tables reflect this fact, as well as the number of cases submitted by the regional parliamentary commissioners and from other institutions or public agencies.

TABLE 6

Source of complaints according to the channel through which they were submitted in 2014, including comparison with 2013

SOURCE OF COMPLAINTS	Numb		%	
	2014	2013	2014	2013
Lodged directly by citizens	21,319	20,476	91.95	90.23
By autonomous community parliament	1,820	2,139	7.85	9.43
By different institutions and agencies	47	77	0.20	0.34
TOTAL	23,186	22,692	100.00	100.00

TABLE 7

Source of requests of appeal to the Constitutional Court according to the channel through which they were submitted in 2014, including comparison with 2013

SOURCE OF REQUESTS FOR APPEAL	NUMBER		%	
	2014	2013	2014	2013
Lodged directly by citizens	285	10,093	98.62	99.65
By autonomous community parliament	4	35	1.38	0.35
TOTAL	289	10,128	100.00	100.00

The following tables detail the number of complaints submitted by the different autonomous community ombudsman institutions as well as those submitted by other institutions and public entities.

TABLE 8

Cases of complaints received from autonomous community parliament commissioners in 2014, including comparison with 2013

SOURCE	NUMBER		%	
	2014	2013	2014	2013
<i>Ararteko</i> (Ombudsman of the Basque Country)	72	61	3.96	2.85
<i>Síndic de Greuges de Catalunya</i> (Catalonian Ombudsman)	297	402	16.32	18.79
<i>Valedor do Pobo</i> (Galician Ombudsman)	111	48	6.10	2.24
<i>Defensor del Pueblo Andaluz</i> (Ombudsman of Andalusia)	377	387	20.71	18.09
<i>Procuradora General del Principado de Asturias</i> (Ombudsman of Asturias)		18		0.84
<i>Síndic de Greuges de la Comunitat Valenciana</i> (Valencian Ombudsman)	198	292	10.88	13.65
<i>Justicia de Aragón</i> (Ombudsman of Aragón)	273	271	15.00	12.67
<i>Defensor del Pueblo Riojano</i> (Ombudsman of Rioja)		23		1.08
<i>Diputado del Común</i> (Canary Islands Ombudsman)	226	224	12.42	10.47
<i>Defensor del Pueblo de Navarra</i> (Ombudsman of Navarre)	90	81	4.95	3.79
<i>Procurador del Común de Castilla y León</i> (Ombudsman of Castile and Leon)	176	332	9.67	15.52
TOTAL	1,820	2,139	100.00	100.00

TABLE 9

Cases of request for filing of appeal before the Constitutional Court submitted by the autonomous parliamentary commissioners during 2014, including comparison with 2013

SOURCE	NUMBER		%	
	2014	2013	2014	2013
<i>Ararteko</i> (Ombudsman of the Basque Country)		1		2.86
<i>Síndic de Greuges de Catalunya</i> (Catalonian Ombudsman)		15		42.86
<i>Valedor do Pobo</i> (Galician Ombudsman)		1		2.86
<i>Defensor del Pueblo Andaluz</i> (Ombudsman of Andalusia)	2	7	50.00	20.00
<i>Síndic de Greuges de la Comunitat Valenciana</i> (Valencian Ombudsman)	1		25.00	
<i>Justicia de Aragón</i> (Ombudsman of Aragon)		2		5.71
<i>Diputado del Común</i> (Canary Islands Ombudsman)	1	4	25.00	11.43
<i>Defensor del Pueblo de Navarra</i> (Ombudsman of Navarre)		2		5.71
<i>Procurador del Común de Castilla y León</i> (Ombudsman of Castile and Leon)		3		8.57
TOTAL	4	35	100.00	100.00

TABLE 10

Cases of complaints submitted by different institutions and government agencies in 2014, including comparison with 2013

SOURCE	Number		%	
	2014	2013	2014	2013
Parliament	22	60	46.81	77.92
The Judiciary	1	1	2.13	1.30
Autonomous agencies	1		2.13	
Foreign ombudsmen	23	16	48.94	20.8
TOTAL	47	77	100.00	100.00

According to geographical region where filed

The two graphs below give an idea of the origin of the complaints and requests for appeal submitted to the Ombudsman throughout the year corresponding to 2014. The location-related data indicates the home address from which cases were sent and the address stated for notifications, thus there is necessarily no link between the issues and problems set out and the different locations and territories.

The demographic factor has a major bearing on the numerical results in this geographical distribution of cases. The most populated regions are those where more letters were sent to the Ombudsman.

FIGURE 2

Breakdown of the locations from which complaints were filed, by autonomous communities. Year 2014



FIGURE 3

Breakdown of location from which requests were submitted for appeals before the Constitutional Court, by autonomous communities. Year 2014



Classification of cases according to fields of administrative activity

The following table classifies cases by subject matter.

TABLE 11

Cases. Classification by processing divisions and sectors. Year 2014

SECTORS	Complaints		Ex officio investigations	Requests for appeal		Total
	Individual	Joint		Individual	Joint	
Civil Service and Public	1,035	3,550	13	6		4,604
Economic activity	1,337	511	35	6		1,889
Education	790	571	39	3		1,403
Social Policy	1,319		28			1,347
Administration of Justice	1,188	63	21	11		1,283
Public Finance	1,254		7			1,261
Social Security	1,171	21	3	3		1,198
Civil Registry	834					834
Environment	537	24	20	9	232	822
Traffic and Highway Safety	791					791
Foreign Affairs and Immigration	776		10			786
Citizenship and Public Safety	679	38	58			775
SECTORS	Complaints		Ex officio investigations	Requests for appeal		Total
	Individual	Joint		Individual	Joint	
Healthcare	597	146	19	7		769
Prisons	463		121			584
Housing	478	65	33			576
Communication	501		2			503
Employment	490		6	1		497
Organization and Legal Regime of Local Corporations	323	50	18	2		393
Transport	325	65	2			392
Minors	158		33			191
Data Protection and Intellectual	111					111
Culture and Sports	100					100
Foreign Affairs	77					77
Media	71					71
Right of Association and Electoral	64			2		66
Foreclosure	47					47
Other issues	21		1	5		27
Under study	700	105	3	2		810
TOTAL	16,797	6,389	489	57	232	23,964

PROCESSING STATUS OF CASES

The following table shows the processing undergone by cases of complaint and ex officio investigation, once received and filed by the institution and the status as of December 31, 2014.

The percentage of complaint cases that are accepted into processing helps, among other factors, to judge the level of knowledge held by citizens regarding the competencies of the Ombudsman and its capacity to intervene in issues that affect them.

TABLE 12

Processing status of complaint cases and ex officio investigations in 2014

STATUS		Individual		Joint		Ex officio		Total	
		No.	%	No.	%	No.	%	No.	%
■ Admitted	■ In processing	3,816	22.72	1,577	24.68	329	67.28	5,722	24.17
	■ Concluded	3,697	22.01	4,205	65.82	111	22.70	8,013	33.84
	■ Suspended	12	0.07			37	7.57	49	0.21
	Total	6,970	44.80	5,782	90.50	477	97.55	13,784	58.22
Not admitted	Not admitted	8,064	48.01	501	7.84			8,565	36.18
	Total	8,064	48.01	501	7.84			8,565	36.18
■ Under study (a 31 dic.)	Initiated	621	3.70	50	0.78	12	2.45	683	2.88
	Pending response from the interested party	587	3.49	56	0.88			643	2.72
	Total	1,208	7.19	106	1.66	12	2.45	1,326	5.60
OVERALL TOTAL		16,797	100.00	6,389	100.00	489	100.00	23,675	100.00

A complaint not being accepted for processing in no way whatsoever means a lesser degree of attention being devoted to the issues in question or to the request put forth by the citizen who lodged it. All complaints are given the same degree of dedication and are answered in a timely manner, providing the person in question with the most suitable response to the issue raised as well as guidance regarding the alternatives available to them.

In 2014 requests for filing an appeal on the grounds of unconstitutionality was requested against 22 laws.

Another request that was received by the institution in 2013, was appealed to the court in 2014.

TABLE 13

Status of cases regarding request to appeal to Constitutional Court in 2013

STATUS	Individual Number	Joint Number	Total Number
Filed	1		1
Not filed	55	232	287
Under study (at 31 dec.)	2		2
TOTAL	58	232	290

The following table specifies those requests for appeals not filed but that have been the subject of ex officio investigations or recommendations. The table details the law or decree under which the filing of an appeal was requested, the number of requests and the number of recommendations and to which Administration they were put forth.

TABLE 14

Details of cases requesting appeals to be filed before the Constitutional Court which have given rise to ex officio investigations or recommendations by the Ombudsman in 2014

Legal norms involved	No. of ex officio investigations	No. of recommendations	Administration to which Recommendations were put forth
Organic Law 8/2013 of 9 December, for the Improvement of Educational Quality (educational attention to the disabled, in terms consistent with the Convention on the Rights of Persons with Disabilities)	18	18	Secretary of State for Education, Vocational Training and Universities, and each of the 17 Autonomous Education Administrations
Law 23/2013 of 23 December, regulating the Sustainability Factor and the Rate of Revaluation of the Pension System of Social Security (review of pensions under the Consumer Price Index (IPC) and specific pricing for services for pensioners)	1	2	Ministry of the Presidency
Law 9/2014 of 9 May, Telecommunications (administrative action on electromagnetic pollution and its effects on health)	1		Secretary of State for Telecommunications and the Information Society, the Ministry of Industry, Energy and Tourism

Law 12/2014 of 9 July, regulating the procedure for the determination of the representation of agricultural professional organizations, and the creation of the Agricultural Council	1		Ministry of Agriculture, Food and the Environment
Royal Decree-Law 13/2014 of 3 October, adopts urgent measures in relation to the gas system and the ownership of nuclear power plants (compensation Castor Project)	1		Secretary of State for Energy, Ministry of Industry, Energy and Tourism (before the resolution)
Murcia Regional Law 13/2013 of 26 December, on the National Budget of the Autonomous Community of the Region of Murcia for the 2014 year	2		The Autonomous Department of Economy and Finance and the Department of Education and Universities of the Region of Murcia
Law 3/2014 of 11 July, of the Autonomous Government of Valencia (<i>la Generalitat</i>), on cattle trails of Valencia	1	6	The Autonomous Department of Infrastructure, Territory and the Environment of the

Cases of Individual Complaints

Table 15 lists the reasons to why complaints have not been accepted, all referring to substantive aspects for which it is not possible to proceed with the claim of the interested parties or promote action against the government. As shown, the main cause of rejection is the lack of indicators that reveal unlawful conduct on behalf of the administration.

TABLE 15

Cases of Individual Complaints. Reasons for non-admission in 2014

REASONS FOR NON-ADMISSION	Number
No evidence for unlawful conduct	2,870
Lack of prior administrative action	1,234
No reply to the request for further details	795
Court intervention	737
Several concurring reasons for non-admission	638
Other reasons as to why the Ombudsman is not competent	487
Private conflict having nothing to do with the Administration	285
Final court decision not subject to appeal	177
Only information being requested	142

Intervention by the autonomous community parliament commissioner	112
Incorrect action acknowledged, in process of being remedied through other cases	108
Remedied without Ombudsman's involvement	105
Only information being sent	82
No action on behalf of public powers	59
Withdrawal	52
No grounds	48
Longer than a one-year period	35
Against current legislation	30
No legitimate interest	28
No claim	18
Administrative authority in matters within their competence	6
Requirement for acceptance of appeal not met	4
Anonymous claim	3
Damaging to third parties	3
No reply to rectifiable defect	3
Acting in bad faith	2
Impossible to contact interested party	1
TOTAL	

The following two tables show the processing followed for individual complaint files that were admitted, the administrations involved in the various activities and the findings for those cases that have been concluded in the year 2014.

TABLE 16

Individual complaint cases admitted. Number of those processed before the Government in 2014

ADMINISTRATIONS	In process	Concluded	Suspended	Total
Central Government	1,513	1,926	9	3,448
Autonomous Community Government	1,024	888	1	1,913
Local Government	672	563	1	1,236
Attorney General	65	31		96
Other government agencies	93	161		254
More than one administration	254	113		367
Action connected to other investigations	195	15	1	211
TOTAL	3,816	3,697	12	7,525

TABLE 17

Individual complaint cases admitted and concluded. Types of conclusions according to administrations in 2014

ADMINISTRATIONS	Correct action	Remedied	Not remedied	Other types of conclusions	Total
Central Government	762	615	257	292	1,926
Autonomous Community Government	277	433	36	142	888
Local Government	322	127	19	95	563
Attorney General	8	10		13	31
Other government agencies	88	44	8	21	161
More than one administration	33	31	25	24	113
Action connected to other investigations	2	2	1	10	15
TOTAL	1,492	1,262	346	597	3,697

Joint Complaint Cases

In the following two tables the causes of non-admission for joint complaints are listed as well as the administrations involved if the complaints would have been admitted.

TABLE 18

Joint complaint cases. Reasons for non-admission in 2014

REASONS FOR NON-ADMISSION	NUMBER
No evidence for unlawful conduct	349
Several concurring reasons for non-admission	97
Against the current legislation	55
TOTAL	501

TABLE 19

Joint complaint cases admitted. Number of those processed before the Government in 2014

Administrations	in process	Concluded	Total
Central Government	152	3,307	3,459
Autonomous Community Government	1,275	716	1,991
Local Government	42	38	80
Attorney General	38		38
Other government agencies		63	63
More than one administration	70	81	151
TOTAL	1,577	4,205	5,782

Cases of ex officio investigation

TABLE 20

Ex officio investigation cases. Initiated and processed before the Government in 2014

ADMINISTRATIONS	In process	Concluded	Suspended	Total
Central Government	96	49	1	146
Autonomous Community Government	102	32	36	170
Local Government	91	16		107
Attorney General	1			1
Other government agencies	2	2		4
More than one administration	28	10		38
Action connected to other investigations	9	2		11
TOTAL	329	111	37	477

TABLE 21

Concluded ex officio investigation cases. Type of conclusions according to administrations in 2014

ADMINISTRATIONS	Correct action	Remedied	Not remedied	Other types of conclusions	Total
Central Government	11	17	4	17	49
Autonomous Community Government	14	13	1	4	32
Local Government	12	1		3	16
Other government agencies		1		1	2
More than one administration	2	6		2	10
Action connected to other investigations				2	2
TOTAL	39	38	5	29	111

RECOMMENDATIONS, SUGGESTIONS, REMINDERS OF LEGAL DUTIES AND WARNINGS

As a result of the processing of files of individual and joint complaints, ex officio investigations as well as requests for appeal of unconstitutionality and the monographic studies, resolutions were addressed to the different public administrations, which are detailed in the following and categorized as accepted, rejected and pending reply.

TABLE 22

Resolutions put forth in 2014

RESOLUTIONS	Accepted	Rejected	Pending	Total
Recommendations	217	84	166	467
Suggestions	234	103	267	604
Reminders of legal duties				199
Warnings				1
TOTAL	451	187	433	1,271

TABLE 23

Recommendations, according to administration to which addressed at December 31, 2014

ADMINISTRATIONS	Accepted	Rejected	Pending	Total
Central Government	84	48	92	224
Autonomous Community Government	106	28	56	190
Local Government	26	7	12	45
Other government agencies	1	1	6	8
TOTAL	217	84	166	467

TABLE 24

Suggestions, according to administration to which addressed at December 31, 2014

ADMINISTRATIONS	Accepted	Rejected	Pending	Total
Central Government	108	62	71	241
Autonomous Community Government	49	25	53	127
Local Government	77	15	143	235
Other government agencies		1		1
TOTAL	234	103	267	604

REQUESTS TO APPEAL TO THE CONSTITUTIONAL COURT

Most of the requests to the Ombudsman for filing of an appeal of unconstitutionality before the Constitutional Court have been regarding regulations issued by the Parliament and executive orders and royal decree-laws approved by the Government. They are followed by several requests regarding laws and decree-laws of the Autonomous Communities. In total there are 23

regulations and provisions that have been subject to appeal on behalf citizens, at times on behalf of leaders of political parties, unions or associations.

Consider that, this institution has as a criterion well-established over the course of the years of refraining from filing appeals against statutory provisions in those cases in which another legally-authorized body has proceeded to file the same (these other bodies may be: President of the Government, at least fifty deputies or senators, or the governments and parliaments of autonomous communities). This criterion has been followed in several of the decisions adopted in 2014.

All decisions made by the Ombudsman can be consulted in Annex E.5 to this report. The following will detail all of the regulations and provisions that have been subject to request to appeal, with a brief description of their reasons. They will be sorted by claims of unconstitutionality, appeals and requests for protection.

UNCOOPERATIVE OR OBSTRUCTIVE ADMINISTRATIONS

Article 19 Organic Law 3/1981 of 6 April, **obliges the government to respond to the Ombudsman** with the information required for investigations. However, this **response is not always prompt** and, in some cases, after having been requested several times, **may not ever be provided at all**. However, the latter case is infrequent.

In such cases, Article 18.2 of the Organic Law 3/1982, of 6 April, vests the Ombudsman with the authority to declare the administrative division or body in question as "**hostile or obstructive in their duties**" and to additionally make it known to the Parliament, thereof by means of listing them in this annual report or, when applicable, in a special report. The divisions and bodies of different administrations that have not given an adequate response to the requests of the Ombudsman are listed in the corresponding chapter in the appendix of this report

Administrations have been classified into three groups:

- Administrations considered **obstructive** as a result of having systematically or notably hindered or obstructed the Ombudsman's work in an investigation.
- Administrations which **have failed to provide a response** to a request for information in one or more cases after having been requested up to three times to do so.
- Administrations providing a response to the Ombudsman **only after their collaboration**

had been requested three times.

The characteristics of each of these cases are different, in so far as the repercussion of the failure to meet their obligation, the repeated failure to do so or the options available from the administrations themselves.

Several steps have been taken so that the requests for information that have been pending the longest would be answered, so that the administrations may comply with the requirement of this institution.

Administrations that have stood out for its lack of reply in one or more cases are:

- Central Government:
 - Territorial Management of Catastro in Segovia (12010244)

- There are no divisions or departments of the autonomous regional governments among non-cooperating administrations.

- Regarding local administrations, the following administrations should be noted:
 - City Council of Santomera
 - City Council of Porto do Son
 - City Council of Llanes
 - City Council of la Unión
 - Neighbors Association of Galarde
 - City Council of Camarma de Esteruelas
 - Local Division of Menor de Ayega
 - City Council of Buñol
 - City Council of Carabaña

In this list there are several smaller sized municipalities. The Ombudsman is aware of the difficulties some local governments are experiencing with the material resources and staffing they need to manage their affairs, especially in the current situation. However this does not mean that local institutions are exempted from the duty to render assistance to this institution in the course of its investigations, a duty that is mandated by the constitution and to which they are subject. They will be paid, however, extra attention given the difficulties they encounter.

Public law corporations which have not complied with their duty to respond to the Ombudsman, after being requested to do so in three successive occasions:

- Bar Association of Badajoz, in two cases
- The Official Spanish Chamber of Commerce in Germany

Budget and Management

The ombudsman reduces its budget by 5% in 2014

The attempts by foreigners to access Spanish territory irregularly this year has been an issue of special attention. The institution has especially monitored the situation in Ceuta and Melilla where the processing of applications for international protection has improved. The institution has produced a study on Spanish prisoners abroad, which will be released in 2015. Complaints concerning Equal Treatment have increased in 2014.

BUDGET 2014

The Official State Gazette number 309 of December 26, 2013, published the Law 22/2013 of 23 December on the General State Budget for 2014. With respect to this institution (Section 02, Service 05 "Ombudsman") allocations of funds are as follows:

TABLE I	
EXPENSE BUDGETS 2014	AMOUNT
Chapter I: Personnel expenses	11,539,700.00€
Chapter II: Current expenditure in goods and services	2,412,000.00€
TOTAL CHAPTER I + II	13,951,700.00€

The following table provides a breakdown of the budget items.

TABLE II		
CHAPTER I. PERSONNEL EXPENSES		
ITEM	DESCRIPTION	TOTAL
10	Senior officials	449,000.00
12	Civil servants	8,465,400.00
13	Employees on contract	7,300.00
14	Other personnel	370,000.00
15	Performance incentives	5,000.00
16	Employer social security contributions, benefits and social expenses	2,243,000.00

TOTAL CHAPTER I		11,539,700.00
CHAPTER II. CURRENT EXPENDITURE IN GOODS AND SERVICES		
20	Rental and leasing fees	36,200.00
21	Repairs, maintenance and upkeep	444,600.00
22	Materials, supplies and other	1,665,700.00
23	Service-related compensation	137,000.00
24	Publication expenses	100,000.00
27	Purchasing, supplies y other costs	38,500.00
TOTAL CHAPTER II		2,412,000.00
TOTAL BUDGET (CHAPTER I+II)		13,951,700.00

Inter-annual evolution 2009-2014

The inter-annual evolution of the budget over the course of the past years, from 2009 to 2014, has been shown in the following:

Year	2009	2010	2011	2012	2013	2014
Amount (€)	15,968,400	15,886,500	15,175,800	14,492,900	14,021,300	13,951,7
Percentage of variation from the previous year	-	-0.51%	-4.47%	-4.50%	-3.25%	-0.50%

FIGURE I

16,000,000 15,500,000 15,000,000 14,500,000 14,000,000 13,500,000

Year 2009: 15,968,400.00 €

Year 2010: 15,886,500.00 €

INFORMATION FOR CITIZENS

Data is provided in the following tables concerning the assistance provided to citizens throughout 2014, either directly in person or via different electronic avenues.

TABLE IV

Number of calls and visits received throughout 2014 for the purpose of providing citizens with services and its comparison with 2013

INFORMATION PROVIDED TO CITIZENS	2014	2013
Assistance in person	3,426	3,251
Telephone	9,755	9,808
Toll free 900 number	6,908	6,614
TOTAL	20,089	19,673

TABLE V

Visits to the Ombudsman Institution's website
(www.defensordelpueblo.es)

	2014	2013
Pages visited	8,227,775	6,842,109
Visits	448,609	410,295

Table VI distinguishes between visits made to the website (visits) and visits made to the different pages (pages visited on the website).

TABLE VI				
Breakdown of visits to the Ombudsman Institution website. Year 2014				
WEBSITE ADDRESS	Visits	Pages Visited	Visits	Pages Visited
defensordelpueblo.es	343.300	6.992.004	313.418	6.087.819
premioddhh.defensordelpueblo.es	4.160	11.460	2.286	9.284
concursodibujos.defensordelpueblo.es	38.326	53.751	25.63	40.006
enclase.defensordelpueblo.es	32.201	55.847	30.451	50.123
NPM	27.244	1.100.019	14.666	633.252
estadisticas.defensordelpueblo.es	892	1.875	1.626	4.227
biblioteca.defensordelpueblo.es	1.488	10.090	1.942	15.126
newsletter.defensordelpueblo.es	998	2.729	770	2.272
Complaint/Inquiry	8.858	82.417		
TOTAL	457.467	8.310.192	390.622	6.842.09

As of September, citizens who have submitted complaints to the Ombudsman can access the status of their file through the website of the institution. The following table shows that 2,571 individuals have requested their password, in order to make inquiries confidentially, and those who have made use of it, effectively checking the status of their file.

Table VII

Requests for passwords in order to make inquiries by internet (as of the date of implementation of the service in September)	
TYPE OF REQUEST	INDIVIDUALS
Request of password	2,571

TRANSPARENCY AND AVERAGE TIMES

In 2014 the institution launched a **transparency portal** that details budgetary management, salaries, contracts, agreements and official travel. It also created a new service that allows citizens to check the status of their complaints through www.defensordelpueblo.es

According to the Ombudsman "transparency can not be limited to the exposure of its data." For this reason, and to give the best possible service to citizens, the institution reports on the proceedings undertaken and the requirements drawn up, the time taken and the results obtained. For the first time in an annual report this data is provided with the **average time** taken by the Ombudsman to respond to citizens and the time taken by authorities to respond to the Ombudsman.

The institution has made an effort to reduce the average response times of the Ombudsman to citizens and to the Public Administration. Thus, in 2014 the Ombudsman took an average of 34 days to respond to citizens, namely almost half that in 2012 when it took 64 days.

COMMUNICATION

The Ombudsman's Department of Communication works to bring the efforts of the Ombudsman closer to the citizens. Its aim is to make known the recommendations, suggestions and investigations of the institution and to show how the work of the Ombudsman benefits all citizens. To meet this objective, the Communication Department maintains a fluid, transparent and constant relationship with the media.

Thus, it produces a digital magazine, "Ombudsman Update" ("*El Defensor al Día*"), which includes the main activities of the institution. More than 3,000 persons, groups and public agencies are currently receiving this publication (Autonomous Commissioners, Central Government and Administrations, State institutions, Autonomous Regional Parliaments, government delegates and sub-delegates, the Joint Commission for Relations with the Ombudsman, the Ibero-American Federation of Ombudsman, associations and non-governmental organizations, the media and private citizens interested in receiving this publication).

The Communication Department is also responsible for updating the website, www.defensordelpueblo.es, which provides an overview of the work done by the institution.

In addition, the Ombudsman has a Twitter account, which has accumulated more than 13,000 followers. This profile makes yet another communication channel available to citizens for keeping up to date with activities of the Ombudsman Institution. Complaints cannot be presented through this channel due to the brief nature of Twitter posts, which makes it impossible to present the additional information necessary in many cases for citizens to attach to their claims.

Media Impacts

Media relations are an important part of the daily work carried out by the Communication Department, which has established a strong and regular presence in newspapers, radio programs, television and digital media.

In 2014, more than 15,000 impacts have been counted on the internet, in printed press and on radio and television. The institution has achieved strong impact in the media with the publication of its annual report and of its monographic studies: *The Process of Hearing and the Best Interest of the Child: Judicial review of family processes and protection measures*, *Injury Reports on People Deprived of their Liberty*, and *Telecommunications: Requests and needs of citizens*.

Supervision of Public Administrations

Security and Justice

Child protection: the Ombudsman's priority in 2014

In 2014, the Ombudsman prepared a study entitled *The process of Hearing and the Best Interest of the Child. Judicial review of family processes and protection measures*, which includes recommendations aimed at enforcing the children's right to be heard. The institution has also called for the elimination of visits and communications of parties accused of domestic abuse with their children in order to avoid possible risks.

ADMINISTRATION OF JUSTICE

Undue delays

Within the scope of civil jurisdiction, the Ombudsman received an important number of complaints regarding undue delays in family-related proceedings.

In the opinion of the institution, judicial response to family-related proceedings should be rapid and effective. Promptness and diligence in setting the dates for family-related hearings is essential, and special attention must be given to requests for precautionary measures. An unjustified delay in the processing of a family proceeding can lead to a spiral of domestic violence, which sometimes has dramatic consequences.

Over the last few years, complaints regarding judicial delays in social courts have increased. In view of the numerous complaints received in 2014, an *ex officio* investigation with the Secretary of State for Justice and the General Council of the Judiciary was initiated to determine the status of these courts and the solutions provided by these bodies to alleviate the situation.

The contentious-administrative jurisdiction has traditionally produced the most striking delays. A change in this trend has, however, been observed in the last few years: in 2014, the majority of complaints received in this context focused on delays in the implementation phase of the resolutions.

On the other hand, as a direct consequence of the economic crisis, there has been a considerable increase in the workload of commercial courts.

In the criminal jurisdiction, the consequences of a late ruling become even more dramatic.

Study of the process of hearing children in specific civil proceedings

The study *The Process of Hearing and the Best Interest of the Child. Judicial review of the family processes and protection measures* was published in 2014. This examines -from the standpoint of the Convention on the Rights of the Child- the right of the child to express his or her opinion and for his or her opinion to be taken into account in issues affecting them. It also addresses the guarantees to be taken into account in order to ensure that the best interests of the child are primordial.

These are some Recommendations of the Ombudsman:

- “To configure the process of hearing the child as a right of the child, not subject to criteria of need or appropriateness. This means hearing the child and taking into consideration what he or she says”.
- “To eliminate the criteria of age regarding the right of the child to be heard, replacing it with the assumption of the capacity of the child to form his or her own views”.
- “To establish that the impression of a lack of maturity for these purposes must be backed by a technical report from the psychosocial team assigned to the court, which must bear in mind the approach in this regard of the Convention and the Committee on the Rights of the Child”.
- “To introduce the benefit of free legal aid for those children who, independently of their parents or legal guardians, wish to have their views heard in processes dealing with matters affecting them”.
- “Along the line of that which is set forth under article 5 of the European Convention on the Exercise of the Rights of the Child, to recognize new rights of participation for the child in those processes which deal with matters affecting him or her, in particular the possibility of exercising the rights of the parties, in full or in part. Similarly, to amend the regulation of the judicial defender in order to facilitate the access and representation of the child in the process”.
- “To introduce into family proceedings the provision for the appointment of a judicial defender when the public prosecutor and the child are in disagreement as to which is advisable for her/his best interests”.

- “To incorporate the principles which are to govern the processes of hearing the child, in particular with regard to the confidentiality of the process, the way in which it is to be conducted, the setting in which it is to be carried out, the degree of importance which can be placed on the views of the child or the capacity of the child for dealing with issues considered pertinent thereby”.
- “To establish a duty of strict motivation of the judicial decisions, particularly when the judge strays from the views expressed by the child or when the child has not been proceeded to be heard”.
- “To take under consideration the process of informing the child as to the judicial decision adopted regarding that which affects him or her. Similarly, grant him or her specific appeal procedures, even which he or she was not to have been party to the process of first instance.
- “To promote the generalization of courts of first instance as specialized family courts. Similarly, in cooperation with the Autonomous Communities to whom the authorities over human and material means serving the Justice Administration have been transferred, to promote spaces being adapted to the special needs of children and these specialized courts being assigned their own psychosocial teams”.
- “To reinforce the allocations of the Public Prosecutor’s Office so that it may increase the number of public prosecutors specialized in the civil field of children”.
- “Examine the procedural model for taking exception to the administrative measures for protection for the purpose of notably shortening the processing times and, in the event that it be deemed possible without curtailing the rights of the parties, vary the aforesaid model toward a system of mandatory judicial examination and ratification of the administrative decisions.”

Gender violence

Firmly committed to the fight against gender violence, in 2014 the Ombudsman made recommendations to the Ministry of Justice to increase the protection of children who are victims of gender violence. In this sense, the institution called for the suspension of visits and communications of the party accused of domestic abuse with his/her children in order to prevent possible risks. In the opinion of the Ombudsman, the best interest of the child and his/her right to be heard should prevail in all decisions taken in this matter.

It also recommended that the law should guarantee an individualized assessment of the visiting arrangements established for each child affected by gender violence. It also requested that the Joint Custody Law be forwarded to Congress as soon as possible for its parliamentary process.

The institution asked for the recommendations and guidelines included in the study presented in May 2014 *The Process of Hearing and the Best Interest of the Child. Judicial review of family processes and protection measures* and the Opinion delivered on the July 16, 2014 by the Committee on the Elimination of All Forms of Discrimination against Women of the United Nations (CEDAW) to be taken into account.

Civil Registry

A large number of specific civil registries remain collapsed. In addition, the insufficient provision of human resources affects accessibility, personal attention as well as telephone and online attention. It also causes delays in the processing of marriage and nationality records, documents for the correction of mistakes in registrations and for the resolution of appeals.

The situation is very unequal depending on the civil registry and the autonomous community. The difference in the processing time (from the application's submission until the nationality file is resolved and registered) can range from one and a half to ten years depending on the place of residence.

Most of the recommendations for the improvement of the provision of human and material resources have been fully or partially accepted. Improvements have been made in specific registries. However, the overall situation remains unresolved, due to budget restrictions and limitations to the replacement of civil service personnel.

Improvements have been particularly noticeable in the length of time necessary for attention and processing, which have been reduced both in the Central Civil Registry and the Single Registry of Madrid.

Intensive Plan for Processing Nationality Applications (abbreviated as *PIN* in Spanish)

According to the latest official data issued, as of January 1 2015, 611,801 applications had been digitized since the beginning of the Intensive Plan of Nationality, plus 188,327 additional applications. 549,265 of these had already been processed by the registries. In 68,507 cases, additional documentation was requested from the applicant, 526,733 had already been informed

and 518,898 of these had already been resolved by the Ministry of Justice. A total number of 38,377,674 pages were digitized.

In November 2013, the managing task that had been signed with the General Council of Notaries in April of that year was brought to an end. The task involved was that the swearing or the promise of loyalty to the King, the Constitution and the laws be carried out before them. The intention was to avoid delays, in some cases of more than one year, being experienced by civil registries between the notification of the decision granting citizenship and the appointment of the date for taking the oath.

The aim to reduce time periods has only been achieved in those registries, which were not collapsed, where provision of human resources was appropriate.

In Andalusia, Canary Islands, Catalonia, Madrid and Valencia, not only has the objective not been achieved, but the streamlining in the resolution has also increased the collapse of civil registries. In these cases, the necessary measures to address the needs of the service have not been adopted. All the above has implied not only an increase in delays for taking the oath and in registration proceedings, but also for the citation to present applications as well as receiving notification.

In terms of nationality, the majority of complaints referred to the difficulty of filing the application, the delay in each of the steps, disagreement with the reasons for the denial, delay of several years and even failure to provide express resolution and misplacement of applications. In these cases, it has been suggested to reinstate their file and that their processing be made a priority.

Consular Registries

The Spanish Consulate General in Havana is that which generates the most complaints concerning the delay in processing of nationality applications. The Recommendation was accepted to provide that office, at least temporarily, with additional staff, so effective documentation of the registered Spanish population can be guaranteed and the processing of cases of nationality still pending be sped up.

PRISON FACILITIES

At the end of 2014, 65,194 people were detained in 97 prisons in Spain.

The inmate population presented 471 complaints, representing a decrease in comparison with

the previous year (541). A total of 114 ex officio investigations were conducted on this subject (49 in 2013). The reason for this increase is the number of actions, which have been initiated with municipal governments in order to ensure increased supply of places for the sentences to be served by community service.

