

Name of the member institution : Síndic de Greuges de Catalunya

Current Ombudsperson: Rafael Ribó.

Current Deputy for the defence of children's rights: M<sup>a</sup> Jesús Larios Paterna

## I. Role and structural organization

- *Legal framework*

ACT 24/2009 of December 23<sup>rd</sup>, on the "SINDIC DE GREUGES"  
(Ombudsman or Parliamentary Commissioner) (O.B.G.C. number 5536, of 12  
30 2009)

In accordance with the mandate contained in articles 78 and 79 of 2006  
Catalonia's Statute of Autonomy of 2006, this Act sets forth the organization  
and operation of the "Síndic de Greuges" (Ombudsman or Parliamentary  
Commissioner) Institution.

The office of Deputy for the defence of children's rights, is appointed by the  
Síndic de Greuges as a trusted person to hold, with the prior agreement of the  
parliamentary Commission. The Deputy shall meet the conditions set forth in  
the present Act.

Any Deputy assigned to the defence of children's' rights, shall assume any  
inquest functions assigned or entrusted to him by the Síndic de Greuges for the  
resolution of any claim or proceeding concerning children's rights. In that case,  
he will enjoy the same prerogatives, rights and obligations.

- *Principal functions as defined by law*

The "Síndic de Greuges" is the Institution which is in charge of defending the  
citizens' fundamental rights and public liberties. To that end, it supervises the  
performance of the Catalan Government's (hereafter "Generalitat") public  
Administration and of the authorities and personnel depending there from or  
assigned to public services. It also supervises the performance of Catalonia's  
local agencies in anything affecting matters on which the Generalitat is  
competent under Catalonia's Statute of Autonomy.

The Síndic de Greuges fulfils his functions with independence and objectivity,  
inquiring into and resolving on proceedings filed ex officio or claims presented  
upon the request of parties.

The Sindic de Greuges is not subject to any imperative mandate. He receives instructions from no authority whatsoever and he fulfils his functions with autonomy and according to his good judgement. The Administration and, generally, any public powers under the Generalitat of Catalonia are bound to assist the Sindic de Greuges in his inquests, on a preferent and urgent basis.

The Sindic de Greuges shall record and acknowledge receipt of any claims presented to him, whose handling he may accept or refuse: in this latter case, he must inform the interested party by means of a reasoned written reply. The Sindic de Greuges must see to it that any petitions and appeals filed with the Administration be resolved in due time and form.

In the exercise of his functions for the inquest and resolution of claims or proceedings, the Sindic de Greuges may present the authorities and personnel at the service of the public Administration or reporting thereto any warnings, recommendations, suggestions and reminders concerning their legal duties. In no case can he amend or cancel any administrative actions or resolutions.

- *Structural organization*

The Sindic de Greuges de Catalunya has two Deputies: one for general matters and another for the Defence of Children's Rights. The Deputy for Children's Rights enjoys the prerogatives required to properly exercise his functions in keeping with the legislation currently in force, decides priorities and actions to take related to complaints and ex-officio actions.

In order to carry out her/his mandate she/he has the assistance of a team of four technical assessors, 1 technical assistant and two people for administrative tasks.

The Deputy must report the result of her/his inquest to the claimant, the affected person in Administration's service or reporting to same, and authority in the Department, body or entity involved the claim or in the ex officio action, even if proceedings are filed away.

Once a year the Sindic de Greuges presents to the Parliament a report of his activities where he necessarily states the number and kind of claims' received and of proceedings started ex officio, and any claims rejected, underway and investigated, with any results attained and also the reasons having given rise to same.

According to the new Children Act of Catalonia (14/2010, of May 27<sup>th</sup>) a separate Children Report will be presented to Parliament along with the General Report.

## II. Main activities during 2011

As one of the main activities, the Deputy for Children's Rights office has been handling individual complaints during 2011, as stated by law.

*Statistics on the number of cases for the year 2010*

	<i>Total</i>	<i>Complaints</i>	<i>Officio actions</i>	<i>Queries</i>
Pre-school education	331	162	4	165
Compulsory education	723	252	12	459
Child care	16	1	207	224
Child Protection	475	165	39	271
Juvenil justice	13	7	1	5

On the other hand, the office of the Deputy have been working during the year elaborating the first report on The situation of Children's Rights in Catalunya, according to the new Children Act of Catalonia (14/2010, of May 27<sup>th</sup>), that states that a separate Children Report has to be annually presented to Parliament along with the General Report of the institution. The specific Children Report will be presented to Parliament during October 2011.

The Children Report makes an analysis of the situation of the UN Convention on Children Rights in Catalunya. It is structured by: 1) Principles of the convention; 2) Protection rights; 3) Provision rights; 4) Main activities.

Finally, the office of the Deputy has finished the special report on *Child poverty in Catalunya*. And it is now pending to be presented to Parliament.

## III. Expressed opinions, statements, policy recommendations and/or proposals for legislative and/or other reforms

The Children Report elaborated during 2011 offered the Deputy the opportunity to compile the main recommendations and proposals for Children's Rights situation and implementation in Catalunya, expressed by the institution..

Hereby we summarise some of the most important ones:

### PRINCIPLES

#### *Article 3*

- Take concrete actions to ensure that all actions of public authorities that may affect a child are taken with regards to its best interest as a determining factor and those actions are taken in a proactive attitude.