Deaths

According to the latest official data published, 162 inmates died in 2013. The average of the deceased was 47.2 years.

In the penitentiaries managed by the Autonomous Community of Catalonia Government, a total of 62 deaths occurred in 2013.

Abuse

The twofold nature of complaints lodged to this institution regarding abuse in prison is maintained. On the one hand, there are those of an individual nature lodged by an inmate reporting a specific episode in particular in which he/she states having been ill-treated. On the other hand, complaints have been lodged presenting identical texts, which generally refer to having been subjected to abusive treatment, beatings, humiliations, harassment or torture.

The Ombudsman has recommended that internal regulations be issued to establish a flexible and standardized procedure to verify complaints about possible improper conduct attributed to officials. These regulations should emphasize the need to carry out interviews and elaborate a reasoned assessment of the testimony by professionals specialized in conducts of the Administration who are not part of the permanent staff of the establishment affected. From these data, the reporting inmate should be offered the possibility to give testimony in the minutes of the hearing, with the legal consequences this implies.

In 2014, a Recommendation was also made to the Penitentiary Administration to ensure supervision during the time a mechanical immobilization of inmates takes place. This is intended to enable the Administration to act immediately in situations of risk of suffocation and the possible death of the person immobilized. The Administration notes the lack of human and material resources to carry out this Recommendation. This matter will be followed up in 2015.

The delivery of injury reports after incidents caused by the use of coercive methods, usually of physical force, to inmates who have requested it, continues to be a concern for this institution, as well as the lack of the Administration responsiveness regarding photographic documentation of injuries produced in prison.

The need persists to remind the Administration that it is not up to them to determine in which cases the events and injuries produced must be communicated to the judge. The criterion of the Ombudsman is that whenever an injury report is filled in prison, the documented facts must be communicated to the duty court as soon as possible so that the judicial authority may determine whether some kind of legally established actions must be taken. In 2014, the institution has noted that there is no uniform action in prisons managed by the Office of the Secretary General of Penitentiary institutions.

Inmate Rights

In 2014, there have been numerous communications regarding security conditions in some prisons. The lack of renewal of the prison personnel has caused an increase in conflict and aggression among inmates. The workers' representatives also point to inadequate staffing as the cause of the increased attacks on officials.

The Ombudsman has reminded the Administration that, in order to provide an adequate prison service, it is necessary to have sufficient allocations of civil servants. Furthermore, a process of aging of the staff is taking place. Thus, the Ombudsman advises that this issue be analyzed and solutions be adopted as soon as possible.

The institution learned that in some Spanish cities, the number of people sentenced to carry out community work was superior to the availability of places for its execution. Thus, the Ombudsman issued a Suggestion to various municipal corporations for them to analyze the request for collaboration that the Penitentiary Administration had offered them in order to increase the number of places to carry out sentences of community work. Generally speaking, the welcoming of the Suggestion has been favorable.

Healthcare

The Penitentiary Administration established that the drugs used in the triple therapy for hepatitis C must be dispensed in units that meet the minimum requirements for the optimal health monitoring of patients. The Administration believes that such assistance is responsibility of the prison's reference hospitals, which depend on the health authority of the autonomous community.

The expectation for hospitalization in order to receive treatment is not shared by physicians who treat non-inmate patients nor by the Court of Seville, which in 2013 ordered the Office of the Secretary General of Penitentiary institutions to provide an inmate, and refused the release of the inmate for that purpose, stating that treatment could be given in prison "without prejudice to

the referral of the patient to specialists for programmed controls”.

At present, there are inmates who have been prescribed these drugs and who are not receiving them because the Penitentiary Administration considers that it is the responsibility of autonomous communities to bear the costs of the treatment. Given the refusal of the autonomous communities to assume these expenses, the Penitentiary Administration has initiated legal proceedings. The Ombudsman has indicated to the Penitentiary Administration the need, for humanitarian reasons, to proceed to the payment of such drugs notwithstanding that parallel proceedings are initiated if there are legal bases for it.

CIVIC RESPONSIBILITY AND PUBLIC SAFETY

Victims of terrorism

After the assessment of the implementation of the European Court of Human Rights (ECHR) judgment of 21 October 2013, the Ombudsman made three Recommendations to the Ministries of Interior, Justice and Foreign Affairs and Cooperation.

The first suggests establishing a plan of action at the international level to ensure, in international forums, a better understanding of the damage caused by terrorism.

The second aims to promote, in the Victim's Statute, support measures to facilitate the representation of victims of terrorism to processes that take place before the European Court of Human Rights or other courts located outside national territory, provided that procedural rules that apply in such courts so allow.

The third Recommendation urges the Government to make the necessary legislative reforms to prevent terrorists from undermining the collective heritage and that of their victims. Therefore, it proposes to make more effective the seizure of assets of those convicted terrorists who have not satisfied the civil responsibility for the terrorist acts committed. It also calls for the inability to benefit from the aid that society gives to prisoners released from prison if there is no remorse or payment of compensation. It also suggests modifying the electoral legislation so that people who left the Basque Country due to terrorist threats can vote.

Moreover, among the exemplariness requirements that a citizen has to meet in order to exercise a senior office, this institution proposes to include not having been convicted for terrorist crimes. It also proposes the creation of a Memorial Center for Victims.

The Recommendations made are in different stages of implementation. Some initiatives for a

better understanding in international forums of the damage caused by terrorism have been carried out. However, these measures are awaiting their implementation.

With regard to the representation of victims of terrorism in legal proceedings in courts outside the country, the Ministry of Justice must specify the relevant pathways to facilitate the legal representation of the victim in processes that take place before the ECHR.

Law 22/2013 on the General State Budget for 2014 implemented the Recommendation for regulating the unemployment aid for those released from prison who have been convicted of terrorist crimes and who have paid compensation to their victims and expressly apologized.

However, other proposals such as the electoral reform on electoral rights of victims of terrorism, or access to senior offices for persons convicted of terrorist offenses have not been implemented thus far. The Memorial Center for Victims provided by the Comprehensive law of 2011 has not yet been created.

Law Enforcement Authorities

In 2014, this institution received 9 complaints concerning alleged police ill-treatment (compared to the 21 of the previous year) and 67 for incorrect treatment (compared to the 56 of the previous year).

Consumption of alcohol in outdoor public areas

The institution continues to receive complaints from citizens who show their dissatisfaction with the handling of the fine-charging process for consuming alcohol in outdoor public areas.

There are two fundamental reasons for disagreement: the lack of a system for objective verification of the beverage that is being consumed at the time of the complaint and the absence of notification in the moment, which means that many persons reported are not aware and can not benefit from the reduction of the sanction, a feature of the summary proceedings.

In 2013, the Ombudsman recommended to the City Council of Madrid to set up a valid system for verifying the alcoholic content of the beverages which are being consumed in outdoor public areas which is not the mere sensory perception of the reporting officer for the purpose of adequately documenting the fine charging process and confirming that a person is incurring in conduct classified as an offense under the law. The City Council of Madrid accepted the Recommendation. However, complaints continue to be received. Therefore, the Ombudsman is monitoring to ensure its implementation.

Use of riot-control material

In the Ombudsman's view, the Memorandum regarding the Use of Riot-control Material of 3 September 2013, prepared by the Office of the General Commissioner of Public Safety, and the "Updating manual for Police Intervention Units" are insufficient to ensure appropriate, timely and consistent use of anti-riot material and to minimize the risk of harmful use.

The institution considers necessary to establish precise and detailed rules to prevent or minimize the consequences that its use may have for the life and integrity of persons. Therefore, it has recommended to the Directorate General of the Police to develop rules which regulate the use of rubber bullets.

The Directorate General of the Police has not accepted the Recommendation because it considers the regulation and the existing control mechanisms to be sufficient.

Traffic

Numerous complaints have also been received regarding traffic. The Ombudsman is aware that the high number of traffic-fining procedures that are processed per year makes it difficult to thoroughly and conscientiously examine the allegations and appeals presented. However, the institution believes that the administrations' personnel and its owners, should be aware of their responsibility and make an extra effort so that traffic-fining procedures are proceeded with the appropriate safeguards for citizens.

In 2014, the number of complaints related to errors by the reporting officer when recording the digits of the license plate has been significant. Complaints about errors in the amount of the fine and the way in which notifications are given in the context of traffic-fining procedures have also been received.

Electoral regime

The institution has received complaints from citizens who have been repeatedly nominated to be members of a polling station and who express their surprise that such designation is given by draw.

Instruction 6/2011, of 28 April, specified as causes of inability to take part in the polls those related to the personal situation of the designated person and to family and professional responsibilities.

The lack of uniformity in the assessment and acceptance or rejection of the different reasons provided prompted the Ombudsman to suggest to the Central Electoral Board the need for revision of the criteria allowed, the clear definition of the type of events that may justify an absence and the introduction of some new measure to limit the number of times that a voter may be appointed to a poll.

Thus, a Recommendation was made for citizens who had been appointed as members of a polling station at least three times during the past ten years to be exempted from a new participation. The Recommendation has been accepted.

Migration and Equal Treatment

The situation of Spanish prisoners abroad, analyzed through a monographic study

The attempt by foreign nationals to access Spanish territory irregularly has been an issue of special attention this year. The institution has undertaken special monitoring of the situation in Ceuta and Melilla where the processing of applications for international protection has improved. The institution has produced a study on Spanish prisoners abroad, which will be released in 2015. Complaints concerning Equal Treatment have increased in 2014.

Spanish prisoners abroad

In 2014, the institution carried out a monographic study regarding the situation of Spanish prisoners that are held in foreign prisons, deprived of liberty. This report will be published in 2015.

According to information provided from the Ministry of Foreign Affairs and Cooperation, on December 30, 2014, there were 1,735 Spanish citizens detained abroad. Noteworthy countries according to number are: Peru (327), France (155), Colombia (139), Morocco (119) and Germany (117). The most common cause is drug trafficking.

The Ombudsman and the First Deputy have visited Spanish prisoners in several prisons abroad. In March, the Ombudsman traveled to Morocco, where she visited Spanish prisoners detained in the Sale Prison (Rabat) and participated in a meeting of the Association of Mediterranean Ombudsmen (abbreviated as *AOM* in Spanish). The First Deputy visited Spanish prisoners in a Tangier prison in June.

In October, the Ombudsman participated in the XIX General Assembly and International Congress of the Ibero-american Federation of Ombudsman (abbreviated as *FIO* in Spanish) held in Mexico. Taking advantage of her stay in that country she visited the Spanish prisoners detained in the Women's Prison in Santa Marta Acatitla.

In May, staff of the institution went to Quito (Ecuador) on the occasion of attending a workshop organized and funded by the Ibero-american Federation of Ombudsman and visited Spanish prisoners in the prisons of Cotopaxi and Inca.

In August, the Comprehensive Organic Criminal Code of Ecuador entered into force. The institution has maintained close collaboration with the Foundation of the General Council of Spanish Lawyers (*Fundación del Consejo General de la Abogacía Española*), to advance the implementation of reduced sentences for drug trafficking for the Spanish prisoners, a measure that was adopted in the aforementioned law.

In regards to Panama, after receiving a complaint regarding the worrisome state of health several Spanish prisoners serving sentences there, 22 proceedings were filed. In 2014, 15 of them have managed to return to Spain.

Entry to national territory

In December 2014 the institution visited for the second time the Beni Enzar Border Post in Melilla to ensure the state of improvement. As of September, they began to process applications for international protection at the border.

Regarding the *Barrio Chino* Border Post, actions initiated in 2013 have continued their course.

The institution continues to receive complaints regarding the refusals of entry of foreign nationals at border control posts, specifically airports, which have been the cause of several interventions on behalf of this institution.

Actions are still being carried out regarding the difficulties foreign citizens, who are residences of Spain, have when they wish to return to Spanish territory but are lacking documentation due to loss, misplacement or other causes. In this regard the institution has put forth a Recommendation to the Office of the General Secretary of Immigration and Migration to establish criteria for the coordination necessary so that these citizens may return to Spanish territory, once competent authorities can accredit their identity.

Illegal entry of foreign nationals

In 2014 there have been repeated incidences due to the attempted entry of immigrants at the border, both land –through the border perimeters of Ceuta and Melilla Cities- and by sea.

Complaints received express dissatisfaction with the expedited return of immigrants; returns that fail to comply with the current legislation or with the international conventions ratified by Spain. Regarding this issue, the Ombudsman Institution has reiterated its concern over these actions, which make it impossible for authorities to identify and protect especially vulnerable persons, such as minors, applicants of international protection, human trafficking victims, etc.

In November of 2013 two Recommendations were put forth to the Ministry of Interior. The first is to replace the razor wire on the wall with a different mechanism that makes it difficult for persons to jump the wall but that does not cut them. The other is for members of the Civil Guard so that when they intercept a foreigner attempting to enter illegally, they bring that person to the National Police Force facilities so that the appropriate administrative proceedings may be taken. These Recommendations have not been accepted and the Ombudsman Institution has terminated its action and expressed its disagreement with the criteria of the Ministry.

An ex officio investigation was initiated following the death of several people attempting to enter Spanish territory illegally through the Tarajal, Ceuta zone. Previously the institution had also received complaints from citizens and non-governmental organizations expressing their disagreement with the action of the Civil Guard officers and requesting the intervention of the Ombudsman.

Proceedings were initiated with the Government Delegation, which were later suspended once the institution became aware of the fact that the proceedings were brought to the courts. The institution requested that the Office of the Attorney General keep it informed on the course of the proceedings.

Upon arrival of a significant number of immigrants to the coast of Cadiz on August 11, staff from the institution in coordination with the Andalusian Ombudsman visited the facilities of two municipal sports centers in Tarifa on August 16 to check on the conditions of these persons and also visited the Local National Police Station in Algeciras.

During these visits the institution held interviews with the heads of operations and confirmed the efforts made to manage the reception of more than one thousand people in 48 hours.

Temporary Accommodation Centers for Immigrants (CETI)

In 2014 the institution carried out an inspection visit to the Temporary Accommodation Center for Immigrants (abbreviated as *CETI* in Spanish) in Melilla. During the official visit to Ceuta by the Ombudsman and First Deputy, they also visited the Temporary Accommodation Center for Immigrants in that city.

The Office of the Secretary General for Immigration and Migration provided information regarding the actions taken to correct the deficiencies identified by the Ombudsman during its visit in 2013 to the Temporary Accommodation Center in Ceuta.

It also provided information regarding the establishment and approval of the protocol for the detection and the procedures to be taken in the case of possible victims of human trafficking for

the purpose of sexual exploitation.

This protocol is intended to promote coordinated intervention and standardized actions on behalf of the professionals assigned to immigration centers for the detection of possible victims.

At the end of 2014, the institution visited the Temporary Accommodation Center for Immigrants in Melilla. In the conclusions submitted to the Public Administration, the institution positively assessed the actions under taken by the Directorate General of Integration of Immigrants in coordination with the facility's management, to streamline the transfer of applications for international protection. The substitution of lockers in the modules and the installation construction undertaken in the bathrooms have also been positively assessed.

The institution has addressed the Office of the Secretary General for Immigration and Migration reiterating its concern regarding the overcrowding in the center and the overcrowded residents, the inadequacy of modules originally set up for families, the need to resume childcare facilities, as well as the inadequate space available for bedrooms, in the new building which do not meet the requirements for this function.

Unaccompanied underage foreign nationals

In regard to age assessment of foreign nationals whose status of being under age cannot be determined in certainty, the Framework Protocol for Unaccompanied Underage Foreign Nationals was established. This Protocol contains the majority of the 41 recommendations set forth by the Ombudsman in its monographic report *Children or Adults? Age assessment procedures*.

However, the protocol provides for the activation, in certain cases, of age assessment procedures for minors that have documents verifying them as underage.

As noted in previous reports, the Ombudsman considers that it should not submit documented minors to such proceedings.

Similarly the institution has addressed the Plenary of the Civil Chamber of the Supreme Court which has determined that an immigrant whose passport or identity document verifies their status as underage cannot be considered an undocumented immigrant to be subjected to additional age assessment test, thus assessments cannot be performed, without reasonable justification, when one has a valid passport.

In connection with the termination of custodial care of unaccompanied minors due to them abandoning the juvenile protection center where they were residing, procedures have been conducted with Child Protection Services and with the Office of the Attorney General for

Unaccompanied Underage Foreign Nationals, reiterating that article 276 of the Spanish Civil Code orders the termination of custodial care for specifically stated reasons, and the previously mentioned abandonment is not one of them.

In 2014 the institution has received new complaints regarding the processing of documents for minors under the custodial care of the Administration. The difficulties detected center around the delay in processing residency permissions, which at times are not applied for until nine months after the minor is put under the custody of Protection Services, as well as the incorrect implementation of effective feedback at the time in which they were located.

Visits to Juvenile Centers

The authorities from Ceuta have accepted the conclusions put forth after the visit to the San José-Hadú shelter and they have communicated that they are working on the proposals for improvement. However, the Ombudsman has informed these authorities of the need to construct a new Juvenile Center with the characteristics appropriate for its intended use.

After visiting the Mediterranean Juvenile Center in Ceuta in 2013, the Administration provided information regarding the participation of the autonomous city in the working group created within the Inter-autonomous meeting of general directors of Child Protection for the establishment of a protocol for the detection and protection of underage victims of human trafficking.

Concerning the applications for international protection for minors under the custody of a protection agency, the institution has taken notice of the collaboration initiated with the UN High Commissioner for Refugees for training and continuous contact between technical staff of both organizations. The First Deputy of the Ombudsman participated in the working forums on this issue in December.

Immigrant Detention Centers

The Royal Decree 162/2014, of 14 March, which adopts the Regulation on the Procedures and Internal Operations of Immigrant Detention Centers entered into force in 2014.

The Ombudsman, in its capacity as the National Preventive Mechanism against Torture (NPM) visited 8 of these centers in 2014 and found that many of the measures laid out in this regulation have not yet been implemented. The conclusions from these visits as well as the resolutions drawn up after these visits can be consulted in the 2014 NPM annual report.

In order to gather information for a report that will propose improvements for the Spanish

immigrant detention centers, the institution also visited the following immigration detention centers: *Mesnil-Amelot* of Paris (France), The Brooks Centre of London (United Kingdom) and the *Detentiecentrum* of Rotterdam (The Netherlands).

Expulsions and returns

There have been some complaints lodged regarding difficulties for detained foreigners to receive legal representation during the procedures executing their order for expulsion from national territory. It has been found in a significant number of cases that the circumstances, of the person concerned, at the time the resolution was executed, are currently different than those that led to the issuance of the expulsion order.

This change of circumstance (birth of children, relationship with a Spanish citizen, etc.) should be taken into account in order to establish guarantees to effective judicial protection of these citizens in the exercise of their rights and of their legitimate interests to prevent them from being in a situation unable to defend their rights.

Victims of human trafficking

After the update of the conclusions and recommendations established by the Ombudsman in October of 2013 under the framework of the monographic study on human trafficking presented in 2012, the improvements observed in the different procedures were noted.

However there continues to be complaints lodged regarding the difficulties in the identification of presumed victims of trafficking that, according to the complainants, generate failures in the activation of the Framework Protocol on the Protection of victims of human trafficking.

The institution insists on the need to regulate the conditions of cooperation of the competent authorities with non-governmental organizations that are dedicated to the care and protection of these victims.

From the data provided by the Ministry of the Presidency it is clear that the Recommendation to develop a plan to combat human trafficking for the purpose of labor exploitation has not been carried out. However, the institution highlights the positive results obtained as a result of the cooperation agreement between the Ministry of Interior and the Ministry of Employment and Social Security regarding issues to combat irregular employment and social security fraud.

Regarding minors, victims of human trafficking, progress has been made regarding the establishment of protocols for the effective detection of at-risk situations or abandonment among undocumented children accompanied by adults who are intercepted attempting to

access national territory illegally. However, there are still significant challenges, especially in those areas in which minors, accompanied by adults, enter illegally, such as in Andalusia, Ceuta and Melilla.

Monitoring is being carried out on the arrival of at-risk minors to the Andalusian coasts accompanied by those who turned out to be their mothers and disappeared from immigrant reception shelters before completing procedures to identify the mothers as possible victims of human trafficking and before being able to ensure that the minors are not in a situation of distress.

As a result of these investigations it has been found that there is no system that allows for the tracking of these women and children outside of national territory in order to avoid at-risk situations and exploitation.

Consular offices

Complaints continued to be lodged regarding the refusal of visas for family reunification, requested by spouses of foreign residents. Consular bodies consider that marriages, in these cases of denial, were illegitimate.

The majority of these complaints refer to refusals by the Consulate General of Spain in Nador (Morocco).

Residence permit procedures and other related issues

As in previous years, complaints have been received regarding the difficulties for minors to obtain or renew their residence permit when their families do not have sufficient income. All suggestions made by the Ombudsman requesting authorization have been accepted.

A Recommendation has been put forth to the Directorate General on Migration to provide instructions aimed at avoiding the overstay of regrouped citizens, especially minors (whose family members who brought them over hold long term residence) once their renewals have been denied due to noncompliance with the requirements of sufficient financial resources and adequate housing. This Recommendation has been accepted.

Asylum

The low numbers of applications for international protection filed in Spain, the low numbers of protection granted, and the increase of international conflicts that force individuals to seek

protection in other countries, has led the Ombudsman to analyze and assess the functioning of the asylum system in Spain. Thus it is conducting a study on this subject that will be released soon.

Since September 2014, the difficulties in filing an application for international protection at the border post of Melilla have declined significantly. From that date until December 31, 2014, 404 Syrian citizens have filed their request at the border post of Melilla. The next annual report will be able to provide a more detailed analysis on the profiles of applicants as well as a study to find out if access is possible for any foreigner in need of international protection.

Also in 2014, the Administration has complied with the request of the Ombudsman to include asylum seekers, whose applications have been admitted to processing, in their transfer programs that are carried out from immigrant centers in Ceuta and Melilla to the peninsula.

In contrast, no progress has been made in drafting instructions to provide guidelines for more accurate actions in those cases in which the asylum procedure overlaps with the procedure for the identification of victims of human trafficking.

Actions initiated to clarify the procedures to be taken in these cases has not had positive results, because the Central Department on Immigration and Borders does not consider these instructions relevant due to the fact that both procedures are compatible.

The institution sees no problem in the fact that there could be a repetition of rights if both proceedings result in a favorable outcome. The problem may arise if the proceedings for identifying a victim of human trafficking are suspended in the event that the concerned person's application for international protection has been admitted to processing, because this does not imply the granting of this protection.

This situation has prompted a complaint. The Department affirmed that the suspension was an isolated event.

The Ombudsman will review the proceedings whenever appropriate to ensure that both procedures continue their course, even if one of them has been resolved.

In 2013, the institution put forth a Recommendation to the Central Department on Migration and Borders so that it adopts the necessary measures to facilitate the communication with the UNHCR in order to be aware of the up-to-date situation of countries in conflict and assess on an individual basis with up-to-date information the risks involved in expulsion or repatriation to countries of origin.

This body accepted the Recommendation in 2014, however complaints have been received revealing that the Administration has not fully complied with this Recommendation, so the Ombudsman reiterated its Recommendation.

A significant number of complaints received are connected to the delay in the decisions regarding the applications for international protection.

The investigations carried out to find the causes of these delays revealed that, in some cases, the applications presented by individuals from certain nationalities are stalled waiting for the improved situation in that country. In some cases the applications have been delayed for up to three years. This has been the case for citizens from the Ivory Coast and Mali. The Ombudsman has expressed its disagreement with these decisions and investigations remain in progress.

There have also been problems detected in providing shelter to applicants since the number of asylum seekers has remained on the rise. As of November, 5,195 applications have been received, many of which were from Syrian citizens.

The increase in the number of applicants has caused excess within the Administration's shelter resources. Investigations are being carried out regarding this issue.

EQUAL TREATMENT

In 2014 there was an increase in complaints concerning equal treatment, which combine actions taken regarding different types of discrimination (based on gender, sexual orientation, ethnic origin, religious beliefs, disability or any other social or personal status or circumstance).

The Ombudsman's supervision has helped to eliminate specific difficulties raised by citizens who reported having been discriminated against.

An intervention was carried out by the institution before the State Commission against violence, racism, xenophobia and intolerance in sports after learning of the death of a citizen as a result of the clashes between groups close to two football clubs in Madrid.

Information was requested, not only as regards possible proposals for initiating disciplinary actions, but also about the measures taken by the Commission to prevent the violent behaviors and incitement of hatred acts which have occurred during the past year.

Moreover, the Ministry of Justice has accepted the two Recommendations aimed at removing barriers affecting legal foreign residents with mental disabilities who apply for Spanish nationality on the grounds of residence. The Recommendations made included the need for the

Administration to adopt specific measures for positive action to prevent and compensate for disadvantages suffered by people with mental disabilities in these procedures before the civil registries.

The institution has continued its supervision of the competent authorities in order to eradicate the segregation of Roma students in Spain.

The Ombudsman started an investigation before the Office of the Secretary of State for Social Services and Equality of the Ministry of Health, Social Services and Equality in order to know the measures taken to prevent the concentration of Roma students in certain schools or classrooms, pursuant to the provisions of the National Strategy for the Social Inclusion of the Roma population in Spain 2012–2020.

The National Federation of Lesbians, Gays, Transsexuals and Bisexuals informed the Ombudsman about the possible situation of discrimination and harassment of victims of discrimination on the grounds of their sexual orientation in schools.

Investigations were opened with the Directorate General for Equal Opportunities which provided information about awareness raising activities against discrimination based on sexual orientation and gender identity aimed at teenagers as well as the undertaking of the "CORE Project: Knowing Discrimination, Recognizing Diversity". The institution has been informed that a study on homophobic bullying and identification of existing resources for prevention, detection and eradication is being prepared.

The actions initiated to achieve effective equality between women and men in the Central Government and in public bodies linked or dependent on it in the areas mentioned above, pursuant to the Organic Law 3/2007, of March 22, regarding the effective equality between women and men, have continued.

The protection of individuals from any kind of discrimination based on his or her race, ethnicity or religious beliefs extends to all areas of life, including the public sphere and the workplace.

The effort of this institution in the fight for the elimination of all kinds of discrimination is completed with the request to governmental bodies for preventive measures to avoid it.

All these issues have been discussed in meetings at the headquarters of the institution with members of the European Economic and Social Committee and the Advisory Committee on the Framework Convention for the Protection of National Minorities, during their visits to Spain in 2014.

Among other issues, the Ombudsman explained to the international agencies the measures adopted on the part of the administrations to promote the creation of protocols to prevent discrimination against various groups.

Education and Civil Service

The Ombudsman urges educational administrations to facilitate inclusive education

One of the most important goals of the development and application of the Organic Act 8/2013 for the Enhancement of Educational Quality of 9 December (Abbreviated as *LOMCE* in Spanish) may be to achieve the adaptation of the education system to the model of inclusive education. This model, according to international bodies, facilitates an enhancement of the quality of education for all students and the full participation and learning of each child, by taking care of the needs of each of them. The Ombudsman has made a Recommendation to education authorities for educational attention for people with disabilities to be carried out based on the rights as set forth in the UN Convention on the Rights of Persons with Disabilities.

EDUCATION

Non-University Education

School facilities

The existence of deficiencies in school buildings related to security and accessibility has been reported. Sometimes these deficiencies do not meet the requirements of the applicable regulation. Disagreements between the autonomous educational departments and municipal governments, owners of the facilities, result in significant delays in carrying out the necessary actions to correct deficiencies.

As far as the conditions of healthfulness of facilities are concerned, in 2014, inspections concerning the presence of asbestos in structural elements in some school buildings on the Canary Islands have continued. The Autonomous Department of Education, Universities and Sustainability of the Autonomous Government was urged to develop and implement a periodic inspection plan to regularly compare its preservation conditions and the level of concentration of this free substance in its facilities, and to determine whether a health hazard exists for those using these buildings.

The Autonomous Department has accepted the Recommendation and provided current plans for the elimination of asbestos in school facilities of the Autonomous Community.

Student Admissions

Complaints related to admission processes for both the second cycle of childhood education and higher-level vocational training have increased.

In previous years, actions were undertaken before the Office of the Secretary of State for Education, Vocational Training and Universities, which concluded when the Ministry of Education, Culture and Sports made the commitment of proposing to the Autonomous Communities that they adopt an agreement that would allow access of citizens to vocational training in other Autonomous Communities different from those in which they were formally residing. However, in 2014, several autonomous educational administrations maintained the requirement that prevents access to professional distance learning to people not registered in the respective community. Therefore, it was decided to present a new request for information, still unanswered, to the Office of the Secretary of State.

In certain autonomous communities, another criteria for admission to vocational training courses is to award a different and much higher score to those applicants who have received their prior education within the autonomous community in which they are applying for a place, compared to those who have studied in different autonomous communities.

A process has been initiated before the Office of the Secretary of State for Education, Vocational Training and Universities, in order to obtain its legal standpoint on this issue.

The Ombudsman considered that being the child of a civil servant as admission criteria was contrary to the principle of equality. Article 14 of the Constitution dictates that the principle of equality is an individual right of every citizen, aimed at preventing discriminatory privileges and inequalities between the citizens, so that differential treatment is only acceptable in situations where distinctive elements justifying the establishment of a different treatment concur.

Bullying

Several parents have lodged a number of complaints regarding situations of bullying suffered by their children in schools. They have mentioned that the complaints brought to the central government bodies and to the education administration have not resulted, in their opinion, in effective actions to put an end to the situation, to correct the sanctionable behavior, where applicable, or to avoid the repetition of more incidents.

The Administration works through its education inspection services to verify the events contained in the complaint and the appropriateness of the actions taken by the school. Often, these investigations do not confirm the existence of bullying in the strict sense of the word, but

of a bad relationship between peers that results in episodes of aggression that will undoubtedly also require the intervention of teachers and heads of the schools' governing bodies.

The relative frequency of complaints regarding this matter and the subsequent verification that, in the majority of cases, the way these situations are addressed by schools and education administration is correct, leads to the conclusion that there may be an insufficiency or inadequacy among the participation of reporting parents, or the information provided to them regarding the progress of the research process or the adoption of measures to ensure the safety of their children. It should, perhaps, be necessary to advance further in the prevention of these behaviors.

Aid

Other complaints question the increase in price of the different vocational training courses. They also refer to the reduction or elimination of scholarships and grants, and to the economic hardship this means for many students and their families.

The latest calls for requests for childcare assistance checks made by the Autonomous Community of Madrid, by determining the different attributable scores by the parental employment status criteria, equal in score those working with discontinuous permanent contracts with part-time workers, which have an inferior score to that established in the event that both parents work full time. Following the intervention of the Ombudsman, the Autonomous Department of Education is considering the introduction of changes to the scale assigning a specific score to work situations as the one alleged.

Investigations have been carried out in relation to the significant reduction in the number of grants awarded for the 2013-14 course to students with special education needs, for the payment of classes or pedagogical re-education and speech therapies. These activities are complementary to the care they receive in schools and their high cost makes the payment difficult for families with lower economic resources. Therefore, should they be interrupted, this will have an extremely negative impact on the evolution of the students.

Complementary school services

A number of complaints have been received regarding the initial lack of flexibility of the governing bodies of some schools and education authorities, related to the specific conditions of some students who require the provision of lunches in special conditions. They refer, for example, to cases of students who suffer from diabetes or severe food allergies. In these situations, their parents, who need the lunch service as a means to reconcile their family and work obligations, find it difficult for the service to be provided under conditions that ensure the

health of their children.

Regarding school transportation, the decision not to continue providing service to students who live within the municipality in which the centers they attend to are located but who live in towns geographically remote and poorly communicated with the city center is legally correct. Complaints highlight the negative consequences for some families affected by economic limitations and forced to reconcile the care of students with their work schedules and restrictions in recent years in the provision of educational services.

A complaint was also lodged for the refusal of transportation service to a student of post compulsory education with disabilities that affect her mobility. Expediting the resolution process has been urged as well as the consideration of retroactive compensation, at least for the current academic year 2014-15, so that the families of students with special education needs may receive compensation for the expenses derived from the cost of their transport, making it possible for them to receive this service free of charge.

The planning of pick-up points on the transport routes sometimes generate difficulties for students with physical disabilities, affecting their ability to regularly attend the centers where they are enrolled. School transportation must be planned in such a way that the service can be adjusted to any new circumstances that may arise during the school year and, above all, taking into account the specific needs of students.

INCLUSIVE EDUCATION

Since the Universal Declaration of Human Rights, the right to education has been recognized in various international treaties and legal instruments, which establish the basic principles of universality and non-discrimination of their enjoyment.

The UN Convention on the Rights of Persons with Disabilities is, however, the first binding legal instrument that contains an explicit reference to the right to inclusive education of persons with disabilities, clarifying the specific implications of its enjoyment "without discrimination and on the basis of equal opportunity". In addition, it specifies the obligation of States to "ensure an inclusive education system at all levels", and, in particular, that "persons with disabilities are not excluded from the general education system on the basis of disability".

Signatory States must "provide reasonable accommodation to facilitate inclusive education, according to the individual requirements of the students and effective individualized support measures in environments that maximize academic and social development, consistent with the goal of full inclusion". The Convention requires States to articulate inclusive education systems, whose achievement is the result of complex processes to be addressed taking as its starting

point the approval of legal texts that contain a clear definition of this type of education and a clause against rejection.

In Spain, although the most recent legal regulations formally declare the principle of inclusiveness, they do not specify the content and scope of the enforceable rights for persons with disabilities under the provisions of the Convention, nor do they arbitrate clear and precise mechanisms for the claim or complaint against noncompliance. Under certain conditions national regulations continue to allow the segregated schooling of students with disabilities, in breach of their right to be educated in mainstream schools. At the same time, because of the insufficient or inadequate definition of the adjustments and support they are entitled to for their schooling in mainstream schools to be inclusive, some education authorities continue to deny such adjustments and support.

In this context, in 2014, the Ombudsman recommended the education authorities to promote actions as well as normative and budgetary measures in order to ensure educational care for people with disabilities to be carried out based on the rights defined in the UN Convention, with immediate effect. That is, in terms consistent with the Convention, which define the right to education as a right to inclusive education, understood as a "quality, free, on an equal basis with others in the community in which they live" education. All these within the general education system, in which "reasonable adjustments according to individual needs" of students must be carried out, and "the necessary support to facilitate their effective education" should be provided.

The Recommendation put forth a reminder to all education authorities that the full exercise of the right to education by persons with disabilities requires respecting the exceptional and continual nature of schooling decisions for students with disabilities in special education centers. It also requires budgetary and regulative measures needed to provide regular centers with accurate personnel and material resources for the schooling of students with specific education needs, as well as its design and structural adequacy. Finally, the Ombudsman notes the importance of facilitating the active, full and direct participation of parents and students themselves in those decisions, especially in those related to compulsory education in special centers, as well as the need for agile and effective complaint and appeal procedures to exist.

Administrations to which the Recommendation has been addressed have formally accepted its content and several of them refer, with different degrees of specificity, to initiatives that have been adopted in order to obtain the progressive compliance with the principle of inclusiveness. The formal acceptance of the Recommendation does not always coincide with some actions, which are mentioned below.

Some complaints have highlighted a lack of initiatives for the funding of measures required for

the implementation of the Convention. This is the case of attention to students that schools have to apply during the initial period during which the coverage of teachers' medical leaves are not mandatory. The consequences are particularly negative for students with disabilities when they are attended by teachers who are not in possession of the relevant specialty, and who take turns to attend them in their free hours.

The proposal made by the Ombudsman to cover medical leaves has been deemed unfavorable by the Ministry of Finance and Public Administrations, understanding that the reduction of replacement periods would mean an increase in the budget that, in its opinion, is not possible to assume given the present need to maintain measures regarding saving, austerity and curtailment of public spending.

The adequate training of teachers is also an essential requirement to gradually introduce changes in the organization and functioning of schools, as well as the cooperative dynamics and other changes required by the implementation of an inclusive education system. However, it seems that education authorities are not taking initiatives aimed at modifying the social and staff environment of the schools. The lack of the support staff necessary to meet specific needs is another obstacle that often impedes the carrying out of school and extracurricular activities for students with disabilities.

UNIVERSITY EDUCATION

University admissions

In the past, the Ombudsman put forth a Recommendation to the Ministry of Education, Culture and Sports Directorate General of University Policy for modifying various aspects of admission procedures to official university degree programs. The purpose was to guarantee the right of students to opt for places offered by all universities, by obliging universities to establish mutual mechanisms of coordination and of recognition of the students' academic performance.

The new basic regulation related to admission procedures, Royal Decree 412/2014, of 6 June 2014, allows universities to continue to use the passing of the admission test subjects and the qualification obtained as criteria in admission procedures. This means that the academic grade obtained by each student in these tests remains crucial for gaining access to a large number of education programs. This implies the need for organizing commissions to guarantee the principles of equality, merit and ability.

An ex officio investigation was gotten under way with the Office of the Secretary of State for Education, Vocational Training and Universities of the Ministry of Education, Culture and Sports

for the establishment under the regulations of general criteria so that all universities apply, in a homogenous and sufficient manner, adaptation measures ensuring access to university in equal conditions for students who present some kind of disability, compared to other students.

The new Royal Decree for university admission underlines the option for universities to increase the 5% reservation quota for students with disabilities established by the previous regulation. This represents an advance as regards the recognition of the rights of these students. However, it fails to increase the number of places, to complete up to the 5% reservation in the extraordinary September examinations.

Given this situation, and in order to protect students affected by the implementation of the new Royal Decree as long as a distinction exists between ordinary and extraordinary phases in the process of admission to degree programs, this institution considered the possibility of addressing each of the public universities recommending an increase of the places during this last phase so that they represent 5% of the reservation in favor of disabled people, given that the rule leaves the door open for the possibility of universities to reach an agreement to increase the legally established reservation quotas.

Public prices of university academic services

Each administration annually issues rules for the establishment of public prices for academic services at universities in its territory as well as the exemptions and allowances to be applied to students.

The majority of Spanish public universities agree on the terms under which these exemptions are provided and to whom they are addressed when it comes to groups for whom state law recognizes these rights and allowances (large families, grant holders, etc.). However, these state laws do not reflect the exemption to be applied to the matriculation fees for first-year college students who enter university having obtained the qualification of Distinction in previous studies, nor was it contemplated in the same way by all universities, which led to a general ex officio investigation to know the extent of this situation. There is evidence that some universities only provide this stipend to those who achieved this Distinction grade in high school but not to those who obtained it in the final year of higher vocational studies.

It is not reasonable for state or regional laws regulating public prices for university studies to contemplate any difference in treatment based on the type of studies through which access is obtained. Furthermore, the purpose of the tax benefit granted should be to encourage and promote the academic effort of students commencing their studies at university. Therefore, any discrimination regarding the enjoyment of this allowance based on the chosen method of access is not acceptable. Moreover, this discrimination is expressly prohibited by the laws regulating

university admission procedures.

Consequently, a general ex officio investigation started up with regards to all those administrations which were not implementing due equal treatment in order to unify the granting of this aid to students who obtained the grade of Distinction in previous studies of any kind. A recommendation was put forth to the Directorate General of University Policy of the Ministry of Education, Culture and Sports as well as to the autonomous communities whose regulations did not recognize this exemption, to hereinafter include this exemption in the legislation in order to fix public prices at the universities within their jurisdiction.

The majority of autonomous communities have revealed to this institution the difficulty of applying this exemption, since universities do not currently receive any compensation for the revenue that they cease to receive in virtue of the aforementioned allowance.

The consequence of this situation is that Spanish public universities coincide in their opinion regarding the application of total or partial exemptions from academic public prices for certain groups –members of large families, grant holders, orphans of officers killed in the line of duty, students who have obtained the qualification of Distinction in the overall assessment of the university orientation course or with Honors in the Secondary Education Certificate- in addition to students with disabilities, victims of terrorism and of gender violence. All these exemptions are included in State regulations that recognize these rights and allowances to students belonging to the aforementioned groups of beneficiaries, which is not the case for students who have previously studied a vocational training course.

A Recommendation has been made to the Directorate General of University Policy to include in the agenda of the next General Conference of University Policy meeting the issue of compensation to universities for the revenue that they cease to receive under the exemption from public prices of academic public services. Another issue to be included is the regulatory measure or of any nature that should be taken to ensure effective compliance with the principles of equality, merit and ability regarding access to university for students who come from high school and higher vocational studies.

The 2013 report mentioned the ex officio investigation that was initiated regarding specific services and support for university students affected by a high-level of disability, and the recommendation given during the course of this investigation to the Ministry of Education, Culture and Sports and the Autonomous Community of Madrid. The intention was for both administrations to take the necessary steps to determine which of them had the obligation to compensate universities for the allowances and service costs of students with disabilities, and for the income that they cease to receive due to the exemption from paying their enrolment fees, to determine which of these costs should be included in the respective budgets.

Disagreement between the Office of the Secretary of State for Education, Vocational Training and Universities of the Ministry and the Autonomous Community of Madrid Dept. of Education, Youth and Sports regarding who should pay these costs makes it impossible for the moment to find a solution to the problem of financing affected universities to cover the cost of appropriate care to university students suffering from severe disability. This means that this necessary service is being covered with the help of volunteers.

The Spanish Committee of Representatives of Persons with Disabilities considers the vulnerability that affects hearing-impaired students enrolled at the Complutense University of Madrid due to the current lack of sign language interpreters in all teaching hours and to the very strict requirements that must be complied with to be entitled to an interpreter. The response of the University to these complaints has been the lack of financial resources. The persons affected propose to look for new forms of financing to compensate the shortage of sign language interpreters ranging from the use of volunteers to that of sign language avatars. After an initial payment, this measure would make it possible to reduce costs, to find sponsors or any other form of fundraising. The Ombudsman has initiated ongoing investigations before the governing bodies of the University.

Moreover, the Ombudsman has been advocating since 2012 for the regulation of audio description and subtitling teaching, considering that the correct and complete training of specialists in this area is essential to boost audiovisual accessibility and to suitably comply with the rights of people with sensory impairment.

Grants and aid

According to the figures released by the Ministry of Education, Culture and Sports, the number of grant holders in compulsory education has fallen by 35%, while in university education it has increased by 8%, despite the decline in State funding. The increase in the number of university grant holders, which, in turn, responds to higher economic difficulties of families and therefore, to a greater number of students eligible for a grant, has implied a reduction of the amount that each student receives. The consequence of the current system of paying in two installments implies that students do not receive the grant money until late in the academic year, and in some cases, when this has already finished. In a time of crisis like the current one, this situation has forced many students to apply for bank loans to advance the amounts of the grants, and even to drop out of studies because they could not finance them.

A Suggestion was, therefore, made to the Ministry of Education, Culture and Sports for it to review the general granting system for post compulsory studies applied in the academic year 2013-2014, in order to establish methods in the subsequent calls that would allow applicants to

receive information on the amount to be paid to them at the beginning of the academic year.

The fact that the current system does not allow the majority of the grant holders to have the amounts when they need them but several months later, and, in many cases, when they have completed the academic year for which it was granted, was also brought into question to the Ministry of Education and Culture. According to the data received by this institution, as a consequence of this, some applicants had to apply for bank loans hoping to be able to pay them back once they receive the grant, and others have even been forced to drop out of their studies due to the impossibility of financing the costs of a family member dedicated to studies, especially during times like the present economic crisis.

Moreover, grant holders of non-university post compulsory studies whose applications are managed by the Ministry of Education of the Autonomous Government of Andalusia, as well as grant holders of non-university and university post compulsory studies whose applications are managed by the Department of Education of the Autonomous Regional Government of Catalonia under the agreements signed by the Ministry of Education, Culture and Sports with these autonomous communities, receive their grants several months behind students of other autonomous communities whose grants are managed, processed and paid by the Ministry itself. This institution has conveyed to the Ministry of Education, Culture and Sports, the consideration that a system that delays the payment until almost the end of the academic year merely because the student lives in one of these communities is unacceptable.

This institution learned of an error in the interpretation of the precepts established for the awarding of scholarships and grants for master studies to graduate and undergraduate students. A requirement to be eligible for the grants was not to be in possession of a degree of the same or a higher level of the studies for which the grant is requested or not to meet the legal requirements for obtaining it. The awarding of grants to study a master at the University of Valladolid during the year 2013-2014 to students who already obtained an undergraduate or graduate degree were being proposed for refusal. In the course of this ex officio investigation, the aforementioned University was warned of the mistake it was making by wrongfully denying the grants requested. Once this issue was corrected, the necessary procedures to award grants continued. All of them were finally settled with a positive outcome.

An ex officio investigation was gotten under way due to the special situation of the grant applicants affected by the earthquake in Lorca, after learning that the application of two students had been proposed for denial due to the increase in their family assets from obtaining compensation for the reconstruction of their homes, destroyed during the earthquake suffered by the town of Lorca in May 2011. During the course of this investigation, the Directorate General of University Policy accepted the criteria of this institution and agreed to review the denials. The result was that the students finally received the grants that they had applied for.

Sometimes, due to mistakes of management bodies, scholarships and grants are mistakenly awarded, or the amounts received are different from those appropriate based on the academic and economic data submitted by the student when applying for the grant. When this occurs, a document for its return to the Public Treasury is sent to the grantee and he/she is warned that, if he/she does not pay in a short period of time, a reimbursement procedure will be initiated for the corresponding amount plus the interest accrued from the date of payment. This situation often ends with the seizure of assets of those who do not make the reimbursement on time.

Applicants for scholarships and study grants have a precarious economic situation. This implies that the reimbursement of the amounts received unduly often creates important difficulties for them, if not the impossibility of facing it. Considering the aforementioned and also that the obligation to reimburse arises from mistakes and omissions during the assessment of the documents provided by grant applicants in good faith, it is necessary to adopt measures that facilitate the reimbursement of the amounts owed in these cases. Hence, it was considered necessary to recommend the Ministry of Education, Culture and Sports and the Ministry of Finance and Public Administrations to start negotiations in order to find a solution. At the time of publishing this report, there was evidence of the acceptance of the Recommendation.

University academic grades

As a result of the different investigations conducted at the National University of Long Distance Education (abbreviated as *UNED* in Spanish) it was found that the assessment criteria contained in the guidelines that will be applied in the in-person examinations of this university were sometimes inaccurate or contained errors. Therefore, a Recommendation was made to the Chancellor of the National University of Long Distance Education that in the future the subject guides indicate explicitly and in a sufficiently clear manner the evaluation criteria that will be applied and, especially, those that are essential to pass the subject. This Recommendation was expressly accepted and implemented.

A Recommendation was also made to this University regarding the qualification review procedure, which was accepted and implemented, so that requests for tests' review submitted by students at the long distance university language center are answered in a justified manner, in a specific period of time and compatible with the academic calendar of the different courses.

The University Ombudsman and postgraduate students of the University Pablo de Olavide reported that during the development and evaluation of the Final master's project in International Communication, Translation and Interpretation of the academic year 2012-2013, the two exam sessions established by law were not held. Despite which, the academic records of the students affected included the first call for the defense of the work as "not presented".

After several investigations carried out by this institution, the Chancellor of that university recognized the irregular situation and proceeded to its immediate correction.

University degrees

The 2013 report mentioned policy measures which had been repeatedly required from the Ministry of Education, Culture and Sports to recognize professionally and academically, without further delay, the degrees of Engineer and Architect that had been obtained in accordance with the system prior to the establishment of the European Space of Higher Education. The purpose was to validate their academic and professional skills when trying to have them recognized outside Spain.

Finally, the publication of Royal Decree 967/2014 of 21 November, established the requirements and procedures for the recognition and declaration of equivalence of the degree and the official university academic level and for the recognition of foreign higher education. It also established the procedure to be carried out in order to determine the correspondence with the levels included in the requirements dictated by the qualifications established for official studies in higher education for degrees in Architecture, Engineering, Degrees, Technical Architecture, Technical Engineering and Diploma courses.

It is worth mentioning that what the Ombudsman was calling for was the regulation of the recognition of these degrees and their correspondence with the new Spanish qualifications framework for higher education. However, the published Royal Decree only establishes the procedure for determining the correspondence between these studies and the new Spanish higher education qualifications requirements. This means that this is only the first step towards complying with this demand. The required result will not be achieved until the equivalence of the previous official degrees with the new Spanish qualifications framework for higher education has been established.

Some complaints have also been made concerning the European supplement to the degree, which was created to add information to official Undergraduate, Master and PhD degrees in order to increase the transparency of the different official degrees taught in the European Higher Education Area and, hence, to facilitate their academic and professional recognition. It is therefore a tool to provide more information to a possible employer of the holder of an undergraduate or master's degree, and is issued by the corresponding university at the request of the interested party.

The Ombudsman has been informed that universities are issuing the European supplement to the degree only for studies, which are not adapted to the European Higher Education Area, following the requirements established by Royal Decree 1044/2003, of 1 August. Due to its

complex nature, the model established by Royal Decree 1002/2010 has not been able to be applied by most Spanish universities for degrees adapted to the European Higher Education Area.

A Recommendation has therefore been made to the Directorate General of University Policy that it adopt, as soon as possible, the regulatory measures necessary to define, clarify and simplify the information to be included in the European Supplement by establishing a model whose design will allow Spanish universities to standardize the procedure for issuing this document to graduate students who request it, thus ensuring that they all have the same content and that they also comply with the model established for this purpose by the European Commission, the Council of Europe and the European Centre for Higher Education.

This Recommendation has been accepted. In order to comply with the same, the Ministry of Education, Culture and Sports has started the procedure necessary to establish the regulations that should offer a solution to the difficulties faced by universities when issuing this document to those students who request it.

CIVIL SERVICE AND PUBLIC EMPLOYMENT

Access to public employment

Law 22/2013 of 23 December on the General State Budget for 2014, established that, with the aim of ensuring financial sustainability of all public administrations throughout 2014, no new staff will be incorporated into the public sector. A substitution quota of 10% for certain sectors and administrations considered as being a priority was allowed, as well as the coverage of places for professional army and navy personnel. Restrictions were maintained on the hiring of temporary employees and the appointment of interim civil servants, these being strictly carried out in the face of an urgent and pressing need. These restrictions on access to public employment have been taking place since 2010.

In this context, in 2014 there have been numerous complaints concerning the continued reduction of public employment. We can only hope that the improvement of the economic situation makes it possible to apply other criteria, in order to improve the prospects of access to public employment.

As for qualifications required to access public employment, sometimes public calls for selection tests do not take into account the new classifications in the university system and continue to make reference to the previous one. Therefore, it is necessary for administrations to take into account the new classification of the Spanish university system -in which a closed catalog of

degrees no longer exists- and to determine precisely which are valid to access each of the groups that constitute public employment. Therefore, it is necessary to determine the equivalence of each of the qualifications and its suitability for the performance of the corresponding job functions.

Public Employment Offers

Due to the delay of the open competitions calls, applicants for job offers announced in the years 2010 and 2011 have approached this institution. The Basic Statute of Public Employees states that the announcement of public employment must be carried out within a time limit of three years. Frequently, this deadline is not met. In some cases, this is due to the high volume of the open competitions calls being dealt with, in others, to different public employments being included in one single call and, in other cases, to the high volume of applicants or to the limited resources provided to the examining board or the assessment committees.

Regarding transparency of the selection process, the selection bodies enjoy a high degree of discretion as regards the assessment of the knowledge and skills of the candidates. In principle, this discretion is not subject to examination by the Ombudsman, unless there are irregularities that lead to violations of the rules of the call or unlawful behaviors that are arbitrary or produce helplessness. Quite often, there are some aspects of the rules of the call that, in the opinion of this institution, could be improved in order to guarantee and verify that the selection process has respected the principles of equality, merit and ability in access to public employment.

Generally speaking, the institution has observed the lack of safeguards in the rules of the call of these open competitions to guarantee the objectivity of the selection board in the assessment of the interview, such as, for example, that they be held in public or put on the record. The necessary agility required for the selection of temporary personnel, in many cases in order to meet urgent staffing needs, together with the temporary nature of the service, implies that, under these circumstances, it would be reasonable to adjust, the level of requirements in order to comply with the constitutional principles of equality, merit and ability.

Other problems that undermine the transparency that should take precedence in these processes have their origin in the technical discretion of the examination boards or the selection committees or to the sometimes confusing and ambiguous drafting of the rules of the calls. This means that there are frequent cases where the criteria for the correction of the exercises are not made public, the applicants do not receive a copy of the questions or the answers considered to be correct and are not allowed to have access to tests that they have completed or that they include requirements, the scope of which is difficult to define and merits whose future assessment is uncertain.

Once the selection tests have been announced, these must be put into practice and resolved within a reasonable period of time. Worthy of mention is the case of the suspension of a process for obtaining the status of permanent staff in positions such those for doctors who are specialists in Radiation Oncology within the Health Service of the Autonomous Community of Madrid, which has been announced since December 2009. The information received concerning the reasons for this suspension refers to different circumstances, which have indirectly affected the Health Service of the Autonomous Community of Madrid. The institution was awaiting the final decision to complete the selection process. However, to date, it has not received any new information on the matter. The three information injunctions issued remain unanswered. This conduct could be considered by the Ombudsman as hostile to and a hindrance of its functions.

Regarding access requirements, this institution has carried out numerous investigations with the Ministry of the Interior regarding the criteria for changing the maximum age limit for admission to the scale of corporals and guardsmen of the Spanish civil guard in order to make the access possible to a large number of applicants with the adequate profile. In 2014 the age limit was raised to 40 years. In order to include this same claim by applicants to different bodies of the Municipal Police, this institution has investigated the criteria of the autonomous communities in order to gain knowledge of the same.

Public employee salaries

Concerning the elimination of the bonus pay in December 2012, a Recommendation was made to the Office of the Secretary of State for Public Administrations in order to limit its implementation to the unpaid amount of the bonus pay as from the date when the law establishing its elimination was published. This institution understood that such interpretation avoided the risk of the norm being declared unconstitutional because it affected well established rights, providing a solid argument for this matter. However, despite this, the Recommendation was rejected. Several judicial rulings have recognized, with arguments similar to those employed by the Ombudsman in its Recommendation, the right of the claimants to receive the unpaid amount of the bonus pay referred to above.

Although the Public Administration has formally rejected the opinion of this institution, it has included the restitution of payment of the bonus pay eliminated in 2012 in the twelfth additional provision of Law 36/2014 of 26 December, on the General State Budget for 2015.

The implementation of the reduction of the salaries of public employees caused by absence from work due to an illness or accident which does not result in a temporary disability is another issue that also continues to produce a significant number of complaints. Numerous dysfunctions have been generated, not only in autonomous communities, municipalities and the Central Government, but also between different departments of each of these administrations, which

interpret the eventualities that do not give rise to a reduction of the salary in a different way.

It would be important to unify the criteria to be followed in these situations. Common illnesses often make it impossible to carry out normal work tasks. This means that when this circumstance has been duly proven, there should be no reduction in the salary of the person suffering from the same. Combating work absenteeism requires increased actions aimed at the monitoring and inspection of sick leaves and that it not be assumed that a person who alleges a common illness as a reason for not attending his/her workplace is a potential absentee.

The Ombudsman is also aware of the financial difficulties faced by public administrations to deal with the payment of the amounts which they owe for different items included in this context. Public employees of local administrations have complained about delays in the payment of their salaries. Therefore, this institution has suggested to the mentioned authorities to proceed with the payment as soon as possible.

The lists of job positions and the lack of their elaboration and approval are constant complaints raised in the field of local government Administrations, as they determine, among other things, additional remunerations, causing significant differences in the salaries paid to municipal employees. In the absence of the corresponding Listing of Job Positions, many City Councils were issued with a recommendation to take the necessary steps for it to be drawn up in order to ensure the principle of legal certainty which must regulate the relationship between public administrations and their personnel.

In the current economic context, personnel in the public sector has been affected by both labor and economic cutbacks derived from limitations imposed by successive budget.

This budget constraint affects that of the expenditure of the Penitentiary Administration, which has made it impossible to hire a service for the transport of personnel destined in the prisons of Las Palmas II and Murcia II. A recommendation was made to the Office of the Secretary General of Penitentiary institutions for precise budgetary mechanisms to be arbitrated in order to provide this service for the aforementioned centers.

Actions were also set in motion to enable members of the Armed Forces and the Civil Guard to have the opportunity to reduce their special allowance at their own request, in order to be able to work in the private sector. The Administration has recently reported that they are assessing this in order to resolve this situation.

The salary bonus for serving in a conflict zone, which has an objective character, is intended to compensate the increased risk posed by performing the functions of the Civil Guard in the Basque Country and Navarre. This risk not only affects those whose permanent destination is

situated in this territory, but also the personnel who, even when posted outside conflict zones, provide specific services within them. Those who are permanently posted there but who spend the first days of the month outside of the same do not receive the salary bonus for serving in a conflict zone in the corresponding monthly salary. This institution considers that the administration has to correct this restrictive interpretation which is detrimental to personnel belonging to the Civil Guard.

Working conditions of public employees

Complaints concerning leaves associated with work and family are particularly relevant, especially as the enjoyment of maternity leave is concerned. The Basic Public Employee Statute only contemplates the possibility of ceding part of the same to the father when "both parents work," in which case "the mother may, at the beginning of the period of maternity leave, choose for the father to enjoy a determined and uninterrupted part of the same, either at the same time as or following that of the mother".

To deny the birth leave to a father who works as an employee (once the first six weeks of mandatory enjoyment for the mother after childbirth, have finished) because the mother does not work, signifies that the mothers see their employment and career expectations as being limited. This means that they are placed in a situation that could be described as disadvantaged or unequal in relation to job protection.

A proposal has been made to the Office of the Secretary of State for Public Administrations to recognize the possibility of a voluntary transfer of part of the leave, in the event that the mother does not work or at least in cases in which the mother intends to do so through the so-called "active job search" , which could be proven by registration as a job seeker at the Public Employment Service (*Servicio Público de Empleo*), the enrollment in training courses for employment, etc. or doing any activity aimed at career advancement. This would favor the integration of mothers into the labor market.

The Office of the Secretary of State has accepted the Recommendation for this to be presented to the Higher Personnel Commission or in the forum deemed most appropriate to analyze this possibility.

Despite the clear focus of international and national standards and European and Constitutional Court case law regarding direct discrimination on the grounds of sex and the unfavorable treatment of women related to pregnancy or maternity, equality in treatment between men and women in employment cannot be yet considered achieved.

As far as public employment is concerned, the Administration must be rigorous in promoting

positive actions to ensure equal treatment and prevent pregnancy and motherhood from resulting in a less favorable treatment of women. However, there are also situations in the public sphere that do not seem to respect this principle.

The lack of adaptation of the norms regarding the enjoyment of vacations and cases of temporary disability to personnel of the Armed Forces marked the commencement of an ex officio investigation. The Ombudsman stated before the military administration the need to review and modify the current regulations to adapt it to new circumstances.

Leave for the caring of a minor affected by serious illness

Actions have been initiated with the Directorate General of Civil Service in previous years to modify the criteria for the granting of leaves. Should the child in question be affected by a serious illness like cancer, the only requirement would be for this circumstance to be accredited by a report issued by the Public Health Service or by a health administrative body pertaining to relevant autonomous community. Hence, leave was granted for both the period of hospitalization and for the post-hospitalization continued treatment at home. However, if the serious illness suffered should not be cancer, leave was only granted for the period of long-term hospitalization, but not for the subsequent period of home care even should these needs for care persist.

This is an interpretation that obviously leads to unfair results. This resulted in a Recommendation to the office of the Secretary of State for Public Administrations to admit that public employees should be on equal terms with other workers under the principles of equality, justice and fairness that prevent differences in treatment difficult to justify between some groups of public employees and others. This Recommendation was accompanied by another to specify the cases where home care should be regarded as a continuation of hospital admission.

In its reply, the Office of the Secretary of State for Public Administrations stated that in response to the Recommendations made by this institution, and, since it was related to a rule of a basic nature that could be developed by the autonomous communities, it was deemed necessary for the matter to be brought before the Public Employment Coordination Commission and to the Higher Personnel Commission.

Despite the fact that these Recommendations have been accepted the elaboration of the norms, necessary to avoid the problems arising from this issue and which have continued to give rise to complaints, has not yet been developed.

Pensions and benefits

While in some areas of the Central Government, access to voluntary early retirement is recognized and granted to public employees in a situation of firm suspension of duties, this does not apply to prison officers. Taking into account that this could create a situation of inequality, the Ombudsman has recommended the Penitentiary Administration to amend the current restrictive criteria in order to adapt it to the wide and positive criteria promoted by the Directorate General of Civil Service. This Recommendation is still pending an answer.

With regard to military service, actions have been taken for the discontinuation of the application of the provision establishing a system of compensation to Social Security by which it recognized a period of integration in favor of the persons concerned, during the period of compulsory military or community service in order to compensate for the interruption of the contributions caused by such circumstances.

The Ministry of Employment and Social Security reported that this postponement is justified by the difficulty of implementing the agreed measure, since it requires numerous studies in order to assess both the economic implication of the same and the coordination of the compensation system with Social Security. The investigations initiated have been finalized without prejudice to them being reopened after a reasonable period of time.

There are still frequent complaints regarding the decisions taken by associated insurance companies that provide healthcare to civil servants. When the means used in emergency situations are not those in the agreement reached with the insurance company, the entity usually refuses to reimburse the costs. The reason is that it considers that the alleged circumstances for which these means were used were not life threatening, or that assistance had not been unjustifiably denied.

Given that it is difficult for the nature of the emergency to be evaluated by those who suffer or witness it, the opinion expressed in the 2013 annual report must be repeated. The said report considered that it would be advisable to sign agreements with the autonomous bodies responsible for the 112, single emergency telephone number, so that calls to this number are diverted to the emergency centers of associated institutions. This would avoid, as far as possible, the automatic derivation of these emergencies to non-associated institutions.

There are also frequent complaints regarding the lack of accurate information that causes inconvenience to the insured party.

Risk prevention: harassment at the workplace

During the year 2014 we have received the data requested from the autonomous communities and the Central Government on the mechanisms and protocols in place to prevent and detect situations of harassment of staff in the public sector in response to the ex officio investigation initiated in late 2013. The information provided allows us to contrast the different degree of attention given to this issue by the different administrations consulted.

There are autonomous communities -such as Cantabria, Galicia and Ceuta- which do not have protocols of action. They have neither outlined plans for prevention nor provided data on the incidence of cases of harassment at the workplace. The Autonomous Communities of Madrid, Canarias, Castile and Leon and Andalusia indicate that they have initiated the appropriate measures to approve, in short, protocols against harassment at the workplace.

The Basque Country has different protocols of action for the areas of the General Administration and its autonomous bodies, for teachers, for court personnel and for the Basque autonomous police force (*Ertzainza*). No data regarding incidences have been provided, nor have preventive and training policies been mentioned.

The Autonomous City of Melilla, has a harassment protocol, Castile La Mancha has a specific procedure for handling complaints, Navarre has a protocol in force and Catalonia also has a harassment protocol.

Other autonomous communities have specific protocols of action and take preventive actions. This is the case of the Balearic Islands, La Rioja and Aragon. Asturias, Extremadura and Murcia are the autonomous communities that sent more detailed information which seems to imply a greater sensitivity to the issue.

Late in 2014, the Autonomous Regional Government of Valencia forwarded the requested information. In its memorandum, it explained that in the Administration of Valencia there are protocols of action related to situations of moral harassment at the workplace and of sexual harassment or on the grounds of sex.

What the Office of the Secretary of State for Public Administrations has reported on harassment at the workplace in the field of the Central Government still has to be accounted for. After describing the prior steps leading to the approval of the current 2011 protocol, it describes the follow-up carried out to gain knowledge of current situation, the updating and the possible improvements to this instrument.

The Office of the Secretary of State for Public Administrations concluded that the majority of the

complaints related to harassment at the work place brought before the Central Government are not eligible to be classified as such, according to the commonly accepted criteria included in the protocol. This does not imply that interpersonal conflicts or other behaviors must be dealt with prevented and, if necessary, punished, but not qualified as harassment at the workplace.

In 2014, an ex officio investigation has also been initiated with the Ministry of Defense and the Ministry of Interior in order to determine the current incidence and data regarding situations of harassment at the workplace and sexual harassment involving personnel belonging to the Armed Forces, the Civil Guard or the National Police Force. The information supplied by these ministerial departments indicates that the basic policies for the prevention, detection and eradication of harassment at the workplace are clearly defined in the respective fields. They also establish a catalog of organizational and preventive measures in order to avoid situations that might lead to the appearance of these conflicts, as well as protocols of action to eradicate harassment behaviors.

Conclusions and proposals

Surveys and studies regarding harassment at the workplace on a European level shed some frankly worrying results. However, data provided by the Public Administration suggest that cases of harassment, reported or detected, have a much lower incidence than that indicated by the surveys and fieldwork addressing this issue. This reveals the hidden character and the little knowledge of the ways and means to address this problem.

This leads to the formulation of the following proposals: First of all, to increase the rigor of surveys and fieldwork to obtain reliable results. Secondly, to improve the information and training provided to public employees, so that they know about all the resources and mechanisms at their disposal, to identify situations of harassment and to become aware of their duty to report them, both as victims or witnesses. Third, the ability of the appropriate services to detect these cases should be improved. Fourth, the improvement of protocols of action to provide them with the necessary agility and forcefulness to create a climate of trust among those they are aimed at.

These measures may be accompanied by others included in the regulations aimed at clarifying the behaviors and attitudes that constitute harassment, their classification and the consideration of its consequences for the victims.

Accordingly, it was recommended, first, to classify harassment specifically and independently as a labor offense in the consolidated text of the Law on Offenses and Sanctions in the Social Order (Spanish Royal Legislative Decree 5/2000 of 4 August). Second, the possibility of including the suffering derived from harassment at the workplace as an occupational disease,

according to the criteria of the European Union and the ILO. And, thirdly, to create a legal definition of harassment at the workplace that includes all the forms of the same currently described in different regulations. This would require the adaptation of public administration protocols and the Public Employee Statute itself.

Healthcare and Social policy

The incorporation of new drugs to the National Healthcare System and care to people at risk of social exclusion, key topics in 2014

institutional activity concerning the right to health stands out in three areas: specialized care, primary care and drug delivery. The safety of patients, the declaration of the right to public funded health care and the rights of patients and users also show significant level of activities.

In 2014, preparatory and coordination work of a study were initiated, developed with all the autonomic Ombudsmen institutions, entitled ***Emergency Admissions in the National Health System: Rights and guarantees of patients***. It sets a framework for reflection on the common problems in these services from the perspective of patients and the effectiveness of their rights. This joint study was approved and published in January 2015, reporting its contents and recommendations in the next report.

HEALTH CARE IN THE NATIONAL HEALTH SYSTEM

Immigrants without residence authorization in Spain

Some complaints show that the care to immigrants in an irregular situation is limited to acute episodes of severe illness and is provided only in emergency services, depriving them from the adequate continued care in primary and specialized care. After the interruption of treatments, new episodes frequently arise resulting in the need to visit emergency services again. These problems resulted in the formulation of two suggestions to the Health Service of Castile and La Mancha (abbreviated as *SESCAM in Spanish*), to ensure the effectiveness of the right to supervision and process tracking.

In some cases, when immigrants in an irregular situation request urgent care in health centers and hospitals, a prior commitment for payment or the issuance of an invoice for the provided care is in order unless they prove their situation of irregularity, which in practice is very difficult to evidence. The inspections conducted by the Ombudsman Institution in these cases have annulled the payment commitments and invoices, but the procedure described should be

modified to ensure that the practical effectiveness of the right to urgent health assistance has no conditions placed on it.

The residence authorization for humanitarian reasons is extended to foreign nationals who have evidenced suffering from a sudden disease of a serious nature requiring special health care, not accessible in their country of origin, which in case of being interrupted or not received would entail a serious risk to their health or life. The National Institute of Social Security (abbreviated as *INSS in Spanish*) denies requests from persons concerned to recognize their status as insured in the National Health System (abbreviated as *SNS in Spanish*), arguing, "that once the authorization of residence for exceptional circumstances expires, the Immigration Office requests the medical insurance coverage aiming at recognizing the right to the non-lucrative residence".

A Recommendation was addressed to this institution to give up the practice of denying assistance in these cases. In its reply, under evaluation, the National Institute of Social Security relies on the Immigration Authorities to find the mechanisms required to extend the residence authorization for this reason without changing its nature.

Non-EU family members of Spanish nationals

To recognize the status of beneficiary in the National Health System to non-EU spouses of Spanish citizens living in Spain, the National Institute of Social Security requires these persons to be in possession of the residence card for European Union citizen family members. A Recommendation, which has been rejected, was made to remove this requirement when the marriage is registered in the Spanish Civil Registry. This issue has been raised with the Ministry of Employment and Social Security, by means of a Recommendation, which fundamentally reproduces the arguments of the Recommendation addressed to the National Institute of Social Security. The answer of the Ministry is under evaluation.

Independence of the patient, health information and documentation

An ex officio action was initiated, still in process, to develop a protocol defining the guidelines for the training of specialists in health sciences without jeopardizing the rights of patients to their confidentiality of data and medical history. Accepting the criterion of the Ombudsman Institution, the Ministry of Health has proposed to "lay down a common protocol for all health care institutions undertaking specialized training for graduates and specialized training".

On the other hand, the Health Department of the Council of Castile and Leon rejected the recommendation to issue individual health cards (abbreviated as *TSI in Spanish*) of non-emancipated minors whose parents are separated or divorced and have a joint parental

responsibility.

Authorization of Benefits

The differences within the services of the regional autonomous communities and their impact on equity in access to benefits throughout the National Health System have generated a large number of complaints.

Taking into account the approach of the Ombudsman Institution, on implementation of new knowledge in molecular biology that enables more effective and less aggressive therapies in some stages of breast cancer, the Ministry of Health has commissioned a report on genomic tests with the objective to obtain scientific evidence regarding its effectiveness, usefulness and safety. On the other hand, recommendations and suggestions on assisted reproduction have been accepted and others pending to be answered to the closing of this report.

Inspections continue regarding the practical lack of specific rehabilitation units in the Health Service of Madrid (abbreviated as *SERMAS in Spanish*) to attend minors with brain damage. Treatments established by specialist doctors of this service, and which should be funded by the public health system, are provided in private facilities, the cost being paid by the patients themselves or their families. In some cases, after the intervention of this institution, the costs of care incurred in private centers have been refunded.

Waiting lists

Subsequent health barometers of the Spanish Center for Sociological Research (*Centro de Investigaciones Sociológicas*), show that the perception of the population is becoming more negative about whether health authorities conduct actions to improve the waiting lists. A similar conclusion emerges from the complaints filed with the Ombudsman Institution on this aspect, which has motivated the institution to address recommendations to different health authorities to reduce large identified delays, along with suggestions to notify patients the date or the timeframe in which the scheduled procedure will take place. Most of these resolutions have been accepted.

The inspections carried out due to the most significant delays in surgical waiting lists are detailed in the report, as well as those relating to large periods of delay in outpatient care and diagnostic tests.

Inspections in the field of primary health care

Complaints are focused, once again, on the free choice of health professionals, on the suppression or reduction of hours in the so-called Continuous Care Units (abbreviated as *PAC* in Spanish), on the problems in access to health care, on structural inadequacies in health centers or the removal of positions and reduction of schedules in these facilities.

Recommendations have been addressed to the Health Service of Castile and La Mancha and to the Department of Health of the Regional Autonomous Government of Catalonia aiming at providing displaced students with a document certifying the right to public health care, whose validity is extended at least until the completion of the registration to the corresponding course, thus avoiding the current obligation to register at the town hall.

Inspections were undertaken due to the complaints related to the reduction of the night working hours of the Continuous Care Units and changes in the staffing, structure and services of health centers. In these cases, the respective health authorities adopted measures to resolve this situation.

Inspections in the field of specialized care

It is important to highlight the complaints related to mobility of patients in the National Health System, the organization of the services, their structure and functioning and free choice of specialist doctors. Complaints have also been processed in relation to problems in the referral of patients to national reference centers in specific processes.

In relation to hospital emergency services, there were overcrowding episodes in the Hospital Complex of Toledo and the Severo Ochoa Hospital in Leganes (Madrid). In both cases, health authorities have implemented measures to reduce attendance as much as possible, and to adapt the capacity of services to transient peaks in demand.

It should be mentioned that a Recommendation and Suggestion addressed to the Health Service of Madrid were accepted and implemented to stop the issuing of invoices to insured people or beneficiaries of the National Health System because of healthcare attention arising from traffic accidents.

Patient's safety

A lax approach persists, to some extent, by health authorities to resolve incidents and implement preventive measures in relation to the safety of patients or other aspects related to

professional practice.

The suggestions were accepted to carry out research on professional practice, releasing the findings to stakeholders and, in case errors or malpractices are registered, the proceeding of patrimonial liability shall be undertaken. The existence of security strategies in primary areas is important as well as the unambiguous identification of patients and processes to prevent errors.

Public health

The most important complaints refer to the application of childhood vaccination schedule agreed within the Inter-territorial Council of the National Health System, which excluded some vaccines included in previous years. The Ombudsman Institution, which had already carried out inspections in this respect in 2013, went back to the Ministry due to constant complaints and findings that many parents were acquiring the varicella vaccine in free access points (Community of Navarre and foreign countries). Information on the follow-up of the common schedule of childhood vaccination in the different regional autonomous communities was also requested for as well as information on the latest scientific revisions relating to the varicella vaccine and others not included, such as the vaccines for pneumococcus, rotavirus or meningitis B.

The repatriation of two Spanish citizens affected by the Ebola virus and the contagion of a professional who attended to them resulted in an epidemiological alarm situation. The Ombudsman Institution has initiated an action based on the dossier filed by the General Nursing Council of Spain (*Consejo General de Enfermería de España*), detailing safety deficiencies for health care workers and inadequate monitoring of protocols by the relevant authorities. Several aspects related to the reactions of these authorities (central and regional autonomous) concerning the case of contagion have been raised by those affected before the corresponding courts, which will decide on the possible existence of responsibilities.

The inspections of this institution, moving forward, have been directed to the Ministry of Health and to the competent Department of the Regional Community of Madrid to gather information on the existing epidemiological monitoring resources; mechanisms for coordination and public information intended to articulate the response to such an alert, of great social impact, and forecasts of updating the existing security protocols.

Mental health

Family members of persons with mental illness, or patients in question, approach the institution to express their concern and distress in the absence of the help they need which they consider as an insufficient coverage of health care resources. Other complaints refer to incidents or

disagreements with measures on hospital admission, adopted urgently in the case of an acute psychic disorder. It is deduced from the inherent complaints that health centers systematically process the judicial authorization procedure laid down by law, prior to the admission when this is possible.

The situation raised in these complaints is often accompanied either by the request of the family members to process the legal incapacitation of the patient, or by the patient expressing the disagreement with such a procedure or with the decision already adopted about his/ her capacity. Only the judge can take the decision to limit the legal capacity in such a way it cannot be subject of direct supervision by the Ombudsman Institution, beyond of any dysfunctions arising in the judicial procedure.

An action was initiated due to the complaint filed by a social institution dedicated to the defense of the rights of the unemployed, aiming at learning about the measures set up for the establishment of a comprehensive and multidisciplinary strategy for suicide prevention and which involves the health sector and other agencies (social services, education, employment), in accordance with the guidelines laid down by the World Health Organization. The Ministry of Health, Social Services and Equality has reported on the activity carried out by a working group on suicide prevention, whose results will be included in the next revision of the strategy on Mental Health for the National Health System.

Pharmaceutical benefits and drugs: pharmaceutical copayment and funding of medicines

Complaints of citizens express their nonconformity with the type of contribution assigned in the purchase of medicines. This is mainly due to the non-recognition of the right to exemption from co-payment in specific cases (lack of economic resources and social benefits, or disability) and due to insufficient escalation of the current model, as well as the lack of response to requests and complaints filed.

Recommendations were addressed to the Ministry of Employment and Social Security and to the Ministry of Health. The latter considers, according to its response, that the current regulatory framework is sufficient. On the other hand, the Ministry of Employment and Social Security, after pleading not competent in matters of copayment, recognizes the convenience of signing an agreement or inter-administrative agreement on management with health authorities as a means to solve the established legal gap.

Complaints have also been received from Spanish elderly citizens whose only benefit, usually of low amount, is paid by a foreign social security institution. As they cannot be compared to the Spanish Social Security pensioners and do not enjoy public health assurance by a third country,

these persons must pay the overall percentage of 40% of the drugs they need, which generates additional prejudice that should be compensated by the authorities responsible for their health care.

The emergence of new drugs for the treatment of rare or serious diseases generates many expectations in patients whose previous treatments are not effective, mainly in cases of serious or life-threatening prognosis. The time that elapses from the stages of trial to effective marketing and incorporation to the National Health System pharmaceutical portfolio can be very long. The denial in authorizing the special use of drugs in research, and the delay in financing and price decisions prior to the marketing in Spain, give rise to complaints.

The lack of clinical indication of the new drug already marketed by medical professionals, or the non-approval of this therapeutic indication by the clinical committee on health service assessment or the corresponding health center are in question. The Ombudsman Institution, except in some potential cases of discrimination or arbitrariness, does not undertake the review of these issues of a scientific nature. An ex officio investigation was initiated to know whether there were delays in the introduction of innovative medicines and inequality in the different regional autonomous territories, in relation to access to these medicines. In addition, an ex officio investigation was initiated, which is still pending, on difficulties in access to last generation drugs for hepatitis C. Information has been requested on the special scheme to finance new drugs, the coordination with health services for their right adherence to the approved clinical positioning and the creation of a registry of patients affected and subject to receive these treatments in the shortest time possible.

Other health benefits

Some complaints have been processed for delays in the payment of reimbursements of expenses incurred in orthoprotetic products, for the cutting of aid to those who receive respiratory therapy at home, for the dysfunctions that can harm patients who must regularly attend hospitals or specialized centers to undertake treatments such as hemodialysis or rehabilitation sessions. Complaints have been processed as well for the decrease of aid amount in some regional autonomous communities for transport when patients have to go to another province to receive the specialized treatment they need.

SOCIAL POLICY

GENERAL CONSIDERATIONS

The subjects grouped under the chapter on social policy raise a large number of complaints.

The 65.4% refers to situations of need and struggle against exclusion, specifically of minimum incomes. Dependency represents 12% of the complaints, minors and family 9%, and elderly people 5.71% of the complaints on social policy. The 33 ex officio open inspections are included in the citizen complaints in 2014.

Minors

Inspections on the legislative framework for the protection of minors

In May 2014, the Ombudsman Institution released publicly a study, entitled *The Process of Hearing and the Best Interest of the Child*; The annual report refers to the contents and recommendations on the judicial review of protection measures and family processes. The aim of the Ombudsman Institution, while dealing with the preparation of this report, was to compare, the Convention on the Rights of the Child and the general remarks published by the Committee on the Rights of the Child, to Spanish legislation and judicial practice. This comparison aims to promote a change of mentality that improves the attention given to the point of view of the children, reviews the approach of determining their best interest and encourages a change in the legal status of minors as subjects of processes in which their interests are exposed and not as mere objects of these processes.

At the time this study was presented, the Ombudsman Institution responded to the invitation by the Minister of Health, Social Services and Equality to release considerations on the bill on the Children's Protection Act and the complementary Organic Act. These considerations were formulated on the study and the doctrine developed by this institution and embodied in its recommendations and reports, without prejudging the evaluation of rules that may be made by the Ombudsman Institution once enacted.

Inspections related to minors in a situation of risk or distress

The Ombudsman Institution pays special attention to complaints affecting minors in situation of risk or distress. Most of them arise from the disagreement, on behalf of parents or other family members, with the measure adopted by the Administration, when it involves the separation of the child from his/her family or restriction of visiting arrangements. There are several circumstances under which intervention of the Administration takes place and the inspections of this institution are conducted to verify if the rights of the child and affected adults have been observed throughout the process. Problems affecting minors supervised by public entities and, in particular, those placed in institutional care, are addressed from the dual approach of particular cases exposed by those affected or their families in addition to monitoring the operation of the centers.

With respect to the performance of centers where minors reside, there is a concern about the care, detection and prevention of possible self-injurious behaviors of minors, among other aspects. There have also been inspection visits to child protection centers in conjunction with the National Preventive Mechanism against Torture (NPM).

Child and young person protection against specific contents of the mass media and audiovisual broadcasting

The areas of action have been extended on the contents of Web pages advocating suicide, others with harmful contents to health, such as anorexia and bulimia. Information was requested on potential preventive initiatives to the Ministry of Health, Social services and Equality and to the Ministry of Industry, Energy and Tourism. The Administration replied indicating the Action Plan of 2010-2013 against Children and Adolescents Sexual Exploitation as well as the Second National Strategic Plan on childhood 2013-2016 and the Comprehensive Plan for the Support for the Family do include strategic lines of action, in which other ministries are involved such as Education, Sport, Industry and Tourism and Interior. These plans are still being developed.

Persons with disabilities

There are numerous complaints related to the assessment, recognition or to the review of the degree of disability conferred years ago and delays in their accomplishment. The need has been revealed to adjust the procedure for recognition, declaration and qualification of the degree of disability to the International Classification of Functioning, Disability and Health.

With respect to access to employment, the Office of the Secretary of State for Social Services and Equality has informed that, for the implementation of a Recommendation made in 2013, it anticipates a request to the State Observatory of Disability (*Observatorio Estatal de Discapacidad*) to conduct a study on persons with limited intellectual capacity serving as a basis and reference to adopt positive actions with the aim to encourage the access of these persons to employment.

There is still a lack of accessibility in many aspects of everyday life, preventing persons with disabilities from carrying out a normal life. The Spanish Committee of Disabled People's Representative (abbreviated as *CERMI* in Spanish) sent a report to the Ombudsman Institution referring to 100 complaints about accessibility deficiencies. Given the cross-sectional nature of the accessibility problems, these complaints were circulated within almost all operational areas of the Ombudsman Institution for their consideration and individual processing.

Information was requested with regard to the general rules of accessibility to information and

customer services, in particular related to technology companies. Regarding the access to the mass media of persons with sensory disabilities, the aim is to ensure the right to live independently and to participate fully in all aspects of life. Hence, public authorities must adopt the appropriate measures to reach universal access to information and communications, including systems and communications and information technologies, as well as the means of social communication, being abide by technical standards in force related to subtitling, broadcasting in sign language and the audio description.

Ongoing ex officio inspections are in place in relation to the regulation on the accompaniment by assistance dogs to persons affected by disabilities other than visual, as in most of the regional autonomous communities since the adoption of policy actions in this regard have been proposed and concrete results are awaited.

Regarding resources for persons with disabilities, the Department for Family and Equal Opportunities of the regional government of Castile and Leon has taken into account the Recommendations made and has accepted a Suggestion. In the Regional Community of Valencia, there have been numerous complaints due to the decree establishing the scheme and public prices within the field of social services. The Autonomous Regional Government has contested the judgment of the High Court of Justice of the Regional Community of Valencia declaring void the said Decree.

Due to the inspections initiated referring to non-payment of subsidies and special economic agreements, albeit delays, the Ombudsman Institution is aware that the administrations are coping with their debts and paying the allocations in a timely manner. Calls for requests for different benefits have suffered delays, which is the case of the aid promoting personal independence of persons with disabilities in the Autonomous Community of Madrid.

Care for elderly persons

The Ombudsman Institution met representatives of the State Bureau for the Rights of Elderly Persons (*Mesa Estatal por los Derechos de las Personas Mayores*), who requested the Ombudsman Institution to support the adoption of a United Nations Convention on the Rights of Elderly Persons.

This institution considers that the adoption of this Convention may constitute an opportunity to improve the overall coherence of the response to problems the elderly often suffer (loss of autonomy, risk of infantilization, lack of adequate support, isolation and precarious economic prospects, etc.), from a strict human rights approach.

Complaints about the care to elderly persons in residential centers are diverse and in some

cases difficult to be addressed in an objective way. The Administration should endeavor correct communication with the families of those who are in vulnerable or terminal stage situations in such centers.

A Recommendation was made for the establishment of a general regulation, which addresses all residential homes for elderly persons, regarding the presence of family members of residents during the palliative care processes and terminal stage situations. The Recommendation was accepted and a protocol has been developed to be transferred to all residential homes of elderly persons of the public network of Castile and La Mancha for its effective implementation.

Excessive use of physical restraints and contentions, as well as the delivery of psychotropic drugs, as measures to avoid damage to the individuals affected or the rest of the users are an issue of concern to this institution. The removal of restraints is not always welcome by family members who fear accidents.

In relation to the placement and resource management, the action of the Administration must be transparent, which is consistent with the principles of active advertising established by law. For this purpose, in addition to knowing the criteria of priority in allocating sites, it is necessary to know the allotments made and to have the possibility to check that they have been assigned to those who occupied preferential positions.

Disaccord has been noted on behalf of users of different services due to the increase of the economic cost and the contributions the Public Administration requires. The incomplete information provided by the City Council of the Community Madrid to the beneficiaries of the telephone assistance and home help services prompted a recommendation that has been accepted.

The need for access to a healthcare resource can be motivated for reasons others than the degree of dependence the individual has. However, after the entry into force of the Dependence Law, the expectations of non-dependent users are very limited in most of the regional autonomous communities. A prime example was a 90-year old married couple, with a disabled daughter. The mother and daughter were estimated to have second degree and the spouse first degree of disability. This implied that the mother and daughter entered a day center leaving at home alone the father who was in lack of self-care skills.

Situation of dependence

Among the complaints filed in this area, those related to the enforcement by the regional autonomous communities of the provisions of the Royal Decree-Law 20/2012 of July 13, on Measures to Ensure the Budgetary Stability and Promotion of Competitiveness are Recurrent.

The largest number of complaints originated from the undue delay in processing administrative procedures for the recognition of the situation of dependence and the procedure of Individual Care Program (abbreviated as *PIA* in Spanish), exceeding two years in some regional autonomous communities albeit the 6- month timeframe established by the legislation.

Furthermore, complaints on numerous occasions refer to the undue delay in resolving the applications for the review of the degree of worsening dependence and, where appropriate, the adaptation of the Individual Care Program, after the recognition of a higher degree of dependence.

Another recurring issue is the non-payment of recognized economic benefits due to the lack of an available budget and the acknowledgment of residential care or day centers without places allocated because the regional autonomous community does not have vacancies.

Despite the State regulation adopted at the end of 2013, there are differences among regional autonomous communities in relation to the level of protection. This prevents, along with the problems of management and the lack of public services, the granting of benefits in a responsive manner whenever there is a temporary displacement of a dependent person.

In practice, the care is carried out by the regional autonomous community where the person in a situation of dependence is registered, thus if this person lives with a family member resident he/she loses protection when moving to live temporarily in the domicile of a family member residing outside this regional autonomous community.

Citizens have also expressed their unease at the lack of information according to which the amount of economic benefits has been modified. Despite the statutory right, the lack of sufficient budget has led to the non-payment of the amount of the economic benefit, being the payment subject to the availability of funds. The Ombudsman Institution continues the inspections in relation to this situation until payment is made.

There are significant delays in resolving appeals in a superior court. On this issue, the Regional Community of Madrid reported that the delay in the appeal proceedings is due to the increase of the appeals submitted in recent years and no provision of staffing according to the volume of appeals received.

Large families

In relation to the complaints on large families, citizens request the amendment of the law to extend its benefits to families who currently do not have access to this status, such as to consider large a family consisting of one parent and two children, as it is the case of the widow

parent. It is also requested the extension of the status when the parent suffers from a disability and has two dependent children. In the case of common law partners, it is requested that both parents be covered under this status. At the end of 2014, the Office of the Secretary of State for Social Services and Equality reported that the comprehensive Plan on support for the family is still under development.

Persons experiencing poverty and social exclusion

In 2014, there has been a considerable increase of complaints related to benefits referred to collectively as minimum incomes for inclusion to society. This increase has been noted particularly in complaints from the Regional Community of Madrid, with delays in the resolution of more than one year.

The Ombudsman Institution keeps processing complaints and requesting information on various aspects: the provision of well-trained staffing, the responsibilities of the Coordination Committee (*Comisión de Coordinación*), the relationship between the different government agencies involved, delays in the communication of data requested to other authorities or the order of evaluation of the dossiers applications.

The lack of budget is another crucial problem in the failure of payment of these minimum incomes. One of the biggest deficiencies is the inappropriate or lack of the legal development of benefits. Another problem that has also been detected is the lack of sufficient information for people who receive a minimum income and request for a non-contributory pension.

Child nutrition

Following the inspections carried out by the Ombudsman Institution on poverty and child nutrition, a Recommendation was made in May 2014 to all regional communities and autonomous cities to adopt the initiatives required to provide or enhance the nutrition of the most disadvantaged children during the summer period, using the facilities that provide canteen service in educational establishments.

Some regional communities have kept school canteens open; in other cases, a specific model has been set up through summer schools. However, most of the administrations were against the opening of canteens, referring to the potential stigmatizing effect that it might have on the children and their families.

The Ombudsman Institution's interest focused on ensuring the existence of an assurance network to provide adequate food in a quick manner during the summer period, if this must be done in the common canteens or in parallel initiatives. The best choice may vary depending on

several factors. It is even possible to set up several options at the same time, as done in Aragon, which in addition to maintaining the canteens open; it has published an exceptional call for requests for aid, aimed at families who cannot access the canteen service.

Several regional autonomous governments claim that it is most appropriate to enhance the minimum incomes or emergency aids. However, these measures are already implemented and several studies have warned that the problem persists. A possible solution path would be to set specific allowances to families with dependent minors to meet the children's needs in their domicile, as done in La Rioja for example. Nevertheless, this measure should be accompanied by a quicker processing of applications.

In relation to the allegedly stigmatizing effect, it is not a sufficient argument if other alternatives are not adopted (take the food home, deliver purchase vouchers, act through large implemented social entities, etc.), in a way to allow real and effective access to the resources required.

The Ombudsman Institution has proven that a clear understanding is extending within the administrations in relation to the importance of acting to avoid the consequences of child poverty and, more specifically, the problems of child nutrition. However, to progress substantially a greater inter-agency involvement and collaboration is still required. While economic circumstances do not allow many families to overcome the problems, it is not reasonable to interrupt during holiday periods the mechanisms that offer a fundamental guarantee for many children, such as canteens and meal aid.

Homeless persons

The fundamental issues in this area are aimed to have a better coordination between administrations, as well as the need to have a map of resources that attend homeless persons, which particularly takes into account new profiles of users brought up by the economic crisis.

One of the fundamental requisites to access financial aid is to be registered in the corresponding town hall but homeless people have not been able to register due to the lack of domicile. With respect to this matter, collaboration has been requested from the Spanish Federation of Municipalities and Provinces (*Federación Española de Municipios y Provincias*) to remind local authorities of the possibility of registration in a Center of the Administration.

SOCIAL SECURITY AND EMPLOYMENT

Complaints about benefits represent almost 75% and a second group about contributions and collections reaches 13%. Three ex officio inspections were conducted in 2014 two of which in

the field of International Social Security. The third inspection was undertaken to transfer to the Administration the study regarding the application of sustainability of public pension and to recommend that it replace the Consumer Price Index (abbreviated as *IPC* in Spanish) as a criterion to update rates and public prices which is of greater significance for pensioners.

In 2014, there has been a higher rate of files closed on the grounds that the Administration's action was appropriate and in case of error, it has been rectified, either totally or partially. A significant number of signatures has been received to support the claim of a referendum to reform the Constitution in order to safeguard the public nature and the revaluation of the public pension system. These signatures have been transferred to the Parliament.

Contribution and collection

In 2013 report, there was a mention to family foreclosure, of principal and only residence, for small claims to Social Security. The foreclosure and subsequent auction of these properties are not in line with the provisions of the article 47 of the Constitution, which enshrines the right of Spaniards to enjoy decent and adequate housing. They are not providing for the intended purpose, generating a new need to assist these families through the social services system.

A Recommendation was made to the Office of the Secretary of State of the Social Security to establish a system that prevents the commencement of proceedings of eviction from the usual residence of debtors under vulnerable situations, due to a reduced debt with the Social Security, until the due amount reaches a higher amount over time without payment. It is intended to facilitate the economic recovery of the persons affected and prevent their social exclusion, harmonizing social and family protection of the debtors, with the public and preferential interest to ensure the payment of Social Security obligations.

The Office of the Secretary of State considers sufficient the two-year period from the notification of the first attachment order until the auction takes place and the payment deferred. The Ombudsman Institution should establish, albeit eviction processes are halted during this period, it is a temporary measure, applicable only to self-employed persons. Hence, it is not a global response to this type of situation.

There are two other Recommendations; the first was addressed to the Office of the Secretary of State of the Social Security, after knowing, through different complaints, the non-compliance of companies to pay allowances intended to fund a special agreement in favor of workers aged 50 years or more, involved in collective redundancies by labor force adjustment plan. The financial penalty imposed in these cases is not dissuasive; thus, new formulas should be found to replace the will of the company that does not comply with this obligation.

The second Recommendation was forwarded to the General Treasury of the Social Security for violation of the rules of data protection. The Agency has accepted the criterion of the Ombudsman Institution, giving instructions to the Provincial Directorates and Units of collection, so as a prior and express consent of the depository is requested in the enforced collection files, for the disclosure of contact details to third parties interested in the bid, and to consider the possibility of opposition to this transfer.

Disability benefits

The Recommendation and the different Suggestions seeking regulatory changes have not been accepted. These regulatory amendments would allow the action of the General Directorate of the National Institute of Social Security to adapt to the judgment of the Supreme Court, according to which the situation of disability persists until the date of notification of the medical discharge, as well as the right of citizens to the payment of benefit.

The same proposal was raised to the Office of the Secretary of State of Social Security. This agency relies on the fact that, to consider there is a doctrine, the Supreme Court shall make a decision repeatedly, assuming the case law is constituted from, at least, two judgments interpreting the rule in the same way. The National Institute of Social Security indicates that applying a strictly legal approach, it will not follow the criterion of the Supreme Court ruling the Ombudsman Institution referred to; insofar there are no new pronouncements. For this reason, it has been pointed out the need for the National Institute of Social Security to be extremely cautious, notify with the maximum urgency such resolutions, preferably on the same day of the medical discharge, to avoid those affected to be harmed by the loss of wages.

There are constant complaints of people suffering from Fibromyalgia, chronic fatigue syndrome, and multiple chemical sensitivities. Consequently, the National Institute of Social Security has been required to send general data, forecasts for the update of disability evaluation protocol applicable to these pathologies, the average time for review of other disabilities, epidemiological data concerning the 2010-14 period, and the average disability time given to the persons affected. Furthermore, information has been requested on contacts that could have been carried out with associations representing this group and on recent studies or research projects that could have been done in this area. In addition, and at the request of the Ombudsman of the Autonomous Community of the Canary Isles, clarification has been requested regarding the reason persons granted permanent disability by court means on these diseases, are promptly called to review the disability degree one year after the binding resolution when the term is not set therein.

Benefits for maternity and risk during pregnancy

The refusal of maternity leave benefit for the fostering of two minors in a foster family in a Cohabiting Unit of Educational Action (abbreviated as *ACAE* in Spanish), led to the request for the application of the general criterion of the National Institute of Social Security to grant potential maternity leave to benefit those fostering on a professional basis.

The National Institute of Social Security indicated that fostering family in Cohabiting Unit of Educational Action is intended for minors whose circumstances imply a special issue. It can only be carried out by persons previously selected and qualified on grounds of their qualifications, training and experience in the field of childhood and adolescence, i.e., by professionals, who are required to have a special availability and who are eligible to receive a supplementary benefit or a specific economic retribution, excluding the maternity leave benefit.

Information has also been requested from the National Institute of Social Security regarding the applicable criterion on the possibility of the father to enjoy the maternity leave benefit in case the mother is temporarily disabled, making it impossible for the mother to take care of the child and in cases in which the father has not requested for this right prior to childbirth.

Retirement pensions

It was agreed not to lodge an appeal of unconstitutionality against the revaluation of state pensions of 2014. Nevertheless, because of the study undertaken, a Recommendation was made to the Ministry of the Presidency, due to the transversal nature of the measure. It aimed at considering the change of the paradigm that involves giving up the review of pensions according to the Consumer Price Index and including measures for the specific prices for pensioners to adopt the same criterion of review. This would involve the implementation of the index indicated in the aforementioned rule. The Recommendation was not accepted.

In addition, a Recommendation has been formulated to the Ministry of the Presidency to amend the legislation on tax return or the legislation on minimum complements for retirement pensions, aiming to not consider as capital gain subsidies and grants for housing restoration, received by pensioners. On the minimum complement, a Reminder has also been formulated of legal duties and a Suggestion for the lack of legal basis in a resolution of the National Institute of Social Security on the recovery of undue incomes.

The Office of the Secretary of State of Social Security was reminded of the legal duties to comply with the provision on updating, adapting and modernizing the Social Security system, applicable to priests and secularized clergies. In response to this Reminder, the Office of the Secretary of State informs about the regulatory changes applicable to the persons affected and

says that Social Security has given specific treatment to this group.

Several citizens complained about the change of criteria on the legislation applicable to applications for early retirement, of citizens whose employment relationship extinguished for reasons beyond their control prior to April 1, 2013. After the intervention of the Ombudsman Institution, the Office of the Secretary of State of the Social Security went back to the previous criteria, more beneficial to the citizens.

Unemployment

Procedural issues

Numerous complaints were received because the Public State Employment Service (abbreviated as *SEPE* in Spanish) considered that the payment via direct debit was the most effective and safe way to pay income or payments by the Public Administration. As long as it does not regulate the so-called basic "checking account", given a normal account entails expenses for its maintenance, a Recommendation was made to develop standards specifying the circumstances allowing for payment in cash, publicizing them and allowing this possibility to be applied based on the criteria of the recipients. The Recommendation has only been accepted in relation to the publicity of cases in which payment in cash can be authorized.

Unemployment benefit

This institution urged the Public State Employment Service to adopt criteria for offsetting debts in cases in which there is a judgment issued extinguishing the employment relationship and the company would not have processed back pay accrued during dismissal proceedings due to the employer's insolvency. Through this Service, a writing was addressed to the provincial directorates indicating that if the unemployed person properly evidences not having received the back pay accrued during the dismissal proceedings due to the employer's insolvency, the management entity will not undertake any action.

There are numerous complaints outlining the disagreement with the sanction, of loss of one month's benefit or allowance, when the recipients are not registered as job seekers. In the majority of cases, no irregular action has been noted neither from the Public State Employment Service nor from the Regional Autonomic Public Employment Services (*Servicios Públicos de Empleo Autonómico*), as the lack of registration is due to an omission or error on the date of renewal of the Document of Registration and Renewal of the Claim (abbreviated as *DARDE* in Spanish).

Some inspections were conducted after becoming aware that the Public State Employment

Service had issued resolutions cancelling unemployment benefits due to training contracts for student-workers of workshop schools without attending the labor courts to declare the receipt of benefit unfair. A Recommendation as well as Suggestions for individual cases were made to undertake ex officio review of administrative acts within a year as required by law, whose initial recognition was issued prior to the entry into force of the Law Governing the Social Jurisdiction. The Administration informed the acceptance of the Recommendation, as well as the related Suggestions, in cases in which citizens submit the corresponding claims and appeals in due course.

The General Sub-Directorate of Appeals of the Ministry of Employment and Social Security does recognize delays in resolving appeals to a superior court. For this reason, a reminder was made to expressly resolve appeals submitted by the interested parties within three months. The response indicated that the delay in resolving the above-mentioned appeals is due to the increase in the workload, basically because of the appeals derived from The Professional Requalification Program (abbreviated as *PREPARA* in Spanish), and indicates that budget constraints are preventing the adequacy of staffing. However, it indicates measures have been taken to standardize the service.

Unemployment benefit

It was requested to the Public State Employment Service (*SEPE*) the possibility of providing other types of documentation to prove the existence of family responsibilities by citizens who were unaware of the place of residence of the other parent in case no regulating agreement is in place.

There are numerous complaints highlighting the lack of clear and accessible information to the citizens, on the calculation of income to access and maintain unemployment benefits. This recommendation was made to the Public State Employment Service to substantially improve the information with practical examples to make it comprehensible; as well as to provide information on the legal consequences for failure to comply with the requirements and the legal deadline to claim undue income. The Public State Employment Service has responded that the information on the website will be reviewed and, gradually, the content of the brochures and leaflets in paper format will be amended.

Aid for released from prison

The Public State Employment Service (*SEPE*) understands that to have access to the aid for those released from prison, the applicants should have been deprived of freedom in Spain and access requirements will be evidenced through the certification of the Penitentiary Administration in Spain, which is a change of the criteria maintained previously. The

Ombudsman Institution does not agree in this change of criteria since the section 215.1. (d) only indicates that applicants should have been released from prison, not have right to unemployment benefit, and that the deprivation of liberty has been for more than six months. Therefore, information has been requested from Office of the Secretary of State for Employment regarding the change of approach.

For those released from prison belonging to groups and organizations of terrorism or with terrorism offences; the offences committed within an organization or criminal group and offences against sexual integrity when the victim is under the age of 13, in addition to the general requirements are required to have fulfilled civil liability, to show clear signs of having abandoned the terrorist actions and purposes, to have collaborated actively with the authorities and to have made an express request for forgiveness to the victims of crime.

Active Insertion Income

This Ombudsman Institution addressed a letter to the Public State Employment Service (*SEPE*) indicating the specific needs of the residents in border cities, such as Melilla and Ceuta, were not taken into account for the purpose of the loss of seniority in job demand. The Public State Employment Service has sent information on legislation that applies to the loss of seniority in job demand in accessing the Active Insertion Income Program, without replying to the possibility of adjusting entries and departures of the national territory of unemployed residents in border cities. Therefore, the Office of the Secretary of State for Employment has been requested to provide its criteria on the possibility to take into consideration the specific needs mentioned.

The aforementioned Public State Employment Service rejected the application for access to the Active Insertion Income Program to a part-time household assistant, working 3 hours per week and earning a salary of 90 euros per month. This institution revealed that the Supreme Court has declared that employment that prevents access to the insertion program is employment that places the individual within the truly active population and allows a minimum livelihood. The Public State Employment Service allowed the prior claim once the Ombudsman Institution sent to the mentioned authority the documentation provided by the applicant together with her letter of complaint, evidencing her status as victim of gender-based violence.

As per the above, information was sought with respect to the compatibility of the aid with part-time employees, merely marginal and whose monthly salary is scarce to the point it does not allow subsistence. The Public State Employment Service responded indicating that the matter would be processed for study, although in the last communication sent to the Ombudsman Institution the criteria initially alleged is maintained. Therefore, it has been requested from the Secretary of State for Employment to rule on the matter.

Professional Requalification Program (*Plan PREPARA*)

Delays in payments of aid for the Professional Requalification Program (PREPARA) and the resolution of appeals in Superior Court are still the most common problems regarding the management and processing of this aid, exceeding two years from the filing of the appeal. The Ombudsman Institution has often pointed out reminders on the legal duty to resolve on a timely manner.

Right to health coverage

The Ombudsman Institution made a Recommendation and several Suggestions to the National Institute of Social Security to recognize the right to health coverage to emigrants returned to Spain receiving some benefits from Switzerland, as insured persons or beneficiaries of the Spanish National Health System. The National Institute of Social Security has rejected all the resolutions.

International Social Security

Claims are constant for deficiencies in the processing procedures related to contributions in France as well as in the implementation of bilateral agreements with Latin American countries. This implies significant delays in the recognition and payment of benefits, due mostly to the lack of cooperation of the bodies of Social Security of foreign countries, despite the subsequent requirements made by the Spanish liaison bodies.

It has not been possible to reach an understanding with Norway in relation to the Spanish sailors who worked on Norwegian registered ships prior to 1984, due to the refusal of the Norwegian Government to assume its responsibilities and to recognize the rights to the affected people.

EMPLOYMENT

Unemployment is one of the biggest problems of the country, and the creation of employment one of the greatest challenges facing Spanish society. A large number of complaints refer to it, as well as to the difficulty for joining the labor market. The number of complaints of unemployed older than 45 years in full capacity to work is very significant, their age being a hurdle to rejoin the labor market. There are numerous complaints from people who do not belong to priority groups and express their disagreement with the measures to hire people who are included in such categories, such as tax benefits and exemptions in Social Security for employers. They consider these measures, due to the shortage of employment, are detrimental to their chances

of being hired and consider they are unfairly treated.

Complaints also have been received from those in need who are forced to accept jobs without guarantee of their labor rights, with journeys longer than that stipulated in the employment contract and salaries lower than the established in the applicable collective agreement. The labor Inspectorate must put forward all possible resources to prevent these reprehensible actions and act more effectively to detect and sanction them.

Delays persist in receiving aid and public subsidies in support of self-employment and carrying out training courses for employment. There are still numerous complaints received from those who expect the Wage Guarantee Fund to pay the part of wages and compensation they deserve legally after their dismissal in case of corporate insolvency.

Employment offices

This year, there have not been significant complaints regarding access to the electronic system of the Public State Employment Service, which seems to indicate that last year's dysfunctions have been overcome.

It has been noted the phone numbers of the Public State Employment Service to request information or schedule appointments are cost shared lines. It is not reasonable that access to these services should imply a financial cost, as the majority of persons attending the Public State Employment Service are unemployed.

Placement and employment

Three years have passed since the deadline to approach the regulation on the special employment relationship of persons with disabilities and there is still a failure to comply with this obligation. The importance must be stressed on the approval of the regulations to protect this socially vulnerable group, through the establishment of mechanisms that ensure security of employment.

Aid to self-employment establishments constitutes a measure intended to foster entrepreneurship, self-employment and economic revitalization. Generally, they are aids subject to the direct award system. The right to receive them is generated upon fulfillment of the requirements without need of comparison or preference with the rest of applications. Nevertheless, its concession in general is limited to the budget available.

Vocational training

Persons with disabilities have the right to work under conditions ensuring the application of the principles of equal treatment and non-discrimination. The law expressly extends these guarantees to training for employment, which means that the selection by the public employment services of a person with a disability to carry out a training course obliges the relevant administration to provide the selected persons complementary support required to ensure their access to the educational action in the same conditions as other participants. However, the real situation is far from achieving this goal.

This Ombudsman Institution has brought to light the lack of coordination and collaboration between State and autonomous community employment services to provide a solution to the needs of persons with disabilities to participate in these educational activities.

Other complaints related to educational actions referred to the lack of definition of the requirements to take part in them and the delays in aid, such as scholarships for maintenance and transport, which can influence the continuity of studies. In other cases, aid for transport was denied.

The regional autonomous communities have called different procedures to recognize, assess and evidence the skills acquired through work experience or non-formal training avenues. They must give priority through legal mandate to sectors of growth-related skills generating employment, to the unemployed without accredited professional qualification and to the sectors where a regulation requires workers who want to access or keep the employment to have a formal accreditation.

The determination of specific professional qualifications to which these procedures of accreditation of skills must be set reflects the orientation of the employment policies. Thus, this Ombudsman Institution should not decide whether giving priority to the accreditation of professional skills is appropriate to the detriment of others but, it must insist on the special importance of this pathway employing those who due to the lack of academic training have greater difficulties to access the labor market at a time of great challenges. The effort made by some regional governments for the effectiveness of this avenue to evidence professional skills is inadequate and it is mandatory to allocate resources for this purpose.

Wage Guarantee Fund

The most significant complaints on employment in quantitative terms received this year are related to delays of the Wage Guarantee Fund (abbreviated as *FOGASA* in Spanish) to resolve the files and pay the amounts corresponding to those who have been dismissed in the cases of

business insolvency.

The Ombudsman Institution has undertaken a strict follow-up of the effectiveness of the measures taken by the Administration: appointment of a large number of interim officials and functional supporting measures. By the end of 2014, more than 65,000 files in the Wage Guarantee Fund were to be processed. In most of the overdue peripheral units, the files being resolved are those submitted over a year. The Wage Guarantee Fund does expect during the first half of 2015 the possibility of processing applications on benefits within a period of three months as established by the regulation. This Ombudsman Institution will maintain the inspections initiated until the normalization of the management of affairs in this organism.

In cases of unduly received benefits, the Wage Guarantee Fund did not allow for splitting the payment for the restitution, but after the recommendation of this Ombudsman Institution, the Wage Guarantee Fund has modified its approach and given instructions to decide on the procedure to address the applications for splitting the payment of these refunds.

Labor inspection

The Act on Labor Infringements and Sanctions of the Social Order classifies as very serious infringement harassment on grounds of racial or ethnic origin, religion or convictions, disability, age and sexual orientation and harassment on grounds of sex, taking place within business management, whomever is the subject, provided the employer, aware of it, had not adopted measures to prevent it.

This Ombudsman Institution has recommended the Office of the Sub-Secretary of the Ministry of Employment and Social Security to review the said act and extend the employer's responsibility to adopt measures aiming at preventing any type harassment in the work place regardless of the grounds as per the terms defined in the different international instruments adopted within the framework of the European Union. The Ministry of Employment and Social Security has positively evaluated the Recommendation, which will be taken into consideration in potential legal reforms.

With respect to child employment, the Ministry of Employment and Social Security has welcomed the views expressed by this Ombudsman Institution in the previous year report and has modified the database of the General Directorate of the Inspection of Labor and Social Security. The amendments will allow differentiating two age ranges in inspection proceedings: workers under 16 years and workers between 16 and 18 years. The following breaches in labor matters on minors' employment will be differentiated as well: prohibition of admission to employment of children under 16 years, night and overtime work. Furthermore, breaches affecting the obligations related to the employment of minors set forth in the Law on Prevention

of Occupational Risks will be indicated.

The general delay, close to three years, in processing appeals against sanction decisions issued by the Labor Inspectorate has led to initiation of ex officio inspections. During these inspections, the Ministry of Employment and Social Security has recognized the situation is serious, with 4,000 pending appeals and only three people are specifically engaged to develop proposals for a resolution of these appeals. In the last quarter of 2014, two officials have joined vacancies, resulting in an improvement of the situation. However, this measure is not sufficient and the Administration has not been able to perform estimates of the time required to resolve in a timely manner those appeals. This Ombudsman Institution will urge the Administration to adopt the measures required to normalize the management of these appeals.

Other matters

The ex officio actions carried out before the Ministry of Justice have allowed the institution to observe a delay of more than three years in filing proceedings in order to comply with the obligation of the State to proceed with the back pay accrued during the dismissal proceedings as established in the law. According to the information received, in April 2014 4,436 files on back pay accrued during the dismissal proceedings of a total sum over 40 million euros were pending to be processed.

The Ministry of Justice has informed this Ombudsman Institution that the payment of the back pay accrued during the dismissal proceedings is a priority of the Ministry, and to tackle this issue, the Spanish State budget Act for 2014 has extended the credit, during this term, to comply with these obligations up to an amount equal to the admitted obligations.

During 2013, the Order of 5 October 1994, regulating the granting of aid prior to the ordinary retirement in the Social Security system to workers affected by companies restructuring, has not been applicable and the payment of subsidies suspended. In January 2014, a new Royal Decree has been approved and the procedure for the recognition and payment of prior aid previously requested has been initiated. However, the obligations of payment of aid for 2013 has been moved to 2014 and those of this year to 2015 due to budget constraints. This institution has made clear its disagreement with the arguments given by the Administration to justify its action.

Housing

The institution requests the inclusion of the Management Company for Assets Arising from the Banking Sector Reorganization (Abbreviated as *SAREB* in Spanish) in the Social Housing Fund

In 2014, half a thousand complaints were received in relation to housing; many of these claims are of a collective nature. Ex officio inspections stand out regarding empty subsidized housing and the Social Housing Fund. The Ombudsman Institution also treated matters related to excision, delays and defaults of government support to housing; payment assistance of loans of social housing (abbreviated as *VPO* in Spanish), delay or non-payment of subsidies for the installation of elevators, sale of public social housing to private companies and forced evictions due to illegal occupations.

It is to highlight the action initiated in relation to the functioning of the Social Housing Fund created by the Government in 2013. The Ombudsman Institution suggested to the Ministry of Economy and Competitiveness that they study the possibility of including in the fund The Management Company for Assets Arising from the Banking Sector Reorganization (*SAREB*), prior to the amendment of the agreement that governs it. The Ombudsman Institution justified its proposal on the importance of the Management Company for Assets Arising from the Banking Sector Reorganization in the Spanish real estate market and the civic engagement of the code of conduct of the Agency, which has placed hundreds of homes for social use at the disposal of the regional autonomous communities.

The Ministry of Economy and Competitiveness replied that the Management Company for Assets Arising from the Banking Sector Reorganization is not set up as an instrument of social housing policy, but as an instrument of monetary policy. However, the Ombudsman Institution has newly submitted the subject for consideration suggesting officially the amendment of the Convention and the inclusion of the Management Company for Assets Arising from the Banking Sector Reorganization in the Social Housing Fund.

This Suggestion has been also addressed to the Ministry of Public Works and Transportation. The Ministry indicated it is not responsible for urging the Management Company for Assets Arising from the Banking Sector Reorganization to act in a specific way and that it fully supports the criteria of the Ministry of Economy and Competitiveness.

The Ministry of Public Works and Transportation indicated also that, during the years 2013 and 2014, the number of requests received by financial institutions was substantially less than the properties offered, and thus, it did not seem particularly necessary to increase the supply of homes available in the Social Fund. It also reported that in May 2014, the government decided to extend the scope of potential beneficiaries of the Fund.

According to the Ministry, once the effects of enlargement on the actual number of applicants can be evaluated, the need to increase the number of houses offered by the Fund will be considered.

The Ombudsman Institution does consider insufficient the responses from both ministries and addressed newly the Ministry of Public Works and Transportation suggesting that it push forward an increase of the potential beneficiaries of the Social Fund for housing. Furthermore, it has also pointed out the need for a wider divulgation of the existence of the Fund, either through direct measures or through participating banks.

The Ombudsman Institution studies, while elaborating this report, the option of addressing a Suggestion to the Ministry of Public Works and Transportation based on the fact that the Ministry ignores the importance of the Management Company for Assets Arising from the Banking Sector Reorganization in the Spanish property market, as evidenced through figures of real estate managed by the entity and its turnover. The Management Company for Assets Arising from the Banking Sector Reorganization has expressed this fact, during the attendance of its president at the Commission of Economy and Competitiveness of the Senate in October 2014.

The importance of the Management Company for Assets Arising from the Banking Sector Reorganization in real estate would justify the action of the Ministry of Public Works and Transportation in the monitoring Commission of the Agreement governing the Social Housing Fund, whether or not it is the Ministry of Economy and Competitiveness who chairs this Commission, as well as the monitoring commission for the fulfillment of the overall objectives of the Management Company for Assets Arising from the Banking Sector Reorganization (which has a share capital whose 49% is originally public).

Housing plans

Public housing subsidies, their discontinuation and non-payment are among the main issues discussed in 2014. In 2013, numerous complaints were already received due to the retroactive discontinuation of government aid, as per the interpretation the Ministry of Public Works and Transportation had of the article 35 of the Royal Decree-Law 20/2012 on measures to ensure budgetary stability and promotion of competitiveness. The Royal Decree-Law removed the

subsidies and the Ministry interpreted that the discontinuation affected not only the subsidies recognized within the State Plan effective at that time Plan (2009-2012), but also the subsidies recognized in previous plans.

This interpretation motivated a Recommendation to the Ministry of Public Works and Transportation to reconsider its position and apply the article literally that is only referred to the 2009-2012 Plan. The Ministry, at first, rejected this Recommendation, although later reconsidered its position. This led the Ombudsman Institution to go back to the Ministry to report on the measures to adopt on the subsidies denied until that moment (by virtue of the initial interpretation), taking into account the implications for the regional autonomous communities and financial institutions.

In addition, there have been numerous complaints on non-payment of recognized subsidies in accordance with regional plans for housing, especially in the Autonomous Communities of Valencia, Andalusia and Canary Islands.

In the first case, the inspections initiated in 2013 have continued during 2014, due to the difference between the information provided to this institution by the Administration and the information provided by stakeholders on numerous complaints. The key issues are the effectiveness of resolutions acknowledging the entitlement to the aid, its default and means the Administration intends to use to pay the amounts.

Allocation of publicly subsidized housing

There are numerous complaints on the procedures undertaken to allocate social housing in the Autonomous Community of Madrid, mainly due to the lack of information on the applications' progress. This led to a Recommendation to the Autonomous Regional Department of Transport, Infrastructure and Housing to create a public registry of applicants for housing in 2011. Thus, citizens would have access to available information.

Furthermore, the Ombudsman Institution issued a reminder of the legal duties concerning the obligation of creating the registry. The Regional Department indicated in 2014 that because the new State Housing Plan does not refer to the existence of the registry, and taking into account the budget restraint situation, effective implementation of the registry was not considered. Therefore, inspections were closed reminding the Autonomous Regional Department that it was in breach of a legal obligation.

There were also complaints concerning the requirements for the housing allocations and for the different allocation quotas.

A significant example is the refusal of housing allocation for the special needs of persons with disabilities, living with parents, in which case the rule considers the denial of the allocation. Therefore, it was suggested to the Administration to modify the rule establishing a quota reserved for persons with disabilities in all the calls for requests of aid and to regulate situations of special need. This would enable access to allocations for persons with disabilities living with their ascendants without owning a home. The Administration accepted the suggestions.

The requirements for a public subsidized housing allocation shall be given special consideration. This institution does not evaluate positively those rules allowing excessive flexibility of the requisites to access social housing. Nevertheless, this does not mean there is a need for the access requirements to be overly strict. Further, homeowner applicants shall not be automatically excluded. It is possible that housing is not adequate to the family unit for different reasons; ruin, expropriation, poor conditions of habitability, etc.; or that housing is inadequate due to the change of personal circumstances of its owner who requires housing adapted to his/her disability.

Allocations of public housing for special needs are normally granted through limited regulation procedures and a high degree of discretion in favor of the administrations. This led to the Suggestion of the establishment of objective criteria for selection, promoting the amendment of the ordinance which regulates the procedure for the allocation of social housing for rent to family units or residents living in situation of social exclusion, changes and transfers of leased housing and credit-default swaps for available housing.

In other cases of requests for special needs housing, it is observed there is opacity in the actions of the Administration, which carries out the evaluation of requests within a commission. The bidders on the waiting list are not informed of this fact, nor about their position therein. Thus, it was suggested to the Public Administration that it informs the applicant about the application status. The Administration has only pledged to contact the applicant only when there is an update regarding the application.

Modification of income for publicly subsidized housing (VPP) of public protection

The commitments for payment proposed by government agencies to pay off the accumulated debt of the subsidized housing tenants are usually offered by self-regulatory bodies or public enterprises and are rarely regulated in a legal norm. Here there is a high-margin of discretion for the Administration with respect to the offer.

On the other hand, the stakeholders are not fully aware of the requirements and conditions

needed so this possibility may apply. Therefore, it has been recommended that authorities regulate the procedure for payment of debts through a commitment of payment, and divulgate it for general knowledge of stakeholders.

A particular case of problems in the reduction of rent and debts for unpaid rental fees in social housing takes place in the case of rentals in which event the lessor acts under private law; this often takes place with municipal housing companies. In such a case, there is no legal regulation and the act generating the reduction of rental fees or the payment commitment tends to be a simple agreement of the Board of Directors of the public company. As in the previous case, the potential beneficiaries are unaware of the requirements to qualify for this formula, requirements that are valued in a discretionary way by the company, who, in addition, on many occasions, carried them out without minimal formalities. This makes the chances of opposition of the stakeholders difficult in the event the decision of the company is negative. Therefore, the Ombudsman Institution has recommended regulating these types of mechanisms, and publicizing it so information is shared by all the stakeholders.

Sale of publicly subsidized housing (VPP) to private entities

The sale of publicly subsidized housing to private companies has been subject to numerous complaints from tenants.

The action of the Ombudsman Institution has pointed out that the change of owner has significant consequences for tenants, they change from being merely direct recipients of the housing development public service to subjects of a private rental relationship, in which they do not have a position of real equality with the lessor. Consequently, they are in lack of the means to put forward their full defense, unilaterally, to measures adopted by the new owner-lessor and their initial situation as tenants worsen (sometimes increase of the rent, community fees, obligation to take out insurance, etc.).

Several cases have been dealt with. The most important refers to the Housing Institute of Madrid (abbreviated as *IVIMA* in Spanish) and the Municipal Housing and Land Enterprise of Madrid (abbreviated as *EMVS* in Spanish).

In both cases, it was indicated to the administration that the transfer of housing ownership implied a privatization of the relationship between the beneficiary and the public service, to the detriment of the first, under the protection of a public act, issued on the exercise of jurisdiction in respect of public housing being property of the administrations.

This institution has considered the exercise of this jurisdiction is not limited to a rental relationship, but it implies a range of rights (possibilities of reduction of rents, mechanisms for

payment of the debts of the tenants, possibility of change or exchange of housing, etc.). This area of warranty is reduced to be strictly limited to the lease, civil, with no public service obligations.

The inspections of the Ombudsman Institution had to be cancelled after some of the people affected have urged the judicial intervention on possible offence of prevarication and misappropriation of public funds or leakage of public assets in the social field.

Empty publicly subsidized housing

After having submitted to the Parliament, in March 2013, a study on the empty social housing in Spain, an update was addressed in 2014 to provide an overview as complete as possible of the occupation of the empty subsidized housing and its evolution. This study is still in preparation pending on a response from some regional autonomous communities.

Forced evictions for illegal occupations

The Ombudsman Institution has been receiving for several years complaints about municipal inspections in the village "*El Gallinero*", in the municipal area of Madrid, one of the largest slum settlements in Europe.

Complaints refer to various issues related to urban matters, welfare and provision of public services. Complaints are submitted basically because of issues related to the performance of the authorities in the implementation of municipal administrative acts, including the intervention of the law enforcement authorities; in particular, about the way they run the evictions of the slum population, mostly children living in very precarious conditions.

The action of the City Council of Madrid has undergone several suggestions on prior notification to the persons affected, the date of the eviction and the compliance with the obligations referred to in the international humanitarian regulations on cases of forced evictions. The City Council considers that the regulation is carefully complied with, but the Ombudsman Institution disagrees, as there are complaints about evictions carried out at night or in conditions of extreme cold.

There have been inspections related to the eviction and rehousing of families of "*El Ventorro*" (Madrid). The Ombudsman Institution has indicated to the autonomous and municipal administrations that their reports do not change the view about the need to take into account that the exercise of the urban development authority to demolish slums or substandard housing does affect groups of people who are not in an illegal situation by their own will, nor deliberately.

The slum areas are aside from any regulations, but also it is an outside or marginalized population. The occupation of substandard housing is derived from a dire need and the authorities are applying a law intended not for extreme situations, but for normal situations of illegal land occupation.

Economic Affairs and Finance

The regulation of the "second chance" and tax reform includes proposals by the institution

In 2014, the Ombudsman Institution insisted on the need to regulate a second chance procedure for over-indebted individuals of good faith. In addition, several of its proposals were included in the tax reform. The Ombudsman Institution also recommended to link the electric social bond to the level of income of consumers and requested for more safeguards in the procedure of electric power supply cutting and billing systems.

ECONOMIC ACTIVITY

Inspections arising from the economic situation

This Ombudsman Institution has been conducting, for some time, the search for solutions to insolvent persons and families. This insolvency has become more significant recently due to the economic crisis. Several recommendations made have been accepted. In 2014, the institution restated the recommendation to establish a procedure for independent insolvency - or second chance act - for over-indebted individuals in good faith. The Ombudsman Institution proposed the establishment of a simple, effective and free procedure allowing the reconciliation of the interests of creditors and debtors to facilitate the accurate payment of debts and to restructure the over-indebted domestic economy.

In the opinion of the institution, to relieve the situation of people of good faith prevented from continuing on mortgage debt payments due to the crisis, it is decisive for them not to leave their home or, if they had to, to provide them access to new housing through housing leasing of the Social Housing Fund. In addition, it suggests complementing these measures with others of structural nature of the mortgage system, aimed to reduce the mortgage.

Financial institutions and securities

Financial institutions

Several annual reports referred to the lack of effectiveness of the resolutions made by the Claims Services of the Bank of Spain and the Investor Office of the Spanish Securities and Exchange Commission, which, even when resolved in favor of the customers, some financial institutions neither amend their actions nor suffer consequences for their failure to execute changes.

This institution has found that the complaints of customers against financial institutions, albeit bad banking practice is accredited, they do not constitute a basis to initiate disciplinary proceedings, regardless of the serious consequences of the conduct of the financial institution.

The Spanish Securities and Exchange Commission (abbreviated as *CNMV* in Spanish) publishes follow-up on the positive reports to the claimants in various annual reports of the Office for Investors Services. The figures show a decrease in terms of the level of rectification of the entities.

This institution has deemed necessary the recommendation to implement a truly effective system, that would force banks to correct their actions, and citizens to find a real defense from the Administration.

The Office of the Secretary of State of Economic Affairs and Support to Business believes that the protection system of the client's financial services is sufficiently protective with considerable regulation. This institution welcomes the willingness of that agency to work on the development of mechanisms improving the protection of citizens as banking clients. However, it does not agree that the existing system protecting the customer is sufficiently protective.

Mortgage floor clauses

Many citizens continue to address this institution pointing out that they submitted a claim to Customer Service of the Bank requesting the removal of the mortgage floor clause following a decision by the Supreme Court number 241/2013, of 9 May, ratified in June and November of the same year. They have not received a reply to their request.

The Office of the Secretary of State of Economic Affairs and Support to Business considers that the abovementioned judgment does establish that the floor clause is licit when some requisites

for transparency are fulfilled, which are applicable to clauses not negotiated on an individual ground regulating the main components of the agreements with the consumers, such as the applicable interest rate. In addition, the judgment does override specific clauses of the defendant entities for being unaccountable to their recipients.

The Directorate-General for Regulation and Financial Stability of the Bank of Spain sent a letter to the professional associations of the banking sector (Spanish Banking Association [abbreviated as *AEB* in Spanish], Spanish Federation of Saving Banks [abbreviated as *CECA* in Spanish] and National Union of Credit Cooperatives [abbreviated as *UNACC* in Spanish]) requesting them to inform their partners about the need to review the adequacy of the floor clauses listed in their portfolios of active mortgage loans to the transparency criteria laid down by the judgment number 241/2013 in the Civil Chamber of the Supreme Court, dated on 9 May 2013.

This letter indicated that thereafter entities should exercise particular care when it comes to market mortgages with these types of clauses, following, in particular, the requirements of the information in the Ordinance EHA/2899/2011, on 28 October, on Transparency and Protection of the Customer's Banking Services, and the Bank of Spain Memorandum 5/2012 as well as criteria established by the judgment indicated above.

The Bank of Spain has indicated that the information provided does not conclude that the Supreme Court sentence 241/2013 is being breached by the entities concerned or with regard to the clauses to which the judgment is confined.

However, the Bank of Spain itself admits in its annual report of 2013 that it has received 18,387 claims concerning floor clauses.

Securities market

Since 2012, this institution has initiated several ex officio inspections on problems incurred with the preferred shares and subordinated debt. A study was prepared in 2013 entitled *Preference shares: Inspection actions and proposals of the Ombudsman Institution (Participaciones preferentes: actuaciones y propuestas del Defensor del Pueblo)*, raising 16 preventive and palliative recommendations.

The Spanish Securities and Exchange Commission has accepted some of the recommendations made in the study such as the creation of a filter in decisive bodies of financial institutions when distributing complex products. It was included in the Memorandum 1/2014 of the Spanish Securities and Exchange Commission, on internal control. Other recommendations have also been well received: validation and product labeling, control of

incentives granted to the employees of financial institutions, the requirement of a minimum training for staff that sells investment products, providing of greater independence and competences to the Spanish Securities and Exchange Commission. This is the body developing a regulatory proposal.

The Spanish Securities and Exchange Commission is also working on the general aspects of the proposals, which refer to financial education, training of employees responsible for the marketing of products, codes of conduct, incentives for the staff of institutions and information to customers.

The Office of the Secretary of State of the Economic Affairs and Support to Business does value the proposals but it rejects all palliative recommendations. It accepts several of the preventive recommendations- such as strengthening transparency, establishing a period of reflection before formalizing hiring, contract modeling, financial education and control on incentives - and ensures that they will be taken into account in future legislative initiatives.

The Sub-commission of the Congress of Deputies on Transparency in the Financial and Mortgage Products of Credit Information released in its report nearly all of the recommendations made by this institution.

Upon completion of the procedure of arbitration of Bankia, there were claims raised due to the lack of arguments in the denial of access to arbitration. The institution has recommended the Secretary of State of Economic Affairs and Support to Business to urge Bankia to inform clients, requesting clarification of the refusal of the arbitration, on the specific reasons according to which the company KPGM has not estimated the existence of deficiencies disabling the consent given by the client subscribing preference shares and subordinated obligations. The aim is to give citizens the possibility to decide whether or not to undertake a court proceeding. The Recommendation was rejected.

Citizens who have had to undertake the court proceedings indicate that the lack of personnel and material resources of the courts is causing delays in the processes submitted, especially when it comes to collective claims. Therefore, they requested the courts to be provided with greater means and resources to move forward in the resolution of claims. This institution has requested information from the General Council of the Judiciary, which is still pending of a reply.

Pension and insurance plans

An ex officio investigation, still pending, on the need to promote private savings to complete future State pensions and the review of the regulation of pension schemes was launched in 2013. Information was requested from the Ministry of Economy and Competitiveness, from the

General Directorate of Insurance and Pension Funds and from the office of the Secretary of State of Finance.

In addition, there is an ongoing ex officio investigation on taxation of insurance imposed in mortgage lending by banks to their clients. It includes a Recommendation to limit this practice and it was requested the wording of insurance plans to be more clear, due to the discrepancies in their interpretation, when applying for the insurance coverage.

Gas

The lack of regulatory development adapted to the consequences of the liberalization of gas supply, leads to disputes regarding the rights and obligations of the agents of the system and consumers. This situation has resulted in delays to take out gas supply, either of new or existing facilities after a cool-off period. On this issue, proceedings were initiated before the National Commission of Energy (abbreviated as *CNE* in Spanish), currently the National Commission of Markets and Competition (abbreviated as *CNMC* in Spanish).

On February 18, 2014, the regulatory Oversight Chamber of the National Commission of Markets and Competition approved a resolution of a binding procedure, according to which it is agreed to adopt measures with respect to distributors and marketers for the protection of gas consumers. Among the measures, it appears reasonable to request that the free and of last resort marketing company, belonging to the business group, has a telephone helpline. In this sense, the resolution indicates the interests of consumers' protection must prevail over economic cost considerations.

Some complaints raised alleged that gas enterprises proceed to unnecessary gas installation revisions, through threatening attitudes towards people - usually elders - and charging abusive amounts. The National Commission of Markets and Competition provides information regarding the Distributor's proceedings to prevent abuse in the process. Thus, it differentiates between "regular inspection of the installation" which is compulsory every five years and "revisions of the natural gas system", which is of similar content, and carried out by the installation companies at the request of the consumer.

In order to strengthen guarantees of consumers against these abusive actions, The Act 3/2014, of 27 March, amending the consolidated text of the General Act for the Defense of consumers and users and other complementary acts, approved by Royal Legislative Decree 1/2007 of 16 November, has been approved. This new Act is a reinforcement of the information to the consumer and user, through the extension of the pre-contractual information requirements in contracts with consumers and users.

Power supply

The constant increase in the price of electricity, which is a basic good to a dignified life, in recent years, linked to the crisis and unemployment existing in Spain, forces the public authorities to review the conditions of the power supply.

2014 has been a year of relevant modifications in the field of electric power. The development regulation of the Act 24/2013, of 26 December, of the Electricity Sector, is in process to be adopted.

Clear and transparent electricity invoice

Inspections were initiated to promote a transparent and clear electricity invoice, easy to understand. On May 23, 2014, the Directorate-General for Energy Policy and Mines approved a resolution setting out the minimum content and the template of electricity invoices, mandatory from October 1, 2014. This measure is very positive, but there is one aspect still unclear: among the concepts in the electric bill, it is mentioned "other regulated costs (including the annuity of the deficit)", which does not inform consumers of the concept to which it refers. The Office of the Secretary of State for Energy has to clarify this issue.

Back-up toll

The so-called "back-up toll" to be paid by the consumers of energy power with self-consumption of electric power, whose most frequent modality is the installation of photovoltaic panels, has led to numerous complaints.

The Ombudsman Institution considers unjust the imposition of tolls to energy power self-consumption, when there is no disposal of the surplus of the non-consumed power to the network. A facility that does not pour over the network must be treated as any other measure of energy saving. Article 45 of the Spanish Constitution compels the public authorities to ensure the rational use of all natural resources, in order to protect and improve the quality of life, defend and restore the environment, relying on the vital collective solidarity. Therefore, it has been recommended to the Office of Secretary of State for Energy not to set tolls charging on the production of electricity for self-consumption. A final decision on this Recommendation has yet to be made.

Remuneration system of photovoltaic power

Small savers have raised the negative consequences of the modification of the remuneration system of photovoltaic power, since they made their investments under a system that has

undergone several modifications, generating a loss of their economic expectations.

The situation is different for Spanish investors in comparison to some foreign investors. The Energy Charter Treaty, ratified by Spain on December 11, 1997 (abbreviated as *TCE* in Spanish), sets a framework of legal protection to investments from other Contracting Parties, among which lays out the commitment to grant fair and equitable treatment. These investments enjoy full protection and security and no contracting party can harm, through exorbitant or discriminatory measures the management, maintenance, use, enjoyment or settlement thereof. For the settlement of disputes, an international arbitration can apply.

The international arbitration in the framework of the Energy Charter Treaty is a viable solution only available to investors of the countries signatory of the Treaty. Spanish citizens who have suffered a reduction in their remuneration may not urge measures provided in the Energy Charter Treaty, so they could only get compensation, where appropriate, through the means they have available in accordance with the domestic law, affecting the principle of equality.

This institution recommended that the Office of the Secretary of State for Energy adopt the necessary measures so that Spanish investors in photovoltaic power, whose remuneration have been trimmed, shall not receive a worse treatment than investors of the signatory countries of the Energy Charter Treaty. It also recommended establishing mechanisms to compensate the Spanish investors for the sacrifice involved in the change in remuneration. This Recommendation has not been accepted.

Regulation of the social bond

The social bond was defined in the Royal Decree-Law 6/2009, adopting certain measures in the energy sector. Its purpose is to economically favor consumers of electricity entitled to the Last Resort Tariff complying with some social features of consumption and purchasing power defined by the Administration. Although article 2 of the aforementioned Royal Decree-Law refers to the establishment of a limit threshold of income to be able to acquire the right to the social bond, it is applicable automatically from July 1, 2009 to specific groups when the income threshold is not reached.

As a family income threshold has not been determined, the system that had been initially conceived as transitional has perpetuated. Thus, from July 2009 until today, consumers entitled to receive the social bond have been determined, exclusively, on the basis of their belonging to one of the three groups laid out in the second transitional provision of the Royal Decree-Law 6/2009, namely: 1) Social security pensioners over 60 years; 2) large families and 3) families with all members unemployed.

This decoupling between the social bond and the income level generates a situation of

discrimination. On the one hand, some consumers with low income are not entitled to the social bond for not being included in the groups identified, while others can get benefit, regardless of their level of income, and simply because they belong to one of the three groups. A recommendation has been put forth to define the concept of vulnerable consumer according to income criteria which can be modulated according to personal circumstances, provided such circumstances and their modulation are duly justified and do not lead to discrimination.

Billing

On January 31, 2014, the Ordinance EIT/107/2014, reviewing the tolls of access to electric power for 2014, modified the terms of power and energy consumption of the electricity bill to give greater weight to the fixed part. This order led to the initiation of an ex officio action with the Ministry of Energy in which it was indicated that, due to the unfavorable economic situation, the income of many families have been reduced, urging them to adopt measures of saving, including the reduction of the energy consumption, which they cannot do if the billing system is changed.

The Ombudsman Institution does consider that the increase of the fixed term should be explained in a transparent and objective manner, as it is a very significant measure for the economy of all citizens. The Office of the Secretary of State for Energy has been recommended to review the distribution of the power and energy terms of the tolls applicable to domestic consumers taking into account the impact this distribution will have on domestic consumers' bills. In addition, a request has been made to establish a distribution of power and energy terms to encourage energy saving rewarding consumers who save, and explaining - with clarity and transparency - the reasons for the change.

Power cuts

Issues derived from power cuts for fraud and the lack of guarantees of the procedure as well as the difficulties generated for consumers, even in the event of error on behalf of the supply company, have been raised.

The power supply is essential to a dignified life, recognized in article 10 of the Spanish Constitution. Depriving people from power leaves them in a situation of social exclusion. For this reason, energy power marketing cannot be subject to the same rules as other goods and services that are not essential.

In the case of the suspension of supply for fraud, the distributing company is responsible - unilaterally - for the detection of the existence of such fraud and application - also unilaterally - of the measures to interrupt the supply. The system suggested allows companies to determine

the existence of fraud as well as the cutting of supply, without prior intervention of any administration and, in addition, it incentivizes the distributing companies.

The serious consequences involved in the detection of fraud (economic penalties and reduction of deadlines for notification) makes essential the development of a procedure leading to the detection of fraud and the subsequent implementation of entailing measures with appropriate safeguards for the consumers and that respect their right to the presumption of innocence applying some type of administrative control.

Entrepreneurial freedom

In 2014, the Ombudsman Institution has carried out two inspections aimed at promoting respect for the fundamental right of entrepreneurial freedom recognized in the article 38 of the Constitution, against restrictions imposed under a lower level of regulation.

The requirement of having three trucks to get the required authorization for the activity of road freight transport involves a restriction on the entrepreneurial freedom. The large investment required to purchase three vehicles (360,000 euros) makes it impossible for self-employed workers to obtain a transportation card and this issue was the subject of numerous complaints.

The Office of the Secretary of State for Transport and the Secretary of the Council for Market Unit have been urged to remove this requirement. This Recommendation is pending.

Owners of small ambulance businesses have also denounced the existence of restrictions on the freedom of enterprise in the market of medical transportation.

Companies express their disagreement with the authorization requirements in Ordinance PRE/1435/2013, which develops the regulations of the Spanish law for road transport in terms of medical road transport, requiring eight vehicles and 15 workers, of whom at least six must be drivers. These demands are a burden for most ambulance service companies in Spain where, 400 of 436 ambulance companies are small and medium enterprises (abbreviated as *PYMES* in Spanish). In the case that they cannot pay the adaptation to the new requirements, they will be expelled from the market at the end of the transitional period.

A Recommendation has been issued to abolish the requirement to have 8 vehicles and 15 drivers as a condition to practice medical transport. This requirement is against the entrepreneurial freedom, established in the article 38 of the Constitution and is not justified through reasons of general interest since it is not based on an improvement of services. This Recommendation is pending.

Administrative Contracting processes

Citizens' claims, as in previous years, are based on the difficulties to receive from local governments and the regional autonomous communities the amounts they owe. Not receiving the payments, or with delay, creates serious economic damages.

The deficit in Treasury that the administrations suffer affects persons and companies who have been deprived of liquidity because of the impossibility to recover debts and the uncertainty about the time to have the credit to enforce the payments. This situation had taken place in administrations such as the City Council of Parla (Madrid), the City Council of Navalcarnero (Madrid), the City Council of Montemayor del Río (Salamanca), the City Council de Miguelturra (Ciudad Real) and the City Council of Villalpardo (Cuenca).

Problems reflected in the citizens' complaints have been resolved through the approval of payment mechanisms such as the Regional Liquidity Fund (abbreviated as *FLA* in Spanish), which develops a system of support for the liquidity of the regional autonomous communities. Mechanisms include payment to providers, measures supporting entrepreneurs and stimulating growth and job creation; and the Royal Decree-Law 8/2013, on Urgent Measures to tackle Late Payment of Public Administrations and to Support Local Financially Troubled Agencies.

TAX AUTHORITIES

The **Tax Reform** adopted some of the proposals made by the Ombudsman Institution on various subjects. Complaints were raised because of the increase of the inspection actions and collection on behalf of the Tax Administration. Other complaints were related to the lack of understanding about the terms in which the liquidation of the Administration and sanctions are carried out with respect to statements made by the staff of the State Agency for Tax Administration (abbreviated as *AEAT* in Spanish), or following their indications.

State taxes

Personal Tax Income

One of the taxes most affected by the fiscal reform has been the Personal Tax Income (abbreviated as *IRPF* in Spanish), whose regulatory law suffered nearly 100 modified items. There were many proposals of the Ombudsman Institution and some of them were reflected:

Temporary allocation of subsidies. After the acceptance of the Recommendation made to the

Directorate- General for Taxation, subsidies and public aid will be taxed from the collection of the subsidies and not when they are granted.

Exemption of capital gain obtained after main home is used in lieu of payment. It has been adopted prior to the entry into force of the tax reform, through the Royal Decree-Law 8/2014 approval for urgent measures for growth, competitiveness and efficiency, having, in addition a retroactive nature applicable to non- closed fiscal years.

Modification of the regulation of the minimum per descendant. The Office of the Secretary of State of Finance received a Recommendation to take into account the different family models, to ensure the principle of equality of the parents. New wording has been undertaken in relation to article 58 of the Law 35/2006, on Personal Income Tax, to determine who is entitled to apply the minimum per descendant; it is assimilated to the coexistence of the taxpayer's economic dependence, except in case of separation or divorce in which annuities for food by judicial decision are met.

Flexible deferrals and splitting of payment conditions of the tax debt, decreasing the amount of fees and increasing the term. This has been one of this institution's objectives in recent years. To date, most of the initiated proceedings have proved to be fruitless, but it seems that finally instructions will be issued to make the conditions more flexible in some cases.

Maintenance to the update coefficients and the offset coefficients in personal income tax. Through an amendment in the Senate, the offset coefficients are kept in force when the sale of the real estate does not exceed € 400,000.00. The Tax Reform has removed, however, the update coefficients on capital losses and gains leading to the sale of real estate. These update coefficients sought to prevent currency depreciation, and their disappearance will engender a higher taxation on earnings made by the disposition of properties, especially those bought in pesetas and sold in euros.

The Ombudsman Institution will keep insisting on other issues such as the creation of expense deductions for hiring domestic service, especially in the case of care of children and elders. In addition, the institution will continue to urge the introduction of deductions for the cost of staying in geriatric residencies, and the application of deductions for investment in main homes when performing construction and installations to adequate housing on grounds of disability.

The update of the limit of 8,000 euros per year as a quantitative requirement for the application of the minimum per ascendant has been an issue of several recommendations by this institution in recent years, which have been rejected. It has not been taken into account that basic pensions have experienced a slight increase, but this does not provide the economic independence of the ascendants who live with the taxpayer.

The Ombudsman Institution considers that the regulation on personal income tax must be adapted to the new family models and should resolve conflicts that may arise while the rule is applied. When both parents have the custody of their children, the rule does not determine who can apply the reduction for joint taxation, but they should make their own decision, which is not easy at times. A request has been issued to regulate the reduction for joint taxation in case of shared custody. There has been no result yet.

It was also recommended to State Agency for Tax Administration, that it guarantee taxpayers effective assistance when it comes to filing their income tax returns, allowing them to access the appointment service when they require it, setting up helpdesks in the different administrations and delegations attending and collaborating with citizens on the procedures to follow. The Agency indicates that there are computers available to the taxpayers in the different delegations, and that some offices have established helpdesks.

The information offered by the telephone assistance service of the tax agency is subject to numerous complaints. A recommendation was issued to adopt measures ensuring the training of staff of this service, so that information provided to citizens is homogeneous and substantiated. The Agency does not share the criterion of this institution and considers the staff sufficiently trained.

Value added tax

The obligation to submit exclusively online some self-assessments and tax returns, imposed in the Ordinance HAP/2194/2013, is one of the most puzzling measures to taxpayers, since it does not make a difference between entrepreneurs or professionals and the other taxpayers who have to pay the tax.

This measure directly affects the submission of 303 and 390 forms, mandatory to be filed by landlords of premises, who often are of an advanced age, do not have computers or computer skills, and are forced to hire the services of an agent to comply with their tax obligations, which entails expenses.

An ex officio investigation was initiated with the State Agency of Tax Administration and the Ministry of Finance, as it was considered that taxpayers shall not be all obliged to submit online the self-assessments and tax returns, but measures shall be adopted to enable the fulfillment of tax obligations.

The institution recommended allowing taxpayers to keep submitting the forms on paper, to establish data processing posts- assisted by staff of the Agency – to help and assess citizens

willing to submit online their self-assessments and tax returns. In addition, it suggested these circumstances to be taken into account at the time of initiating proceedings arising from the incorrect submission of the forms to ensure that the system operates properly and does not generate errors and that taxpayers have sufficient information to proceed with their submission.

While this last Recommendation has been evaluated positively and it will be taken into account that the procedures should be governed by the principles of responsibility and proportionality, the Recommendation on the possibility of submitting the forms in paper has been rejected.

In relation to the Recommendation to establish data processing posts at the offices of the Administration to assist taxpayers, the State Agency of Tax Administration considers that it has been accepted because they believe that all information and required assistance for the fulfillment of tax obligations can be received in their offices.

However, according to complaints still being received on this issue, not all taxpayers are getting the assistance they need because there are offices of the State Agency of Tax Administration, which are not compliant with this duty of assistance and assessment.

The Ombudsman Institution considers that the obligation to submit these forms exclusively online does not take into account the provision of the article 27.6 of the Law 11/2007, on Electronic Access of Citizens to Public Services. This provision establishes that it can only be imposed to interact with the Administration electronically when stakeholders are legal persons or a group of natural persons, who because of their economic or technical capacities, professional dedication or other accredited grounds, have the access guaranteed and the accurate technological means available.

While the ex officio investigation has finalized, individual complaints are still being processed in those cases where citizens are not duly assisted.

The increase of rates in the value added tax (abbreviated as *IVA* in Spanish) is also subject to recurrent complaints, since citizens fail to understand that certain services are not taxed at a reduced rate.

The Ombudsman Institution has requested a reduction to the rate of the tax applicable to electricity and natural gas. However, the fiscal system reform has kept tax rates of the value added tax applicable to electricity and natural gas, and consequently, the undertaken inspections have been closed on a contested basis.

In addition, the Ombudsman Institution initiated inspections for the rise of the tax rate applicable to the products and services offered by businesses in the cultural sector from 8% to 21%. The

State Secretariat for Taxes indicated that the reduction of this tax rate was being studied and evaluated within the framework of the reform of the tax system which was in process. However, finally, no amendment to the tax rates has been included.

Local taxes

Shared management

-Tax on motor vehicles

The recurrent reasons for complaint have referred to the inspections for forced payment at the municipal level, exemptions based on disability, and errors of the competent administration in tax collection.

The study of the complaints has highlighted that, during the forced payment stage, there are large periods of time elapsed until the notification, reaching up to 20 years since the application of accruals until the date of effective payment. The administrative action must be responsive and carried out in a reasonable timeframe, undertaken *ex officio* if necessary without the need to be claimed by the affected person, of the potential prescription of the fiscal years *and* not in the resolution of resources alleging these circumstances or after the intervention of the Ombudsman Institution.

During this year, claims have been received denouncing the requisite of the Directorate-General of Traffic to lift the restrictions of ownership of a vehicle, which have their origin in its acquisition with a loan granted by a financial institution. Sometimes, these entities have disappeared or have been merged with others, disappearing from the place in which they were domiciled at the time of the acquisition. This has made it difficult for those affected to be able to certify that the debt leading to the restriction of vehicle ownership was settled, and that the granting entity did not eliminate the restriction, as it should have at its extinction.

Disability exemption. There is an increase in complaints concerning the recognition of disability for the purposes of the article 93.1e, regarding the procedure for the recognition of the disability, as well as the requirement of fees in the regional autonomous communities to obtain the accreditation certificate of disability and its degree.

- Real estate-tax

The cadastral evaluation of real estate has not included the correction carried out in the real estate market in those towns whose general reports for the cadastral value were carried out

after 2006. The tax is far from the real estate reality and does not reflect the financial capacity of taxable persons.

The Royal Decree-Law 20/2011 is added to this gap in the values. It adopts urgent budgetary, tax and financial measures for the correction of the deficit, which implied an increase of the rate of the tax on real estate property between 4% and 10%, depending on the year of approval of the report. Many complaints have referred to a tax base that does not reflect its value in the market and other complaints that consider the taxation of main homes as incommensurate.

These situations are difficult for those whose income is limited. Thus, unemployed persons as well as those who receive pensions for retirement or disability, cope with payments that exceed one-third of their annual income. In some cases, the tax is higher than the annual taxpayer's pension. Thus, while there is no bonus or reduction referred to in the Royal Legislative Decree 2/2004, approving the consolidated text of the Act regulating local treasuries, which enable it, some municipalities have adopted measures to reduce the tax when taxpayers evidence their income limits through grants, subsidies or mechanisms that have lowered the taxable income.

The Secretary of State of Finance and Public Administration maintains that it is necessary to wait for the modification of the law on local finances to include new exemptions or bonuses, as the State has to compensate City Councils for these revenues, considering its introduction should be undertaken in the new model of local financing. This provision is not effective for taxable persons who cannot cope with the payment of taxes on their housing, which in many cases, is the only capital asset they have.

Real estate tax is the main source of income for municipalities and its reduction has an impact on the fulfillment of their obligations. However, article 31.1 of the Spanish Constitution expressly stipulates that there must be a direct correlation between the economic capacity of taxable persons and the taxes to pay. Thus, the urban real estate tax entails contributions that may exceed the total annual production of the plot, which, in many cases, is still the source of income for their owners. Some complaints report about contributions exceeding 15,000 euros, because of large land tracts, and in others, small plots whose annual clearance exceed 1,000 euros, and whose owners receive widow's pensions or minimum pensions that are not enough to cover the minimum living wage of their owners after paying the tax.

-Tax on the increase of the value of urban land

This is one of the taxes generating great disagreement amongst taxpayers due to the calculation system and the tax rate. It can reach 30% of the tax base, which is the rate often reached by city councils. It is an optional and not compulsory tax, which is the main difference with other local taxes; thus, any City Council could repeal its tax Ordinance and not impose it.

It had been repeatedly recommended to amend this tax and, in particular, in cases in which properties are given in lieu of payment or when the properties were subject to a forced sale in foreclosure proceedings. In those cases, in addition to the loss of housing, the tax debts generated with the municipal administration are added, implying an increased charge on a non-existent wealth. These recommendations are adopted through article 123 of the Royal Decree-Law 8/2014 on the Adoption of Urgent Measures for Growth, Competitiveness and Efficiency. The amendment of article 105 of the law regulating local finances is also approved, which exempts from taxation main homes given in lieu of payment and in the cases of foreclosure.

While the reform is not extended to the operations indicated, the measure has effect from 1 January 2014 and it covers all taxable transactions that were not prescribed, and consequently many settlements made, that had been paid or not, fulfilling these requirements, would be null and void and the municipal administration should return improperly collected revenues where applicable. However, the taxable persons are the ones to address the relevant bodies in order to evidence their right and obtain, if it were the case, the reimbursement of the amounts paid for this tax.

Local taxes

The lack of liquidity in some municipalities has motivated the approval of taxes on private use of the public property and the provision of services, which previously had not been required.

The rate the Administration demands from the taxable person for the tax should not exceed the actual or foreseeable cost of the provision of the service.

The **rate for urban solid waste collection** has the highest rate of approval in the municipalities, because it is a general and compulsory service. The simple fact of making available the waste collection service justifies the levying of rates, and the settlement for housing as well as car parking spaces, storage areas, unoccupied housing, empty stores, and any other property that is within the area in which the service is provided. This interpretation has been endorsed by case law of the higher courts of Justice and the Supreme Court. However, the owners or holders of rights to unoccupied properties, either temporarily or permanently, owners of stores and warehouses that remain closed and unused, as well as the owners of storage rooms linked to housing, argue that it is an imposition for a service that is not provided.

Finally, the owners of parking spaces consider that the amount of the tax is unjust because of the type and volume of waste that these properties could produce.

Another tax that taxable persons have considered disproportionate is known as **Rate of**

Vehicular Access, which is required by the public domain reservation, or the intensive use of sidewalks for vehicular access to parking spaces inside the buildings.

COMMUNICATION AND TRANSPORT

Communication

The users of telecommunications services are demanding more active action, from both the legislator and the administrative and judicial bodies to defend their interests. The rights of users are not sufficiently protected from large telecommunications companies. The regulation of the sector and the development of specific rules, which includes problems and new situations, would meet the expectations of citizens and avoid imbalances.

Taking into account that the General Law of Telecommunications of 2014 requires the corresponding regulatory development, this Ombudsman Institution considers its immediate adoption essential to avoid situations and problems that this vacuum can cause.

One of the problems that frequently arise and which deserves special consideration refers to the provision of telephone service to users belonging to the most vulnerable social groups. The complaints refer to delays in the provision of this service to sick or elderly people who receive in-home phone assistance. Companies should pay special attention to resolve these problems and give priority to their processing and resolution.

In order to avoid the exclusion of these citizens, belonging to especially sensitive groups, a Recommendation was formulated. The Ministry of Economy and Competitiveness points out that currently there is no pension pattern that had the right, in 2010, to social payment and in 2014 exceeded the 639.01 euros/month (120% of the multiplier for the public income index [abbreviated as *IPREM* in Spanish]), which is the amount limit for entitlement to this aid. By the year 2015, forecasts indicate a rise of 0.25%, increase insufficient for a pension pattern to exceed 639.01 euros/month.

In the same line, the office of the Secretary of State for Telecommunications and the Information Society indicates that the increase of pensions of previous years has not generated exclusions, since the threshold is greater than the amount of pensions already paid in 2010.

Transport

The establishment of restrictions on transport is a constant source of complaints throughout the

territory. Either in rail or road transportation, urban and long-distance, the removal of lines and reduction of frequencies affect citizens who have to travel, sometimes to another municipality or within the same one when they reside or work in isolated areas. The lack of budget capacity has been the explanation of public administrations.

Urban and interurban transport

Complaints received regarding transport subsidies, the transportation strikes in a concessionaire company undertaken by several bus lines of the Community of Madrid, which reduced the frequency of services of transport in several municipalities, incidents in line 5 of the Madrid Metro, or the new bylaw regulating the taxis also in Madrid, were reflected in inspections carried out in 2014.

In addition, the Association Eurotaxi for Mobility and Accessibility (abbreviated as *EMA* in Spanish) initiated an ex officio investigation for the suspension of the service in the entire shared operations area of Madrid, which covers 44 municipalities.

Air transport

The institution deems appropriate that assistance and accompaniment of people with disabilities in air transportation to be declared economic services of general interest, given the positive contribution of a service of this nature to social cohesion, according to article 36 of the Charter of Fundamental Rights of the European Union. A recommendation was addressed to the Ministry of Public Works and Transportation. The reply on it is pending.

Roads

Safety of some roads or sections of roads, along with poor conservation, remains constant in the complaints, and generates the undertaking of many proceedings before the different public administrations.

Railway infrastructures

The Spanish Committee of Disabled People's Representative has submitted numerous complaints related to problems of accessibility in the railway infrastructure due to the breach of the Royal Decree 1544 / 2007, which regulates the basic conditions of accessibility and non-discrimination for the access and use of means of transport for people with disabilities.

Furthermore, an ex officio investigation was undertaken due to the railway accident at Calañas (Huelva), in which a 14-year-old child died being rolled by a train in the car in which he traveled

when he crossed the step level without barriers or signs.

Another outstanding action refers to the flooding of the tunnel and high-speed railway station of Girona caused by the rains in September 2014, which forced the cancelation the AVE service between Figueres, Girona and Barcelona.

Environment and Urban Planning

The institution sets forth a reminder of the constitutional obligation to repair environmental damage

The project "Castor" and its relationship with the gas system and the hydraulic fracturing technique or Fracking were subject to outstanding inspection actions of the Ombudsman Institution about the environmental aspects in 2014. The Ombudsman Institution kept detecting insufficient actions for restoration of damaged spaces: rivers, soils and landscapes. In addition, the institution worked to reduce architectural barriers and began a study on the processing of requests for building permits.

ENVIRONMENT

Complaints in this area do exceed 500, often on a collective basis.

The main problem is the shortage of inspections for the restoration of the damaged spaces: rivers, soils and landscapes. The failure of repairing damages implies an infringement of article 45 of the Constitution, which enshrines the right of everyone to enjoy an environment suitable for the development of the person, the obligation of public authorities to ensure the rational use of natural resources, to protect and improve the quality of life, and to defend and restore the environment. Finally, the constitutional principle imposes the obligation to repair the damage caused, to those who infringe the said rule.

The lack of cooperation, if not a straightforward rejection of the jurisdiction, is still noted between substantive and environmental administrations (concerning mines) or among State, autonomic and local departments (on noise pollution and road), to evaluate the impacts and to adopt the required corrective measures. The authorities and officials keep considering that these issues are a matter of the environment agency, which is an erroneous assessment, as the institution has been denouncing for years.

In addition, the environmental evaluation of the activities potentially harming the natural areas is still insufficient. One of the most emblematic places of the country, subject of several inspections carried out by the institution in 2014 might be the Park of Doñana. These inspections concern the gas exploitation and pipeline, poaching, the impact of the Pilgrimage of

Rocio (*Romería del Rocío*), etc.

The authorities attribute the lack of adoption of prior or subsequent control measures to the impacts to budget restraints.

Disciplinary proceedings. Qualified concept of Complainant

An association for the protection of animals appeared in an administrative procedure as a complainant and interested party. Nevertheless, the Autonomous Regional Administration argued that the Association had the status as complainant, but not as interested party in the procedure. The Ombudsman Institution considered that it is not a mere “complainant”, but an interested entity, that denounced not only the facts, but it was also interested in disciplinary proceedings, requesting a copy of the resolution of the initiation of proceedings to formulate allegations during the proceedings and, in sum, being interested that the resolution have a specific meaning. This interest would then be a legitimate interest (article 31 of the law 30/1992, of Common Procedure).

Prescription of infringements and sanctions

In relation to different complaints, after the resolution of a disciplinary procedure, the Administration does not resolve the appeal until several years later. The Ombudsman Institution considers that stakeholders are unprotected, since the infringement or the sanction would have prescribed after the time elapsed without resolving the appeal. However, the Administration replies that the disciplinary resolution has no enforceability while the administrative appeal is not resolved and that, during that period, the prescription of the sanction does not apply.

The institution indicates that in case the Administration does not resolve in time, a situation of uncertainty and legal insecurity arises (article 9.3 of the Constitution) and the prescription becomes inoperative. The Administration is recommended to take into account that article 138.3 of the Law 30/1992 subtracts disciplinary resolutions under the effective general system from administrative acts since the date resolutions are made (article 57). It can be understood that the time used to resolve the administrative appeal is also disciplinary procedure and, therefore, if the resolution were delayed, then the prescription would apply in accordance with the general rules of the calculation and its interruption (article 132.2).

Rights of access to information and public participation

The authorities must provide the environmental information requested that they have available, hence, it is not necessary that the applicant invokes a specific interest, nor be an interested

party or complainant. When the administrative office to which the application is addressed does not have the information requested, the petition shall be transferred to the relevant office and be notified to the interested party. Among the most significant cases following this process as it has been recommended is the case of Guadalquivir Hydrographic Confederation and the Department of Infrastructures, Territory and Environment of the Autonomous Region of Valencia.

The public authority is obliged to facilitate the available environmental information separated from the protected personal data. The reasons for denial of access to information should be interpreted in a restrictive manner.

The information included in a disciplinary procedure for works on the banks of the river Pas (Cantabria) affecting a habitat of Community interest, wetlands and species of protected fauna and flora has been considered environmental. The information referring to the prohibitions or limitations of fishing to combat an invasive exotic species is also environmental information, thus, the Administration must provide it or indicate the place such information can be found. The classification of plots for hunting purposes and the data on greenhouse gas emissions are considered environmental information as well.

The City Council of Albacete has not yet provided the information to the person concerned on an electrical substation next to his/her home (in particular, the result of the measurements of noise and vibrations or the degree of electromagnetic pollution generated). In this case, the municipal response to the institution request for additional information is awaited.

Complaints have been received due to failure to reply to requests for information and the insufficient assessment of submitted claims about the measures taken in the exploitation and storage of gas CASTOR.

A complaint about the prices set for the environmental information provided by the Meteorological Agency has been admitted.

Duty of disclosure of environmental information

The Administration must actively release environmental information, as established in some cases by the Law 27/2006. A very important case is fracking: the Ombudsman Institution suggested the Ministry of Agriculture, Food and Environment to disclose the report of the Geological and Mining Institute of Spain on its recommendations regarding the preventive and corrective measures to take into account in projects related to the exploration and exploitation of hydrocarbons using hydraulic fracturing techniques. The Suggestion has been rejected.

The Office of the Secretary of State has released the report internally only to the competent agency to develop the impact statements because it understands that other agencies of the Ministry do not perform functions of environmental assessment. However, it is clear the report is of interest, at least for the hydrographic confederations taking into account the volume of water resources used in this technique and the risks for contamination of the aquifers.

The Tajo-Segura transfer

In relation to the rules to the determination of surplus, exploitation and recovery of costs from the Tajo-Segura transfer, as well as of the sale or assignment of inter-basin rights among irrigators, the institution pointed out that the parliamentary approval of an amendment is not equivalent to the direct participation of the public required by the State and European law on water and environment, although it involves a decision by the Chambers as representatives of the Spanish people. The agreements entered into between public administrations, when they affect water resources, should be accessible to those requesting them. It is not possible to include the agreed contents to legal instruments with the status of law, except if there is a legal material reserve or the requirements established by the Constitutional Court to enact special legislation are satisfied. The Office of the Secretary of State for Environment has not reported on the environmental criteria taken into account for the modification of the rules that affect the transfer.

Rehabilitation, regeneration and urban renewal Act

The Office of the Secretary of State for Infrastructure, Transport and Housing of the Ministry of Public Works and Transportation accepted the Recommendation to issue instructions to ensure public participation in the regulatory projects processed and that have environmental impact, albeit the instructions have not yet been forwarded to the Ombudsman Institution.

Lack of call for meetings with participating agencies

The Advisory Council for Environment of the Autonomous Community of Madrid had not been convened since July 28, 2010, although it is mandatory for the plenary sitting of the said body to meet at least once a year. To fulfil this provision, it is not sufficient to bring together the Sections of the Council, as the Department of Environment and Urban Planning have argued. The lack of convening has impeded very relevant normative projects to be informed by the Council, such as the rules on sustainable rural housing, regional parks, livestock trails, mountains or declaring some areas part of the Natura 2000 Network. After the Suggestion made by the Ombudsman Institution, the Council met on December 22, 2014, as reported by the Department.

Right of access to justice. Access to environmental organizations

After the Suggestion made in 2013 on the processing of the preliminary bill on legal aid, accepted by the Office of the Secretary of State for Environment, this Office has reported, after meeting with environmental groups, that it transferred informally the claims to the Ministry of Justice, developer of the preliminary draft, and it encouraged a meeting between these groups and the Department. In the parliamentary process of the bill, an amendment recognizing this right to non-profit legal persons has been submitted, so as they finally have environmental protection and they comply with the requirements of article 23.1 of the Law on Access to Information, Public Participation and Access to Justice in Environmental Matters.

Evaluation of impacts. Municipal licenses

Use of the hydraulic fracturing (fracking)

The use of hydraulic fracture in Spain and the rest of the countries of the European Union has generated a debate mainly referring to its environmental effects. Among them, it is noteworthy the volume of water resources required for the fracture, the presence of toxic substances in injection fluids - including methane and radioactive substances-, the non-recovery of injection fluids, which remain and pollute the groundwater and soil; the seismicity induced by the horizontal fracturing, and the atmospheric contamination due to uncontrolled emissions of methane.

In addition to the Suggestion made to the Ministry of Agriculture, Food and Environment on the dissemination of environmental information, an action has been undertaken with the Ministry of Industry, Energy and Tourism about the research permit - survey *LUENA* in Cantabria and Burgos, to know the measures avoiding the risks associated with the fracking.

The information provided so far was not enough, particularly on substances part of injection fluids, the volume of water resources, and the percentage of injection fluid recovered and radioactive substances. The information on the contribution of the exploitation of unconventional gas to the energy sector in Spain using hydraulic fracturing is not conclusive.

The Ombudsman Institution has requested, accordingly, the Department of Justice to provide new information on the following aspects: a) whether there are technical solutions to avoid unwanted and specific impacts derived from the fracking, which being applied, the risk of contamination is similar to that derived from conventional techniques of exploitation of hydrocarbons or other techniques that generate comparable risks. b) and whether there are decisive studies about the positive and significant impact on the domestic energy model. It

seems unavoidable to value and motivate the authorization of fracking, taking carefully into consideration environmental risks and effects on the health and safety of persons. In addition, the department of Justice has been requested to provide information on the number of permits for exploration, research and exploitation of fracking already granted and in process.

Other cases on impacts due to exploitation of hydrocarbons

With respect to the removal and storage of natural gas in Doñana, the institution has restarted the inspection actions relating to compliance with the environmental standards in three gas projects, following the decision of the European Commission to close its initiated actions since the projects had not been approved yet.

About the research permit of hydrocarbons CRONOS, in the provinces of Guadalajara and Soria, it has been requested to the Ministry of Industry, Energy and Tourism to inform about the way the recommendations made by the European Commission are applied. In addition to the need to assess on the impacts, the quality of the soil, air and water should be verified before starting the operations. Furthermore, the public must be informed about the chemicals used.

CASTOR project

The resolution of the institution, which dismisses the application of an ecological association requesting the filing an appeal on grounds of unconstitutionality against the Royal Decree-Law 13/2014, 3 October, on adoption of urgent measures in relation to the gas system and ownership of nuclear power plants, can be found in the relevant section of this report. The Ombudsman Institution considered that, as other legal subjects had already submitted the appeal, its inhibition seemed advisable, as it is not essential to properly fulfill the mission of the institution to guarantee the fundamental rights and public freedoms.

In addition, the Ombudsman of the Autonomous Community of Catalonia (*Síndic de Greuges*) and of the Autonomous Community of Valencia, among others carried out inspections. These inspections were not processed as the public prosecutor had already initiated proceedings for possible offenses.

Publication of environmental impact statements

The Autonomous Community of Madrid has agreed to publish in the Official Gazette of the autonomous community, as of 2015, the full content of the impact statements, instead of the mere reference to the adoption of the resolution and the place where the file can be checked, as done so far.

Airports

An ex officio investigation has been initiated, due to the lack of approval of the acoustic easements and action plans in some airports, such as the airport of Alicante/Alacant, within the estimated deadlines provided in the Air Navigation Act. These periods ended September 18, 2010 for the airports of more than 250,000 movements a year, and on March 18, 2011 for the airports whose annual movements range from 50,000 to 250,000. The acoustic easements and their associated plans in the airports of Madrid-Barajas, Barcelona and Palma de Mallorca were approved between 2010 and 2012.

Railways

North Station of Valencia: the institution has indicated to the Administrator of Railway Infrastructures (abbreviated as *ADIF* in Spanish), that it is irrelevant if housing affected by noise is built before or after the infrastructure. Railways shall adapt its activities to the new circumstances in case of nuisance, not housing, which does not produce noise. The use of housing is valid wherever there were valid permits (works and first occupancy). It is the source of noise that shall be adapted, unless there is an acoustic easement in the area. The Administrator of Railway Infrastructures has requested to look for solutions to mitigate the alleged noise pollution, for example, screens, burying, reducing train frequency at certain times, especially during hours of rest, or limiting the use of specific machinery causing the most pollution and disturbance.

Noise and vibrations produced by railway infrastructure in the Santiago el Mayor neighborhood of Murcia: it is incumbent on the noise emitter –in this case the Administrator of Railway Infrastructures, owner of the railway infrastructure –and not on the receiver, to verify that its activity does not produce noise above legally-established levels and adopt the necessary measures when these are exceeded. The existence of a state noise emitter does not exempt the Municipal Government from exercising its competence or acting on issues related to noise produced by the infrastructure.

In the name of collaboration, the City Council has been urged to make the railway administration aware of the results of the measurements at their disposal or which are to be carried out. The Administrator of Railway Infrastructures has confirmed that the “Access to Murcia and permeation of the railway route” construction project foresees the burying of the railway track and the installation of elastic bedding under the nearest tracks, which is expected to solve the problem.

Natural resources

In addition to complaints due to insufficient evaluation of the effects of certain projects on protected natural areas mentioned under the heading on environmental evaluation, the following actions should be highlighted:

Observance of the *El Rocío* Pilgrimage in Doñana (Huelva): this institution intends to verify if public administrations are adopting the measures necessary for compliance with the Governing Plan for Use and Management of the National Park (*Plan Rector de Uso y Gestión del Parque Nacional*) and ensure that the pilgrimage takes place in a way that is compatible with the protection of a natural area under maximum national and international protection, or if additional measures are needed.

Proposal for the Galdar Valley (Las Palmas) to be declared a Protected Area:

The Administration must justify its decision not to declare an area as protected when requested by citizens and explain the reasons for which the ecological and scenic values of that area are not deemed sufficient for such a declaration.

Actions continue to be undertaken with the **Department of Infrastructure, Land and Environment (*Conselleria de Infraestructuras, Territorio y Medio Ambiente*) of the Autonomous Regional Government of Valencia**, for the modification of the legal standards for protection of natural areas and the intention of including therein the requirement for classifying a wetland as a precondition of its declaration as a protected area.

It is to be expected that, with the new Law 30/2014 of 3 December on National Parks, the public administration system for these areas will improve and, as per its statement of intent, the autonomous community management model and coordination of the National Parks Network will be strengthened. It should be borne in mind that the new law does not affect the lack of a statute for the National Parks autonomous governing body, a public organization operating under the Ministry of Agriculture, Food and Environment responsible for the coordination, planning and launch of the National Parks Network.

Flora and fauna

Lethal effects of diclofenac in vultures and other necrophagous bird species

There are two drugs authorized in Spain for veterinarian use that contain diclofenac, a substance whose effects may be lethal in vultures and other necrophagous bird species feeding on the cadavers of livestock treated with this medication. Spain has 90% of the total European

vulture population, among which certain species are currently in a poor state of conservation while others are threatened, such that there is an increased responsibility for our country in the conservation of Spanish and European biodiversity.

Information has been requested from the Directorate General of Quality and Environmental and Natural Habitat Evaluation (*Dirección General de Calidad y Evaluación Ambiental y Medio Natural*) of the Ministry of Agriculture, Food and Environment and the Spanish Agency of Medicines and Medical Devices (*Agencia Española de Medicamentos y Productos Sanitarios*) of the Ministry of Health, Social Services and Equality in order to ensure if the Agency's recommendations of July 2014 have been carried out and if its criteria for applying the precautionary principle in prohibiting diclofenac in Spain, is understood, especially where there are, as appears to be the case, equivalent medicines which are found to be harmless to these bird species.

Illegal eel fishing in the Lower Guadalquivir and in the fishing reserve at its estuary

Illegal fishing also occurs in the Brazo de la Torre arm of the river within the Doñana protected area. The Autonomous Community of Andalusia Government, in collaboration with the Civil Guard periodically confiscates the fishing material dedicated to these ends. However, despite the existence of a protocol for collaboration, signed in 2011, neither the Government nor the Seville Harbormaster's Office nor the Seville Port Authority consider themselves to have the competence to withdraw the boats and platforms from which the nets are hung or pursue the chain of equipment supply and construction of these vessels, issues that the Ombudsman Institution considers decisive.

In addition to the impact on the species there are both sanitary and consumer issues, as the product of illegal fishing does not undergo any food safety or veterinary testing. Actions were resumed in 2014, first with the Government Delegation for the Autonomous Community of Andalusia (*Comunidad Autónoma de Andalucía*) in Seville and subsequently with the Autonomous Community of Andalusia Government Department of Agriculture, Fisheries and Rural Development (*Consejería de Agricultura, Pesca y Desarrollo Rural*) regarding provisional measures, such as the temporary immobilization of vessels or means of transport, or the confiscation of equipment, rigging and accessories which are either forbidden or being used illegally, and for the imposition of sanctions against this type of fishing in inland waters.

Animal mistreatment

The majority of complaints received are from associations for the defense of animal well-being seeking protection due to the Administration's lack of response to their grievances. Complaints concern the use of animals in popular celebrations, their poor physical condition or owner

neglect. Delays have been observed in the processing of these cases on behalf of the administrations, who lack agility and timeliness and who fail to provide access to requested information.

Complaints are also received from residents concerning the poor condition of neighbor dogs (loneliness and lack of cleanliness or food) since, when it comes to neglected animals City Councils are slow to react or adopt effective measures.

River Basin Authorities

In several cases the revocation of sanctions has been suggested to the Tagus River Basin Authority (*Confederación Hidrográfica del Tajo*) due to a failure to establish the offender's guilt as, for example, in the case of responsibility by association attributed to landowners with respect to the installation of unauthorized fences in a restricted-use area belonging to the public or affecting this area. The complaint was resolved concerning a sanction unduly imposed due to an error in the identification of a lot where an underground water source was being exploited.

Sufficient information has not been received concerning the restitution of the public hydraulic easement and restricted-use area illegally occupied in Villaescusa de Palositos (Guadalajara), where a church classified as an object of cultural interest is also affected.

Complaints have arisen or continue to be processed from damage caused to private individuals due to the execution of hydraulic works. Suggestions have been made to the Ebro River Basin Authority (*Confederación Hidrográfica del Ebro*) to resolve a claim for damages and begin proceedings for patrimonial liability as a result of the overflowing of the Aragon River. As a consequence of intervention by the Ombudsman Institution, the Authority itself has responded to the request for information from the City Council of Riela (Zaragoza) concerning the execution of construction work in the Mularroya Reservoir. The Duero River Basin Authority (*Confederación del Duero*) has taken action to resolve a construction flaw in the *Puente Nuevo* dam in Barco de Avila.

Flooding at *Playa Honda* in Cartagena (Murcia) may be related to the construction of new, unregulated irrigation basins and channels, which in altering the terrain have produced changes to the drainage. Actions continue to be taken with the City Council of Cartagena and the Department of Agriculture and Water (*Consejería de Agricultura y Agua*).

As regards the flooding in Lorca, given the delay in the calendar required by European and state standards and the need to avoid, insofar as it is possible, the risks caused by flooding, Suggestions have been made to the Segura River Basin Authority (*Confederación Hidrográfica del Segura*) that it expedite ex officio all steps in the proceedings, currently in process or

pending initiation, in order to ensure protection against flooding: hazard and flood risk maps, risk management plans, demarcation, disciplinary and mandatory execution procedures, so that land is restored to its previous condition and watercourses remain free of illegal activities that may aggravate the effects of flooding.

Contamination

Urban waste

At the end of the summer of 2014 there was an increase in the number of complaints received concerning the lack of road cleanliness in the city of Madrid and investigations have been initiated regarding the poor maintenance of waste containers, street uncleanliness and the low frequency of waste collection.

Investigations continue to be carried out concerning the deposit of non-hazardous and domestic waste in a street of Santa Marta de Tera, a lesser local entity belonging to the town of Camarzana de Tera (Zamora).

Information has been requested concerning the controls that the Department of Agriculture and Water is carrying out in order to avoid possible land contamination produced by the irregular dumping of waste and its effect on the environment and public health in La Murada in Abanilla (Murcia).

Air pollution

Market for Emission Rights

In 2014 an ex officio investigation that had been initiated in 2012 was finalized, regarding whether the so-called Market for CO₂ Emission Rights (*Mercado de Derechos de Emisión de CO₂*, abbreviated as *MDE* in Spanish) is effectively a market instrument working to benefit the environment and comprised of a group of industrial plants who collectively reduce emissions of gases contaminating the atmosphere.

This institution insists on the need to subject to scientific, economic and ecological scrutiny not only the proposals from which the evaluation of the efficiency of Market for CO₂ Emission Rights stem from in order to achieve a reduction in emissions of greenhouse gases but also the set of rules for emission rights trade itself. In short, the legal nature of emission rights as transmissible rights must be questioned as, in effect, a new type of subjective, transmissible right is established that may be termed "the right to contaminate". Moreover, a mechanism which, in order to achieve a reduction in greenhouse gases, is essential and inherently a system

under intervention, may not be considered a “market”.

Therefore, the referral to the European Ombudsman Institution of a proposal for evaluation and reconsideration of the Market for CO2 Emission Rights, using wider and more rigorous economic and ecological approaches is currently under study. This appears to be a requirement of one of the most relevant initiatives of European Union policy on climate change.

Valdemingómez (Madrid) Technology Park

The Ombudsman, after having considered finalized the investigations (in June of 2014) concerning the unpleasant odor emanating from the Valdemingómez (Madrid) Technology Park, received since September several communications from residents that have again reported the problem after a period of time in which it had appeared to be less serious. According to the complaints, the contamination has –since July- again reached intolerable levels in terms of intensity, frequency and duration of episodes. Particular mention has been made of its foul character.

Investigations were thus re-initiated with the City Council of Madrid, which had announced months earlier its intention to carry out a detailed study of the sources of contamination and to simultaneously analyze the odor in the target area (if possible, using a network of teams with the capacity of carrying out continuous measurements of odor levels) and, depending on the results, determine the corrective measures. Updated information was therefore requested from the municipal Administration concerning the situation described by residents and the results obtained further to the anticipated study.

Noise pollution

Commercial and industrial activities

Due to a lack of material and personnel resources for the verification of noise levels, a Suggestion has been made to City Councils to request assistance and collaboration from other administrations in order to carry out checks and, once noise levels above those permitted are confirmed, take the appropriate action- legalizing, corrective, disciplinary etc.- for reducing disturbance.

Nightlife, hotels, bars, restaurants and meeting facilities

Owners of nightlife establishments seeking to circumvent regulations through the execution of minor construction work or a change in license ownership in order to continue their activity with a broader range of operating hours and without soundproofing the premises.

Lack of communication to reporting parties regarding whether or not disciplinary procedures have been initiated, such an omission being perceived as a lack of reaction to their grievances on the part of the Administration.

Municipal intervention limited to the granting of authorization to operate activities. However, controls must continue during such time as these are underway.

The delay on behalf of the Administration in verifying reports and on behalf of owners in adopting corrective measures leads to the persistence of disturbances while no preventive or provisional measures are ordered.

Noise, litter and the insecurity of the residents due to street drinking (botellón)

Measures, although insufficient, have been adopted in order to eradicate this practice. Municipal Administrations are reminded of their obligation to follow up on infractions defined in ordinances for environmental protection, cleanliness of public areas and waste management, and in legislation concerning drug dependence and addictive disorders. It is suggested that controls be intensified as a dissuasive measure and that the number of cleaning service employees is increased in order to alleviate the effects.

URBAN PLANNING

Notable ex officio investigations have been underway in 2014, especially numerous and paying specific attention to two principal matters: the processing of construction work license requests and the generalized lack of technical security regulations in playgrounds and leisure facilities.

In 2014 the most numerous complaints have arisen from delays in the pending management, in the processing and approval of plans and projects for re-parcelling and construction, one of whose principal causes is the lack of coordination between administrations. As in previous years, in addition to the delays, difficulties with public participation have been encountered.

Of particular mention are complaints due to municipal indifference to the adoption of measures completing the management of execution units left unfinished. City Councils justify their inactivity by the lack of funds to properly fulfill their functions. However, they cannot remain passive in the face of a lack of compliance in the execution of urban planning where private initiative does not have the capacity to assume the cost of pending activities. Plans approved by administrations must be realistic, viable and adequately financed from the beginning of the process of execution by the city, which covers their maintenance.

Of note is the number of complaints received by the Rioja Ombudsman Institution (following suspension of its activity by Law 9/2013, of 21 October) with 96 investigations concerning territorial, environmental, urban and residential matters.

Of the ex officio investigations, ten are of particular mention, having been initiated with other such municipalities requested to provide information concerning common problems encountered when processing a request for a construction license, average processing times, available resources, etc.

The respective ex officio investigations have also been initiated with the 15 autonomous communities which, as it would appear, lack technical security regulations in playgrounds and leisure facilities. Only Andalusia and Galicia have these in place.

Another ex officio investigation was initiated with the City Council of Madrid and Autonomous Community of Madrid Department of Employment, Tourism and Culture (*Consejería de Empleo, Turismo y Cultura*) concerning possible measures for ensuring the protection of the building of the Central Spanish Dairies (abbreviated as *CLESA* in Spanish), a valuable architectural work carried out in 1961 and –according to the experts – a model of contemporary industrial architecture, at risk of demolition by its current owner. Actions were still underway at the time this report was written.

Planning and execution

A perfect example of unjustified delays is that reported by the mayor of Madridejos (Toledo), which affected several urban cases of importance to the municipality. He noted that some had been pending approval by the autonomous Administration for years and others only needed a report to be able to continue their processing. The Mayor's Office centered its complaint on two cases: an urban agreement between the City Council and the Department of Public Works (*Consejería de Fomento*), Autonomous Community of Castile-La Mancha Government for the execution of a road and a one-time modification for the creation of industrial building land. It was suggested that the Department agree to the request from the Mayor's Office and bring together the City Council and its technical team to consider both issues. It was also suggested that they be fully informed as to the steps for the definitive approval of the one-time modification and as to the reasons for which the agreement was not considered to be of interest for the Patrimony of the Autonomous Community Government.

Another example is the delay in the urban execution of the "*Marqués de Villabragima*" area in the General Plan for Urban Order (abbreviated as *PGOU* in Spanish) of Madrid, whose Compensation Committee (*Junta de Compensación*) established in 2012, has not carried out

any activity since then. The owners lack information as to the causes of the delay and the temporary plans for resuming execution. As it would benefit from the expropriation of the owners failing to adhere to it, the Compensation Committee must initiate the process, drive it forward and take action. The City Council of Madrid has stated that there are no grounds for making it responsible for either the delay or the expropriation, since the Committee has not yet requested the expropriation of the lands of those owners not adhering to the system, and has not even presented the expropriation project for municipal approval.

This institution has also intervened regarding the delay in compensation payment for the expropriation of a building included in the *Las Fuentes* Sector of the General Plan for Urban Order for Reinosa (Cantabria); the paralysis in processing the General Plan for Urban Order for Valverde de Llerena, Badajoz; delays in the execution of the expropriation system for the *Paseo de la Dirección* Partial Plan of the Pending Planning Area (*Plan Parcial del Área de Planeamiento Remitido*) in Madrid; delays in the management of the Partial Plan Execution Unit (*Unidad de Ejecución del Plan Parcial*) for Arroyo del Fresno (Madrid) and the delay in the execution of a General Plan for Urban Order execution unit for Leganes (Madrid).

Yet another year is noteworthy for the decrease in urban management activity, that is to say the lack of execution of the ordinance foreseen in the plans.

In the Carmona (Seville) *Tres Palmeras* development, the development works remained unfinished and the residents lack the most basic public services, a widespread problem in the municipality.

Valmojado (Toledo) is noteworthy for the delay in finishing development work in one sector, where neither the developer nor the City Council has assumed responsibility for the situation of the landowners, ignoring all of the legal deadlines for completing pending work. The Ombudsman has reminded the City Council that it must react to the lack of compliance on the part of the developer and that it may even execute the pending works on its own initiative, charge the cost that this involves to the developer and claim it, in this case, through legal means of collection.

In Collado Villalba (Madrid) the City Council has not fulfilled the specifications of the General Plan for Urban Order as regards the opening of certain roads to vehicular traffic in the *Colonia Avenida* development. Moreover, it has not finished the development of accesses to the area. As a consequence, the residences are totally isolated, since the access roads are pending development (lacking sidewalks, public lighting, road paving, etc.) and even vehicular traffic access is difficult due to the disastrous physical conditions of some roads; others are closed, against the General Plan for Urban Order. This institution has completed its investigations upon confirming that the City Council is promoting the regularization of the development and

accepting its roads. Once these are registered in its name in the property registry and included in the Municipal Property Inventory it will order the withdrawal of fences and gates preventing traffic.

Permits

This institution receives numerous complaints concerning the slow processing of building permits on behalf of City Councils in many cases with delays of several months for their granting or denial, including permits for minor construction work.

The urban building permit is a key part of construction activity, without it financing may not be obtained and the execution of construction work is paralyzed. For this reason ex officio actions have been initiated with a sample from ten municipalities, in consideration of property rights and the right to have a decent place to live, which may be seriously affected by delays and obstacles in the processing of permits until their granting or denial. Information has been requested from City Councils concerning the common problems encountered when processing a building permit: processing times, available resources, etc. This institution is waiting to receive information from certain City Councils in order to carry out an evaluation. The sample consists of provincial capitals with more than 500,000 inhabitants (such as Madrid, Barcelona and Valencia), municipalities with 300,000 inhabitants which are not provincial capitals (Vigo), province capitals of between 200,000 and 500,000 inhabitants (Caceres and Pamplona), municipalities of between 50,000 and 200,000 inhabitants (Algeciras and Irun) and municipalities of between 20,000 and 50,000 inhabitants (Villena and Ubeda).

First occupancy permit

This is one of the Ombudsman Institution's most important areas of activity in urban planning. Complaints concerning incidents with this fundamental document of proof continue to be high in number. Only a few will be mentioned here.

First occupancy permits for residences without electric power supply, granted by the City Council of Villatobas (Madrid): despite not being in possession of the "Certificate of Electrical Installation" ("*Certificado de Instalación Eléctrica*") issued by the Department of Public Works, Industry and Energy (*Consejería de Fomento, Industria y Energía*) and thus lacking grid connection the owners had, nonetheless, been granted a permit for their residences. The City Council approves its decision due to the mere fact that the first occupancy permit was granted subject to "a favorable technical report". This institution does not share the opinion of the City Council, which grants first occupancy permits to residences lacking electric power supply, a basic service.

Bearing in mind the regulated nature of the first occupancy permit, the City Council has the obligation to verify beforehand that the building complies with the conditions imposed in the building permit previously issued and that it meets the required conditions of habitability, safety and healthfulness for residential use. Only then, once both aspects have been established (compliance with administrative regulations and verification of conditions), should the City Council agree to issue the authorizations for contracting utilities. Given that the supply of electric power was not guaranteed in this case, this institution believes that first occupancy permits never should have been granted. A Reminder of its legal obligations was submitted in these terms to the City Council, which was requested to provide information concerning any actions it might be taking with the Department of Public Works.

A similar case to the aforementioned is that concerning the Owners' Association of a building in Seseña (Toledo). The complaint alleged that the City Council had granted a first occupancy permit to residences despite the fact that electrical power service infrastructures had not been installed. The permit is based on verification and it is not a mere formality. It is not only a matter of verifying if construction conforms to the building permit but also of ensuring that it meets the conditions of use for which it is intended.

The City Council was requested to clarify the nature of the problem that prevented the provision of services to the residences and provide information as to the actions carried out, this being a problem affecting residents who have been living in the municipality for several years without this basic service.

Rehabilitation and rebuilding in Lorca (Murcia)

The Ombudsman for the Autonomous Community of the Region of Murcia had processed a complaint at the request of the Assembly of Lorca Residents affected by the earthquake of May 11, 2011. Following the dissolution of the Autonomous Community Commission, the complaint was taken up by this institution, which opened investigations with the City Council, the Ministry of Public Works and Transportation and the Autonomous Community of the Region of Murcia Department of the Presidency (*Consejería de Presidencia de la Región de Murcia*). In July of 2013, the Ombudsman of this institution visited the municipality in order to gain first-hand knowledge of the problems faced by those affected.

From the information obtained it was deduced that the rebuilding of healthcare and educational facilities was under control. The state and autonomous administrations provided complete and detailed information concerning the actions, currently underway or scheduled for implementation, carried out by the Regional Government, with funds from the European Investment Bank. A Suggestion was put forth to the Ministry and Department that they jointly study and seek an alternative for making developed land available, such as, for example, that

the Autonomous Community Administration finance the action in favor of the City Council, which would substitute it in carrying out this development, or that the Public Land Management Company (abbreviated as *SEPES* in Spanish) would intervene as a developing agent. This suggestion was rejected by both administrations.

In view of the latest information provided by the City Council of Lorca, everything indicates that the necessary measures are gradually being adopted for the rebuilding of both the residences as well as streets, highways and facilities affected by the earthquakes. Moreover, processes have been accelerated to ensure that assistance reaches its intended recipients, and a high number requests for aid have, in fact, already been paid out.

Urban participation and access to urban information

It is important to note the high number of complaints concerning denied access to information, without grounds and in general met with silence or denied by citing erroneous interpretations of Laws 30/1992 on Common Procedure and 27/2006 on the Right of Access to Information, Public Participation and Access to Justice for Environmental Matters.

Two of the most relevant investigations concerned public participation in the process for the Plan for interior renovations in the “*Mahou-Vicente Calderón*” space (Madrid) and the indifference shown by the City Council for the area of Horts in the municipality of Cañais (Valencia) regarding a request from the residents for the for the electrical transmission towers to be removed and for the network to be buried underground.

Architectural and urban barriers

There was an increase in complaints in 2014 concerning architectural barriers in buildings and in the urban environment. Compared to the 27 complaints received in 2013, there were 91 complaints in 2014, 44 of which were submitted by the Spanish Committee of Disabled People's Representatives as part of their "100 grievances" campaign, highly varied and almost all still in process.

This institution is truly committed to those individuals who suffer from a disability and has worked for years in favor of integration and the elimination of the architectural and urban barriers that pose difficulties to their participation in public life. It is also aware that the technical or economic viability, as well as the fairness of their demands must be taken into account, that is to say, the proportionality between what is being asked for and the objective sought.

Architectural barriers in the urban environment

Problems of accessibility in urban centers persist. However, the existence of difficulties in eliminating architectural and urban barriers does not justify inactivity. This problem, in effect, requires more in terms of consistency in the efforts undertaken than instantaneous investments that do not reappear in years.

The denial of a request for authorization, for example to install an access ramp in a building must be justified, whether by technical impossibility, lack of economic viability or by consideration of the detriment caused to the general interest. However, there must always be a justification, and not just a matter of form. A denial based on the fact that an authorization “would create a precedent” is not justifiable since each incidence of architectural barriers is unique and independent from the rest and must be evaluated based on its specific features.

Emphasis is placed on the fact that the promotion of accessible urban environments must be supported by the Autonomous Communities and by the Central Administration, with more means and assistance provided so as to eliminate and prevent physical and sensorial barriers or obstacles, thus ensuring that individuals with any kind of disability may be fully integrated into society.

Architectural barriers in the urban environment

Complaints refer to a wide range of public buildings: courthouses, property registries, police stations, hospitals, educational centers, municipal swimming pools, post offices and other administrative offices.

These complaints, which claim that the buildings, facilities or offices providing services to the public must be accessible by any citizen, are not always duly and promptly attended to.

Public financing for the elimination of architectural barriers in private buildings

As in other years, the principal cause for complaint is the need to install elevators in residential buildings and the problems caused by their absence. The procedure for granting autonomous community funds to finance the installation of elevators is an issue in which this institution is involved. 1,154 complaints have been received concerning the delays incurred by the Autonomous Community of Madrid in the granting of subsidies for the installation of elevators and in the resolution of provisional applications for protected activity status. Moreover, the complaints allege the retroactive application of the Law 4/2012 –which reduced the amount of

assistance provided – to include those requests submitted prior to its enactment. These complaints are being processed with the Department of Transport, Infrastructures and Housing.

In addition to problems with access to buildings used as residences, complaints have also been received concerning barriers in privately owned leisure establishments: circuses, movie theaters, theaters and restaurants.

The Convention on the Rights of Persons with Disabilities recognizes the right to participate in cultural life under the same conditions as others. It is therefore necessary that whichever leisure, cultural and sports activities present themselves, and especially those financed or subcontracted by public administrations, be accessible for all citizens.

The technical regulations for building accessibility are comprised of standards governed by the state (Technical Building Code [abbreviated as *CTE* in Spanish] Basic Document on Safety of Use and Accessibility number 9 [abbreviated as *DB9* in Spanish]), autonomous community and local authorities, the latter two having the capacity to expand on the requirements. This supposes that any City Council, within the bounds of its competence, may set stricter requirements for accessibility in its urban planning or ordinances.

LOCAL GOVERNMENT ADMINISTRATION

In 2014 nearly 300 complaints were submitted which directly concerned the Local Administration. 33 Suggestions and 6 Recommendations were formulated.

This institution filed an appeal on the grounds of unconstitutionality against Supplementary Provision Three of the Royal Decree-law 14/2013 of 29 November on Urgent Measures for the Adaptation of Spanish Law to European Union Standards for Supervision and Solvency of Financial Entities.

The decree-law under appeal grants special authority to Municipal Government and mayors to disregard the decision of City Council Plenary Sessions and execute an adjustment program that does not require plenary approval. In the opinion of the Ombudsman Institution, this is at odds with the democratic functioning of local councils, as it divests the Plenary Session of its role as the municipality's maximum entity of political representation. The new rule could imply a violation of articles 1, 23, 137 and 140 of the Constitution in replacing the Plenary Session with the Government after failing to reach the majority necessary in an initial plenary vote on a decision which is vital for the Municipal Government.

Functioning of the City Council plenary session and council member

The Ombudsman Institution defends that the right to access municipal information of assistance to council members is, in principle, the same as that of any other citizen. Yet in addition to this, they have the qualified right to access however many precedents, data and information may be in the possession of the services of their local Administration and are necessary for the fulfillment of their duties as local representatives.

This institution has informed the mayors that the right to access documents in the possession of the City Council requested by councilors must be respected in a broad sense, in that it may be exercised by any member of the Council and affects all type of cases, whether already processed or in process, regardless of their format and type (books, audits, invoices, resolutions, etc.) and without the need to explain why they are needed, their status as council member being sufficient for presuming that the documents are necessary for the fulfillment of their duties.

Certain mayors have denied access to documents requested by council members, citing individual privacy reasons. However, even in such cases this institution has maintained that between the right to privacy and the right to information, which is itself a reflection of participation in public affairs, the latter shall prevail, since council members also have the duty to maintain the confidentiality of information acquired as a result of their position. Not all personal data is private, nor is privacy a legal concept that can freely be cited in order to deny access to information. At the very least, it is necessary to provide justification which is convincing and not just a matter of form.

Recording of plenary sessions and administrative procedures

Complaints concerning the recording of City Council Plenary Sessions by council members themselves or by the attending public have continued to be received in 2014. Although legal sentences in favor of the intention to record public sessions are increasingly greater in number, the lack of a basic obligatory state standard has resulted in certain mayors exercising their right to discretion and continuing to deny the possibility, generally with arguments based on personal data protection or on the possible obstruction or alteration of the normal progress of sessions.

An ex officio investigation was therefore initiated with the Ministry of Finance and Public Administrations to study the possibility of modifying the Regulation of 1986 implementing the Organization, Operation and Legal Framework of Local Entities (*Reglamento de organización, funcionamiento y régimen jurídico de las entidades locales de 1986*). The Ministry does not consider this to be necessary.

For complaints in which this institution has confirmed that mayors have prevented the recording of a Plenary Session without sufficient cause, it has been suggested or recommended that this not be prevented when the intention to record is communicated beforehand by any party and warning is issued that the recording is made conditional on the respecting of personal data protection standards so as to prevent any obstruction or alteration to the normal session proceedings. Moreover, the other attendees must be warned that during the proceedings both sound and audiovisual recordings will be made and which subsequently may be made public.

Local institution activities and services

Complaints were received in 2014 concerning the increased uncleanliness of streets and public areas. When the interested parties attach photographs or other objective evidence confirming the facts, information is requested from the City Councils. At times, the latter informed that the area had already been cleaned, yet despite this, actions needed to be taken up again shortly afterwards because the public roads or gardens had once again returned to a state of uncleanliness. In other cases the City Councils denied the very existence of uncleanliness, based on statistics indicating the number of times their employees had cleaned each area.

Complaints processed have dealt with a variety of issues concerning facilities and services provided for local residents. Street furniture was successfully restored for improved pedestrian safety from traffic in narrow streets. It has been suggested that anyone who so requests it be given access to the free internet municipal service, without needing to have been registered as a resident of the municipality prior to a certain date; that the City Council prune the trees posing a threat to safety and whose roots have been responsible for the rupture of pipes, although discrepancies have arisen as to whether this should be done by the Owners' Association; that a solution be found in the rupture of the sewage system that caused flooding in public roads, even where the responsibility for this fell to the owners of the surrounding residences due to the fact that this is not a public system.

Inspections were carried out in order to corroborate complaints concerning the insufficient public lighting for streets or public areas, the poor condition of road surfaces and sidewalks, the use of municipal sports facilities and the lack of signs bearing the names of streets to facilitate their identification.

Law of Historic Memory

Complaints have also been lodged concerning municipal agreements or omissions involving the maintenance of street names or the presence of signs considered by some residents to be an

exaltation of the Civil War and the dictatorship; demands were made for their replacement with others, since their continued presence supposed a lack of compliance with article 15 of the Law 52/2007 of 26 December, "Law of Historic Memory ".

The City Councils have provided various reasons for not carrying out the requested changes: that the signs are fixed to the walls of religious buildings, such that removing them would not be the competence of the municipality, that the majority of residents were in favor of maintaining the names and that- being accustomed to them- their being changed might create problems, that other towns continue to maintain these names for their streets, etc.

National Preventive Mechanism against Torture (NPM)

The Ombudsman, in its capacity as NPM, visited 61 facilities holding persons deprived of liberty

In 2014 the institution carried out 61 visits to facilities holding persons deprived of liberty. Eleven of these visits involved the presence of technical personnel from commissions of other autonomous communities. In its capacity as NPM, the institution put forth 84 recommendations, 115 suggestions and 6 reminders of legal duty. Of the 84 recommendations, 43 have been established in connection with the NPM's first monographic study on Injury Reports on People Deprived of their Liberty.

In 2014 the institution carried out 61 visits to facilities holding persons deprived of liberty. The Ombudsman personally participated in 11 of these visits. Eight of these visits were unannounced and involved technical members from the NPM, so that she could supervise the conditions of the facilities together with these members. The other three visits were follow-up visits in which the competent authorities were called to jointly inspect the center together with the Ombudsman and thus directly and personally fostering the dialogue referred to in Article 22 of the Optional Protocol to the United Nations Convention Against Torture.

The Ombudsman also visited 3 immigrant detention centers in different countries -Centre de Rétention du Mesnil-Amelot, in Paris; Brook House Immigration Removal Centre, in London, and Detentiecentrum, in Rotterdam, to observe the situation in these centers, detect possible good practices carried out there and recommend implementation in our country.

The usual practice of the NPM is that the visits are multidisciplinary. Twenty visits were multidisciplinary and accompanied by external technical personnel. Another 22 were follow-up visits, to ensure compliance with recommendations made in previous visits and to detect any further deficiencies.

One aspect worthy of special mention this year are the 4 visits made with technical personnel from parliamentary commissions of several autonomous communities (the Ombudsman of Navarre, the Public Defender of Castile and Leon, the Ombudsman of Catalonia and the Ombudsman of Valencia), following the line of collaborative work among autonomous

Ombudsman Institutions.

In 2014, the first monographic study was published by the NPM Unit regarding, Injury Reports on People Deprived of their Liberty, which, together with the corresponding NPM 2013 Annual Report, was presented by the Ombudsman before the Parliament on June 17, 2014. This study proposes the standardization on a national level of all criteria regarding injury medical reports that must be sent to judicial authorities for their evaluation and review.

TYPES OF PLACES FOR THE DEPRIVATION OF LIBERTY VISITED

FACILITIES	No. VISITS
Healthcare facilities	1
Facilities for primary assistance and detention of foreigners	2
Facilities for protection of minors	1
Juvenile offender facilities	4
Prison facilities	8
Social healthcare centers	4
Immigrant detention centers	8
Autonomous community police stations	2
Local police stations	4
Police stations and other places for short-term custody: National Police Force	15
Headquarters and other places for short-term custody: Spanish Civil Guard	8
Immigrant repatriation operations (FRONTEX)	4
Total	61

Over the course of 2014, 84 recommendations have been set forth, 115 suggestions and 6 reminders of legal duty. Of the 84 recommendations, 43 have been established in connection with the NPM's study on *Injury Reports on People Deprived of their Liberty*.

The institution has initiated other actions that do not correspond with visits themselves but derive from that observed in the visits or have impact on the prevention of torture.

This is how an investigation before the Office of Secretary General of Penitentiary institutions and the Department of Justice of the Autonomous Regional Government of Catalonia was carried out to learn how the mechanical restraints in prisons were being applied.

In 2014, the institution has participated in several forums such as the conference on "Immigration Policy after the Change of Cycle. Special consideration for detention and asylum",

“The Second HURI-AGE working forum on Immigrant Detention Centers”, (Algeciras, May 21) and “The Third working forum on Restraints in Nursing Homes”, organized by the Ministry of Health and Social Services (June 6).

The NPM was also able to attend the symposium organized by the Association for the Prevention of Torture (APT) on the Vulnerabilities of Children in Detention, (Geneva, June 26 and 27), and the "First Congress of Human Rights of the Spanish Bar on the prevention of torture and ill-treatment", organized by the Spanish Bar Association (Madrid, December 10 and 11).

In addition, the NPM held an interview on June 23 with technical personnel from the Solidarity Project Foundation for Children within the framework of the Project of the European Commission "Rights of Minors in Detention".

Similarly, it has collaborated with NPMs and human rights institutions from other countries by holding workshops to disseminate the mission and methodology of the Spanish NPM and its practices in monitoring facilities holding individuals deprived of liberty.

The NPM has also held working sessions with the Ombudsman of the Republic of Georgia, within the framework of the cooperation carried out by the Association of Mediterranean Ombudsmen (AMO), with members of the Provider of Justice of Mozambique and the Ombudsman of Turkey, in a project, financed entirely by the European Union, to help the implementation of the Ombudsman in that country.

Activities of
institutional
Representation

Activities of institutional Representation

This section summarizes the main activities of institutional representation carried out by the institution. It indicates the appearances before the legislative chambers, the most important activities undertaken along with the autonomic ombudsmen institutions of the autonomous regions, the working meetings with the Public Administration and with representatives of the citizens about the complaints, the activities of institutional representation in official events and collaboration, communication and dissemination, as well as international relations.

Normally, the inspections are undertaken by the Ombudsman or her deputies, albeit, in some cases, they are accompanied by technical specialists assigned to the Ombudsman Institution.

APPEARANCE BEFORE THE SPANISH PARLIAMENT

The institution, for the second consecutive year, has complied with the commitment to submit the annual report to the parliament in the first quarter of the year so that parliamentarians can have an updated overview of the issues affecting the citizens and that have been communicated to the Ombudsman Institution.

On February 26, the Ombudsman, accompanied by the deputies, presented the 2013 Annual Report to the Presidents of the Spanish Congress of Deputies and the Senate.

On March 18, the Ombudsman appeared before the Joint Committee on Relations with the Ombudsman Institution, on March 27 before the plenary session of the Congress of Deputies, and April 9 before the Plenary Session of the Senate.

In addition, on June 17, the Ombudsman appeared before the Joint Committee on Relations with the Ombudsman Institution to submit the 2013 Annual Report on the National Preventive Mechanism against Torture. It also has presented the studies on *Injury Reports on People Deprived of their Liberty* and *The Process of Hearing and the Best Interest of the Child: Judicial review of family processes and protection measures*; published in the same year. The Ombudsman Institution has also submitted the monographic report; *¿Children or Adults? Age assessment procedures*, published and presented to the registry of the Parliament in 2011 but pending of debate in the Committee since then.

On September 16, the Ombudsman appeared to introduce the study *Telecommunications: requests and needs of citizens*, published in 2014, and the report *Cadastral Reality in Spain: From the Ombudsman's perspective*, published in 2012. During this appearance the progress of the first half of 2014 was introduced as well as the new service "Check your complaint" of the web page of the institution, whereby interested parties can check the status of their complaint processing in real time.

The institution's relationship with the Chambers is not limited to reporting, but the Parliament does refer citizens' claims submitted to the Committees of Petitions of both Chambers to the institution. The Ombudsman Institution meets the requirements of the parliamentary committees and attends the Chambers to state the judgment of the institution or the inspections being carried out on a particular subject.

Thus, in 2014, the institution has been to Parliament three times. The first Deputy, delegated by the Ombudsman, appeared on April 22 before the Sub-Committee on the study of social networking to report on the inspections of the institution in relation to minors and social networking. The Ombudsman appeared on June 11 before the Sub-Committee for the analysis and the study of trafficking in human beings for purposes of sexual exploitation; and the Chief technician of the Area of Migrations and Equal Treatment, delegated by the Ombudsman, appeared on November 26 in the Sub-Committee to address the problem of violence against children, boys and girls.

RELATIONSHIPS WITH THE OMBUDSMEN OF AUTONOMOUS COMMUNITIES

The most outstanding action of this year has been the joint preparation and development by the Ombudsman Institution and the Ombudsmen of autonomous communities, of a monographic study on the practical implementation of the rights and guarantees of the patients in hospital emergency services.

The preparatory meeting was held at the headquarters of the institution on May 21. During this meeting, it was determined that the study would be developed on the basis of the conclusions drawn in three days of work, between the technical specialists of the various institutions of the Ombudsman Institution and stakeholders involved in hospital emergency services.

The first day of work was held in the headquarters of the Ombudsman Institution, on September 16, with the participation of representatives of associations of patients and other social entities. Health professionals in emergency services were convened to the second day of work, held on

October 1 in the Ombudsman Institution of the Navarrese people in Pamplona. Finally, during the third day of work, held at the Andalusian Ombudsman Institution in Seville on October 20, the point of view of managers and directors of emergency services was heard. The study was presented on 26 January 2015.

The 29th Conference on Coordination of the Ombudsman Institution, coordinated by the *Ararteko*, the Basque Ombudsman, was held in 2014 on September 9 and 10, in Vitoria-Gasteiz. During this session, support policies for families were addressed.

Two workshops were held for the preparation of the Conference: "Support for Families, Shared and (+) diverse needs" (*Apoyo a las familias, necesidades compartidas y (+) diversas*) (Pamplona, May 13) and "Vulnerable Families. Public policies and resources (*Familias vulnerables. Políticas públicas y recursos*) (Seville, May 29).

The Ombudsman also maintains permanent contacts and bilateral meetings with the regional autonomous counterparts, to study the best way to coordinate and unify criteria for actions, especially when the investigation of citizens' complaints regard common materials and shared areas of supervision.

The Ombudsman has met personally this year with the Ombudsman of the Autonomous Community of Aragon, (*El Justicia de Aragón*) (Zaragoza, February 25), the Basque Ombudsman (*Ararteko*) (July 10) and the Ombudsman of Catalonia (*Síndic de Greuges*) (December 10), in the last two cases at the headquarters of the institution.

The first Deputy attended the ceremony in commemoration of the 30th anniversary of the adoption of the law governing the Ombudsman of the Autonomous Community of Galicia (*Valedor do Pobo de Galicia*) (June 20), and the Ombudsman attended the Conference organized by the Basque Ombudsman to commemorate the 25th anniversary of the Basque institution (June 20). In addition, the Ombudsman closed the workshops on "Awareness and Awareness Raising on Child Trafficking" (*Concienciación y sensibilización sobre trata de menores*) organized by the Andalusian Ombudsman Institution (June 26).

As for the Secretaries-General of the institutions, they meet regularly to coordinate areas subject to their jurisdiction. This year, they have met on September 8 in Vitoria-Gasteiz.

WORKING MEETINGS WITH AUTHORITIES, CITIZENS AND SOCIAL ORGANIZATIONS

Working meetings on matters related to complaints cover the main part of the institution's

agenda. In addition to meeting with citizens and different social organizations to meet their concerns, meetings have been held with representatives of public administrations or public agencies, to try to find common ground on the best way to expedite the investigations, as well as to try to solve differences of opinion that might hamper the effective management of the complaints of the citizens.

Meetings with authorities of the Administration and other public services

Among the bilateral meetings held with the authorities of the Central Government, it is important to highlight the meetings undertaken with:

-The Vice President of the Government to deliver a summary of the activity of the institution for the year 2013 and the monographic studies, *Free Textbooks, (Gratuidad de los libros de textos), Economic Crisis and Individual Insolvency (Crisis económica e insolvencia personal)* and *Human Trafficking in Spain (La trata de seres humanos en España)* (Madrid, February 3).

-The Minister of Employment and Social Security and its Secretary of State for Employment (Madrid, March 17).

-The Secretary of State for Finance and the Director General of the State Agency for Tax Administration on the obligation to file online returns on value added tax (headquarters of the institution, March 28).

-The General Director of Sustainability of the Coast and Sea on the recommendations of the Ombudsman Institution included in the Regulations of Coasts (headquarters of the institution, June 11).

-The Secretary of State of Justice and other authorities of the Ministry of Justice on the reform of the Civil Registry (headquarters of the institution, July 24).

In the field of the regional autonomous and local administration, it is worth mentioning the interview of the Ombudsman with the President of the Autonomous City of Ceuta; meetings with City Council Members in the Autonomous Community of Madrid and of the Canary Islands, and interviews with authorities of the City Councils of Santa Cruz, Tenerife and Madrid.

Relationships with the Attorney General's Office are strong. This fact is evidenced through the number of complaints processed with the public prosecutor's office each year. In 2014, two meetings were held with the Public Prosecutor's Office. During the first meeting, the Public

Prosecutor, who was accompanied by the Coordinating Prosecutor for Spanish Immigration; the Coordinating Prosecutor for Juvenile Services and the Chief Prosecutor for the support unit, to deliver *The White Paper of the Public Prosecutor's Office (Libro Blanco del Ministerio Fiscal)* to the Ombudsman. The second working interview was with the Coordinating Prosecutor against Computer Crime on Children and the Internet.

Among the meetings held with representatives of entities that manage public services, it is to highlight the meeting on floor clauses and preference shares with the President of the Spanish Confederation of Savings Banks; meetings on power supply with representatives of the Spanish Association of the Electricity Industry (abbreviated as UNESA in Spanish) and with the President and other authorities of Endesa. A meeting was also held with the President and Vice President of the National Council of notaries.

In November, the Ombudsman met with representatives of the Central Government, the regional autonomous communities, local councils and the Office of the Attorney General, to inform them about the activities of the first half of 2014 and to introduce the new service "Check your complaint" of the web page, which allows citizens to inquire about the processing status of their complaints and expected dates to receive an answer from the Administration in response to requests for information made by the institution.

Meetings with social organizations and citizens

Throughout the year, there have been meetings and interviews with many civil society organizations, to inform the Ombudsman Institution about the situation of the most vulnerable sectors of the society.

This was done by Pontifical Mission societies in Spain; Messengers of Peace; Jesuit Service to Migrants; Association for the Rural Development of the Countryside of Elche; Union of Unions of Farmers and Livestock Breeders; Federation of Communities of Irrigators of Spain (*FENACORE*); Association *La Querrela Argentina*; Spanish Federation for Large Families (*FEFN*); Foundation "More Family" ("*Más familia*"); International Institute of studies on the family (Family Watch); Union of Family Associations (*UNAF*); Spanish Forum for the Family; Multidisciplinary Spanish Association of Research on Parental Interference (*ASEMIP*); Association of Families of Diplomats and Officials of the Foreign Service; General Council of the Official Association of Doctors; Latin American Human Rights Association; State Board for the Rights of the Elderly; Platform of Minimum Income of Madrid; Association "Victims of Unemployment" ("*Víctimas del Paro*"); volunteers from the slum town "*El Gallinero*", Madrid; Federation Kamira, addressing the issue of school segregation of Roma children; Muslim community Ahmadiyya in Spain; Foundation *CIVIO*; National Association of Photovoltaic Energy Producers (*ANPIER*); Association of Blood, Organ and Tissue Donors; Spanish Association of

those Affected by the Irritable Bowel Syndrome; Spanish Association on Study of the Liver; Platform "Alliance of Patients" ("*Alianza de Pacientes*"); Spanish Federation of Associations of Spina Bifida and Hydrocephalus; Association "The Big Family" ("*La Gran Familia*"); Applied Magnetism Institute (*Instituto de Magnetismo Aplicado*); National Federation of Transport Associations of Spain (*FENADISMER*); Spanish Association of Water Supply and Sanitation (*AEAS*), and Association of Bank Users, Saving Banks and Insurance (*ADICADE*).

Sometimes, these entities submit their reports, as it has been the case of the report entitled *Abused and Expelled and Broken Dreams (Abusados y expulsados y Sueños rotos)- The Impact of the Crisis on the Spanish Housing in Vulnerable Groups of Human Rights Watch (El impacto de la crisis de la vivienda española en los grupos vulnerables)*; *Report on the quality of democracy and electoral system of the ONCE (Informe sobre la calidad democrática y sistema electoral)* submitted by the Foundation *Puedo*, and *Hot Expulsions: When the State acts outside the law (Expulsiones en caliente: cuando el Estado actúa al margen de la ley)*, prepared by a group of professors from several universities.

In 2014, the Ombudsman kept working to support the victims of terrorism. It held meetings with victims of ETA, with the Presidents, other members of the Canary Islands Association of Victims of Terrorism (abbreviated as *ACAVITE* in Spanish) and the Group of Victims of Terrorism of the Basque Country (abbreviated as *COVITE* in Spanish).

This year, the meetings have continued in relation to the problem of housing and mortgage foreclosures. In particular, interviews have been maintained with the Federation of neighborhood associations and the Spanish Association of public promoters of housing and land (abbreviated as *AVS* in Spanish), as well as the main researcher on foreclosures and housing in Amnesty International of Spain. On private lenders and usury, meetings have been held with Fernando Zunzunegui, Professor of Banking Law and Stock Market at the University Carlos III.

There have been interviews with trade unions, representatives of the employees of the Administration of Justice, in relation to the management of vital records by Commercial Registrars and with representatives of the public education sector.

The meetings organized by the Committee for support of the Spanish Committee of representatives of Persons with Disabilities (*CERMI*) for the monitoring of the International Convention on the Rights of Persons with Disabilities have been attended.

In addition, meetings have been held with representatives of the Foundation Alicia Koplotwitz, *Cáritas*, Foundation *Ayuda en Acción*, Platform "Free and Equal" ("*Libres e Iguales*"), Movement *ATD Cuarto Mundo España*, General Council of the ONCE and Save the Children. During the

meetings, the entities have laid out the work they carry out in the defense and protection of fundamental rights.

In December, the Ombudsman also met with representatives of civil society to inform them about the activities of the first half of 2014 and to introduce the new online service "check your complaint".

Working forums for the preparation of monographic studies

This year, there have been five days of work on the *Right of the child to be heard (Derecho del menor a ser escuchado)*. The first session was attended by civil society organizations, the second, by members of the Directorates-General of the police, Spanish military police (*Guardia Civil*) and the autonomous community police forces; the third, by technical personnel of the office of the Secretary of State for Justice, technical personnel of the psychosocial teams, technical personnel of the autonomous communities with competences in matters of justice; the fourth, by members of the Public Prosecutor's Office, and in the fifth by judges and magistrates.

In 2015, a study is planned to be published incorporating the conclusions of these meetings and it will constitute the second part of the *Study on The Process of Hearing and the Best Interest of the Child: Judicial review of family processes and protection measures*, which was published in May 2014.

institutional visits to locations in the Spanish territory

The Ombudsman, while travelling to different locations in the country, has held meetings with authorities of the respective autonomous community and/or municipal representatives.

In 2014, the Ombudsman met the President of the Autonomous Community of La Rioja, the President of the Government and the President of the Autonomous Parliament of Aragon, the Chairman and the Government delegate of the Autonomous City of Ceuta and the mayors of Granada and Algeciras.

Visits to facilities and centers of deprivation of liberty and meetings of the Council of the National Preventive Mechanism against Torture

The Ombudsman personally visited 23 centers of deprivation of liberty. She visited police headquarters, correctional facilities, juvenile centers, immigrant detention centers and facilities for people with disabilities.

These visits are particularly important to learn *on-site* about the facilities and centers of activity of the different administrative units and institutions, as well as the treatment provided to internees.

In 2013, the National Preventive Mechanism configuration was culminated with the appointment of the members of its Advisory Board. This year, the Council has held two working meetings.

The institution Awards

Drawing competition on Human Rights

In May, the Ombudsman gave awards of the 11th edition of the drawing competition on human rights organized every year by the institution in collaboration with the Non-Governmental Organization Globalization of Human Rights (*Globalización de los Derechos Humanos*) at a ceremony held in the Spanish Congress of Deputies.

The winners in this edition have been, in the category of primary education: Sara Fayos Oltra, of the *CEIP*, Rafael Altamira (Quatretonda, Valencia); Eva April Manzano, of the *CEIP* Jorge Juan (Monforte del Cid, Alicante) and Imanol Iamb Morales, of the school *Irabia* (Pamplona). In the category of high schools, the awarded were Miriam Roig Broch, of the *IES* Professor Broch i Llop (Vila-Real, Castellón); Laura Cañadilla Infante, of the *IES* Valdehierro (Madrirjos, Toledo), and Julen Aramendia Leza, the *IES* Tierra (Estella, Navarre).

The students Pedro Sánchez García and Teresa Sampons Liria, of the public special education center *Cruz de Mayo* (Hellín, Albacete), and M^a Jesús Sacedo Gómez, of the *IES* Alonso Quijada (Esquivias, Toledo) won the second prize.

The Ombudsman Institution Award

The Ombudsman Institution award was created to recognize the work of institutions or non-governmental organizations (NGOs) that contribute to the work of the Ombudsman in an outstanding way.

In October, the award was granted to Spanish Caritas (*Cáritas Española*). The jury, chaired by the Ombudsman, has granted the award to this organization for its ongoing and renewed work in the defense of the rights of people in the hard times Spain is going through. It has also highlighted the special sensitivity of Caritas to meet and address the most pressing problems of the society and has praised the depth of their reports.

VI Human Rights Award King of Spain

This year, the Sixth Human Rights Award King of Spain was celebrated, granted by the Ombudsman Institution and the University of Alcalá. In this edition, the award was granted to the institution *The Adorers Congregation (las Adoratrices)*, for its work on behalf of women, victims of human trafficking and violence against women.

This international institution, founded in Spain in 1856, helps women victims of all forms of exploitation in 23 countries in Europe, Asia, Africa and Latin America.

The jury has estimated the high social and humanitarian value promoted by *las Adoratrices*, thanks to which many women find support and assistance in extremely difficult circumstances.

MEETINGS AND OFFICIAL EVENTS

The Ombudsman and her deputies are invited to attend several official events to represent the institution, including tributes, commemorative activities, delivery of awards, etc.

As in previous years, the Ombudsman attended the solemn ceremony held the day of the National Holiday and the day of the Constitution, as well as the opening of the judicial year and other acts related to victims of terrorism.

This year, due to the historical events, it is noteworthy to mention the following events the Ombudsman attended:

-Hearing of the Ombudsman with His Majesty the King Felipe VI in la Zarzuela Palace (September 3).

-Ceremony of sanction and promulgation of the organic act held in the Royal Palace and according to which the abdication of His Majesty the King Juan Carlos I became effective. On June 19, she attended the solemn session of oath and proclamation of His Majesty the King Felipe VI in the Congress of Deputies, and attended the reception for the proclamation of His Majesty the King Felipe VI in the Royal Palace.

-Farewell ceremony of the mortal remains of the former President of the Government, Adolfo Suárez and funeral of State, on March 25 and 31 respectively.

ACTIVITIES OF COLLABORATION, DISSEMINATION AND DISCLOSURE

With the aim of disseminating the work of the institution, the Ombudsman, the deputies and technical staff take part in the activities of collaboration with public bodies and social organizations.

INSTITUTIONAL COLLABORATION

The Ombudsman, the Deputies, the Secretary-General and the technical staff of the Ombudsman Institution, attend regularly, by delegation, several forums of opinion and specialized conferences, giving talks in relation to different issues related to fundamental rights.

Over the course of this year, the Ombudsman participated in Zaragoza at the opening of the Conference "The hate speech and the limits to freedom of expression" (*"El discurso del odio y los límites de la libertad de expresión"*) organized by the Foundation Giménez Abad, the Association of the Constitutionals of Spain and HUIR-AGE Consolider-Ingenio 2010. She presented the training course on "Investigation of cyber-crimes against children" (*"Investigación de delitos cibernéticos contra menores"*) at the Police Complex in Canillas, Madrid. She participated in the closing ceremony of the Second Conference of Missing Children: Parental child abduction, organized by the Foundation ANAR. She participated in the round table "Protagonists" (*"Protagonistas"*) and took part during the tribute to Adolfo Suárez "Transition, Lessons for the future of the constitutional Spain" (*La Transición, Lecciones para el futuro de la España Constitucional*), organized by the Center for Political and Constitutional studies and the University CEU. She has presented in the opening of the 13th Conference of COVITE, organized by the University Camilo José Cela in Madrid. She participated in the inauguration ceremony of the 5th Convention of the Spanish Medical Profession, organized by the General Council of Medical Association in Spain. In addition, she gave a speech at the opening ceremony of the academic year at IE University, among other activities.

She also was a member of the jury of the 10th Prize ABC Solidario. She attended the delivery of the awards *Tribunal Fórum* 2014, where she received the Prize for Solidarity; and together with the President of the Foundation Victims of Terrorism (*Víctimas del Terrorismo*), she presented the Award for Human Rights Adolfo Suárez 2014.

The Ombudsman and the deputies took part in different events, among which the presentation of the book *Joaquín Ruiz-Giménez Cortés. Diario de una vida. 1967-1978*; the commemorative ceremony of the 25th anniversary of Spanish Seniors for Technical Cooperation (abbreviated as

SECOT in Spanish); and the Conferences organized by the Women for Africa (*Mujeres por África*) Foundation.

The seminar on Free Justice, organized by the Association of Procurators of Madrid and Rey Juan Carlos University was held in the premises of the institution.

Finally, the Secretary-General, on a proposal from the Ombudsman, has been appointed member of the Commission for transparency and good governance.

DIFFUSION AND INSTITUTIONAL DISCLOSURE

In addition to attending acts of institutional collaboration, the Ombudsman, the Deputies, the Secretary-General and technical staff of the Ombudsman Institution have given lectures about the institution and the scope of its work as a guarantee of human rights.

The institution attended, once more, the annual appointment of the Master in International Protection of Human Rights of the University of Alcala, in the Chair on Democracy and Human Rights held with the University.

The Ombudsman gave speeches on the work carried out by the institution in the opening session of the biennial meeting of members of the Network of Christian Organizations against Trafficking in Human Beings (COATNET) organized by Caritas. She took part in the event organized by the Spanish Club of the Constitution, in the "Sessions on Legal and Political News" (*"Sesiones magistrales de actualidad jurídica y política"*), organized by the CEU San Pablo University Foundation. She participated in the course "Immigration and economic crisis" (*"Inmigración y crisis económica"*) organized by the General Council of the Judiciary and the Autonomous Government of the Canary Islands. She gave a speech at the opening ceremony of the Conference "Businesses and Human Rights" (*"Empresas y derechos humanos"*) organized by the Foundation *Abogacía España*; as well as in the summer course at the Complutense University of Madrid "Challenges of the University Ombudsman within the Current University Panorama" (*"Los retos de la figura del Defensor Universitario en el panorama universitario actual"*). She participated in the event organized by *Tribuna Fórum* in the Parliament of the Canary Islands and in the ninth seminar *Luis Portero* on Human Rights.

Furthermore, the deputies and the Secretary General have participated in different events among which it is worthy to highlight the inaugural lecture of the Deputy on "The Ombudsman and the Claims of Consumers and Users" (*"El Defensor del Pueblo y las reclamaciones de consumidores y usuarios"*), El Puerto de Santa María (Cadiz). The Second Deputy gave the inaugural lecture entitled "A Look at Social Rights from the Ombudsman Institution" (*"Una mirada sobre los derechos sociales desde la Defensoría del Pueblo"*) during the First Latin-

American Congress on Social Education in at risk and conflict situations; and the lecture given by the Secretary-General in the 15th Course on Promotion to Senior Commissary of the National Police Corps entitled "Police Activity Evaluated by the Ombudsman Institution" ("*La actividad policial valorada desde el Defensor del Pueblo*").

In addition, the institution received groups of students from different universities and other institutions. The students of Nebrija University took part in these study visits; students of the course Expert in the current world (*Experto en el Mundo actual*) of the Autonomous University of Madrid; students of the Master Practice of Law (*Ejercicio de la abogacía*) at the Complutense University of Madrid; students of Law of the Carlos III University; students of the master in Constitutional Law (*Derecho Constitucional*), organized by the Center of Political and Constitutional Studies (*Centro de Estudios Políticos y Constitucionales*) and the Menéndez Pelayo University; students of DePaul University (Chicago) in collaboration with Comillas Pontifical University, and the University College of Financial Studies (Colegio Universitario de Estudios Financieros[CUNEF]) in Madrid.

CULTURAL VISITS TO THE INSTITUTION

This year the institution has received the visit of members of 47 institutions, associations, cultural centers and educational establishments of compulsory education.

INTERNATIONAL ACTIVITY

During the last fifteen years, the United Nations has increased the activities aimed at the establishment and strengthening of National Human Rights institutions (NHRIs), on the basis that they are a key element to ensure human rights at the national level. The growing interest of the United Nations in the National Human Rights institutions has been kept along with a greater participation of these institutions in international and supranational levels.

The National Human Rights institutions complying with the Paris Principles are the cornerstone of the national systems on human rights protection and, increasingly often, act as liaison mechanisms between international human rights standards and the State.

Activities carried out by the Ombudsman Institution within the international context have been developed in line with the allocation granted by the United Nations as a National Human Rights institution.

Bilateral and international cooperation meetings

Working meetings were held, this year, with useful tools of supervision of the United Nations, within the context of the official visits of the United Nations Special Rapporteur for the Promotion of the Truth, Justice, Reparation and Guarantees of Non-repetition, Pablo de Greiff, and the Working Group of the United Nations against the Discrimination against Women in Law and in Practice.

The Autonomous Regional Commissions of the Basque country, Andalusia, Community of Valencia, Galicia, Catalonia, and Castile and Leon also participated in the meeting with the UN Special Rapporteur for the Promotion of Truth, Justice, Reparation and Guarantees of Non-repetition.

The official visit to Spain of the rapporteur aimed to understand and evaluate the measures taken by the Spanish authorities in relation to human rights violations committed during the civil war and Franco's dictatorship.

The Working Group of United Nations against Discrimination of Women in Law and in Practice, headed by its President, Frances Raday, became interested in the work carried out by the institution to fight against discrimination of women. The work achieved in the field of gender-based violence and trafficking in human beings was analyzed as well.

Furthermore, meetings have been held with the observers' group of the Organization for Security and Cooperation in Europe (OSCE) who followed up on the demonstration "Walk for Dignity" (*"La Marcha por la Dignidad"*) held on March 22; with legal experts from the International Monetary Fund; with representatives of the International Labor Organization, and with a delegation of the Advisory Committee of the framework Convention for the Protection of National Minorities of the Council of Europe. Meetings were also held with the Director of the UNHCR in Spain and UNICEF.

The Ombudsman Institution sent the report "Shadow" (*"sombra"*), elaborated by the institution on Human Rights in Spain, to the United Nations' Second Cycle Universal Periodic review, a mechanism of the Human Rights Council that supervises the compliance with the obligations and commitments of the United Nations Member States in the field of human rights.

Regarding relationships of cooperation with counterpart institutions abroad, the Twinning project is to be highlighted for the support to the implementation of the new Ombudsman Institution in Turkey.

The EU Twinning project with the new Ombudsman Institution of Turkey started in March of

2014. Twinning is a tool that initially arose to expand the number of Member States in the European Union, that is, to facilitate the conditions for accession. Currently, it is also used to improve relations with neighboring countries, and one of its components is to mobilize grassroots support and regulate community standards.

This Twinning Project was awarded by the European Commission to a consortium formed by the Spanish Ombudsman (in the condition of project leader) and the Ombudsman for the Rights of France, and aims to help the implementation of the Ombudsman in Turkey.

It will be developed in two years during which period visits to Turkey on behalf of Spanish and French experts are intended to train and exchange experiences with Turkish officials in human rights and functioning of the Ombudsman Institutions. In addition, study visits are carried out by the Turkish Ombudsman, his deputies and members of his team to verify on-site the Spanish and French institutions' operations, as it took place in the month of September, during the trip to Madrid of the Ombudsman, Nihat Omeroglu, who also learnt about the functioning of the Ombudsman Institution of Andalusia.

The Ombudsman Institution of Spain has an invaluable collaboration with autonomous regional Ombudsmen institutions and officials from other institutions to carry out this project. The project is fully funded by the European Commission (1,500,000 €).

The Ombudsman participated in the project-launching meeting and during her stay in that country, she gave a lecture on the institution in the Parliament of Turkey.

There have been meetings with several Ombudsmen from other countries to exchange experiences and strengthen the collaboration in the management of matters of common interest. Meetings were held this year with the Ombudsman of France (*Défenseur des Droits*), the Ombudsman of Panama, the Deputy of the Ombudsman of Portugal (Provedor de Justicia) and the Director of Education of the Human Rights Office in Guatemala.

The Ombudsman attended a working lunch with the ambassadors of Norway, Finland, Denmark and Sweden in Madrid. She attended a working breakfast at the Embassy of Colombia in Spain and she received the Ambassador of the Netherlands in Spain, with whom she held a meeting prior to the working visit to the institution of the members of the Committee on European Affairs of the Dutch House of Representatives to discuss the consequences of the economic crisis in Spain in the social sphere, unemployment – especially among young people - evictions and irregular migration.

Working sessions have been organized for the functioning of the Ombudsman Institution with several delegations of the Ombudsman of Georgia and the Ombudsman of Turkey; a delegation

of the Ombudsman of Mozambique; a delegation of the Government of the Philippines, led by Presidential Advisor Minister on the peace process (OPAPP), and the Ombudsman of Colombia to discuss the situation of Colombian residents in Spain, the Law on Victims and Restitution of Lands and its regulatory decrees.

The Ombudsman was in contact with international institutions on human rights, with a view to secure the immediate and unconditional release of Nigerian girls abducted on May 14 by the Islamic radical group Boko Haram.

INTERNATIONAL MEETINGS

As every year, the annual meeting of the International Coordinating Committee of National Human Rights institutions took place in Geneva. This year, the 27th Edition has been celebrated.

In the framework of the Association of Mediterranean Ombudsmen (AOM), the Ombudsman, accompanied by her Director of Cabinet, attended the meeting of the Bureau held in Rabat (Morocco) on March 19 and 20.

The First Deputy attended the eighth meeting of the Association of Mediterranean Ombudsmen held on June 26 and 27 in Tirana (Albania).

During this meeting, representatives from more than 20 countries in Africa, Asia and Europe and several supranational organizations such as the Council of Europe and *the Association des Ombudsmans et Médiateurs de la Francophonie* (AOMF) analyzed the role undertaken by the Ombudsmen in strengthening democracy.

As conclusion of the meeting, two statements were made public. In relation to the first statement, on migration and asylum in the Mediterranean basin, the Association of Mediterranean Ombudsmen requests from the European Union and the African Union long term cooperation and multilateral policies to address migratory movements in the area.

In addition, by means of the Declaration of Tirana on Multilateral Cooperation, the Association of Mediterranean Ombudsmen has reinforced its commitment of collaboration among its members.

Furthermore, the Association of Mediterranean Ombudsmen, the Association of African Ombudsmen (AOMA), the AOMF and the Permanent International Council for prevention and Mediation of Conflicts and Wars (CIPM) signed a joint declaration calling for the release of Nigerian girls.

The 19th General Assembly and the International Congress of the Latin-American Federation of Ombudsmen (abbreviated as *FIO* in Spanish) took place this year in the Mexico City from October 1 to 3.

The President of the United States of Mexico, Enrique Peña Nieto, inaugurated the event and brought together Ombudsmen of Latin America who discussed issues such as human trafficking, violence against women and the rights of children and adolescents. They also evaluated their work in relation to the international systems of human rights protection, as the Inter-American Court of Human Rights (IACHR) or the European courts of Justice and Human Rights of the EU and the Council of Europe, respectively.

The Ombudsman took part in the panel discussion on the Experiences of NHRIs in regional systems in which the experience of the Ombudsman Institution of Spain in the European system of human rights was discussed.

In this Congress, the Director of Cabinet of the Ombudsman participated as a panelist and she analyzed the work and functions of the European Court of Human Rights and the role of the National Human Rights institutions to improve the situation of collapse of this Court.

Within the framework of the thematic networks of the Latin-American Federation of Ombudsmen, carried out with the support of the project ProFIO-GIZ, the first Deputy attended the meeting of the Network of Migrants and Human Trafficking of the Latin-American Federation of Ombudsmen, held in San Juan (Puerto Rico) on April 9 and 10. The Director of Cabinet of the Ombudsman, together with the Head of the Cabinet of communication, attended the workshop "Journalistic Practice and Human Rights" (*"Práctica periodística y derechos humanos"*), held in Quito (Ecuador) from May 7 to 9, where proposals were discussed to encourage mass media to never lose sight of human rights in drafting news.

The First Deputy attended the Assembly General of the International Ombudsmen Institute (IOI) and the Conference Ombudsman's Role in a Democracy, held in Tallinn (Estonia) from September 17 to 19.

The Director of Cabinet of the Ombudsman Institution attended the seminar of liaison officers of the European network of Ombudsmen, organized by the European Ombudsman and held in Strasbourg (France) from April 27 to 29.

The European network of Ombudsmen brings together more than 95 offices in 36 European countries. National and regional Ombudsmen and similar bodies of the Member States of the European Union participated in the network as well as from the candidate countries to join the EU and some other European countries, in addition to the European Ombudsman and the

Committee on Petitions of the European Parliament. The national ombudsmen and similar bodies of the network shall appoint a liaison agent as person of contact for the other members of the network.

From November 27 to 30, the Director of Cabinet of the Ombudsman Institution and the Chief of Migrations and Equal Treatment Area represented the institution at the World Forum of Human Rights, organized by the National Council for Human Rights of Morocco, in Marrakech.

On the other hand, several technical specialists from the institution attended over the course of 2014 specialized international meetings:

-Symposium on the role of National Preventive Mechanisms against Torture in the protection of the vulnerabilities of children in detention, organized by the Association for the Prevention of Torture (APT), celebrated in Geneva on June 26-27.

-Meeting of the Platform on the Rights of Immigrants and Asylum Seekers, organized by the Council of Europe (CoE), the Fundamental Rights Agency of the European Union (FRA), the European network of National institutions of Human Rights (EENRHI) and the European Network of Agencies for Equal Treatment (EQUInet), held in Vienna (Austria) on September 23-24.

-The Fundamental Rights Agency of the European Union's 2014 Conference on Migrations, held in Rome (Italy) on November 10-11.

VISITS AND OFFICIAL MEETINGS

Several diplomats attended the Ombudsman Institution to hold several meetings. This is the case of the ambassadors of the United Kingdom and Turkey, the Cultural Advisor of the Embassy of the French Republic, accompanied by the former Minister of Justice and candidate to the Defender of Rights, and the first Secretary of the Embassy of Uzbekistan.

The Ombudsman attended a reception in honor of their Majesties the Kings of Spain, offered by the President of the Republic of Chile, Michelle Bachelet, in the Royal Palace of El Pardo, Madrid. Prior to this event, the Ombudsman received the President of the Chamber of deputies of Chile in the institution.

VISITS TO DETENTION CENTERS ABROAD

The authorities of the institution visited centers of deprivation of liberty, when they carried out travels abroad, where there are Spanish citizens, to check their conditions on a first- hand basis. This year, there have been visits to Spanish prisoners detained in the prison of Sale, Rabat (Morocco), the prisons of Cotopaxi and Inca, Quito (Ecuador), the Women's Prison of Santa Marta Acatitla, México D.F. (Mexico) and the jail of Tirana (Albania).

In order to gather information for the preparation of a report suggesting improvements to the Spanish immigrant detention centers, a visit was carried out to the detention center of *Mesnil-Amelot*, Paris (France), the Brooks Centre in London (United Kingdom) and the *Detentiecentrum* of Rotterdam (Netherlands).