#### *Article 12*

- To establish peer conflict resolution mechanisms in schools that necessarily

includes child participation.

- To develop mechanisms that help the assessment of child evolving capacities and development, to give the opportunity to children to express their views and to be listened in family conflicts and divorce disputes.

## PROTECTION RIGHTS

### *Article 18:*

- To increase the economical support to families (such as, school grants, economical support for disabled children, etc) taking into account the assessment of their needs and not only the budget availability.

### *Article 19*

- In the detection and intervention on child abuse situations: to establish territorial protocols to achieve a real coordination and network between the services and teams working with children.
- The Sindic the Greuges has asked for the abolishment of corporal punishment in the Catalan Civil Code.

### *Article 20*

- To continue with the increase of institutional care places to make sure there are enough places to place children with protection measures according to their specific needs and not according to the needs and availability of places in the care institutions.
- To take in to account the age stated in all legal documents that an unaccompanied youngster may present to inform of his/her age, if the documents are not invalidated.
- Medical age estimation proofs should only be taken whenever the unaccompanied minor doesn't have any legal document that proofs his/her age. These youngsters shouldn't be expelled from the child protection system until they have legal documents accrediting they are over 18.
- To create new centres for protected youngsters and children with behavioural problems. This should include the creation of centres around the country and specific places for girls.
- To increase residential places for disabled children and places attending children with mental health problems.
- To increase the number of institutional care centres to reduce the number of children living in each of this institutions to a maximum of 20 children or youngsters.
- To guarantee the existence of adequate ratios of children – social workers/social educators in institutional care residences.
- To clearly and specifically regulate children rights for children in institutional care, and to clearly regulate all the aspects that might limit these rights.
- To continue promoting foster care in order to achieve adequate levels regarding existing regulation and international recommendations.

### *Article 40*

- To adopt all the necessary measures to make youth participation possible in the juvenile justice system and in the specific centres. Specially, actions should be taken to make sure youngsters are listened when complaints regarding the way they are treated are presented.
- To adopt all necessary measures to adequate juvenile justice residential places in order to guarantee that all youngsters can accomplish their treatment programme but also that they receive individual support and attention.

## PROVISION RIGHTS

### *Article 23*

- To implement all necessary measures to make sure all service, institution or programme is accessible to children with disabilities in all moments of their life: at school, in their leisure time, in transport, etc. These measures should include training and awareness on children with disabilities rights, especially for the right of full development, social inclusion; and the support mechanisms that are needed.
- To make sure the inspection and assessment is made in all services working with disabled children and youngsters and the treatment they receive with regards to their right to full development and not only to organisational needs.

### *Article 24*

- To implement all the necessary measures to reduce the period of waiting lists for access to surgery, visits to some medical tests or specialists.
- To extend public dental services for children.
- To regulate the right to receive free medical drugs.
- To create public residential places for under aged patients with mental health problems.
- To create day centres and/or rehabilitation centres for teenagers with mental health problems as planned in the Master Plan for Mental Health and Addictions.

### *Article 27*

- To improve coverage levels of economic transfer and services policies.
- To avoid that budget restrictions affect policies related to children and families.
- To increase the effort in all policies meant to fight child poverty, moreover in economic crisis situations.
- To establish family income thresholds at which all requests are granted financial aid, regardless of demand to ensure that financial aid is awarded according to the needs of families and not based the needs of other families or budget items.

### *Articles 27 and 28*

- Ensure a balanced enrollment of students.
- Establish a maximum proportion of students with specific educational needs

that can be enrolled in each center.

- To avoid imbalances between schools regarding the quality of infrastructure conditions, the quality of its educational projects, the diversification of educational services available, etc.
- Regulate access to schools and the priority criteria in terms of equality and fairness.
- Expand a system of scholarships for study in compulsory and non-compulsory education, to reduce the direct and indirect costs of schooling, and to avoid economic inequalities in access and in keeping students with social risk within the education system.
- Expand the grants to finance activities for students with specific educational needs.
- Promote the establishment of public kindergarten places, especially in those towns and neighborhoods with more social difficulties.
- Develop at local level, criteria for admission of students in kindergarten that are non-discriminatory to certain social groups
- Ensure that the application of criteria of economic rationality in the programming of the education system, doesn't affect equal opportunities in education and that this program does not reproduce social inequalities.
- Intensify efforts to develop vocational training in our country and fight territorial disparities in the provision of the offer.
- Planning a more intense effort in creating programs offer initial professional qualification.
- Promote linkage of sanctions with the education of students and apply measures of deprivation of attendance only in exceptional cases

#### *Article 31*

- To take the necessary measures to encourage the participation of disadvantaged children in leisure time activities with the same opportunities as other children to achieve their maximum integration and personal development.
- To promote the regulation of security measures of parks, sports and adventure parks for children.
- Ensure equal access to school trips and camps for all students.

#### **IV. Other activities**

The Youth Panel which was implemented in 2007 has been renewed and is working with the support of the children's team in the Office. The Youth Panel met 5 times during the school period and discussed issues related to Children Rights the Catalan Ombudsman deals with.

During 2010/2011 the Youth Panel has worked on issues such as the right to education (what is implied in this right, which is the responsibility of public authorities, existing limitations, etc); child poverty and its consequences for the individuals and participation rights.

The Catalan Youth Panel has also sent its position and recommendations to the Council of Europe draft recommendation on Child and Youth Participation.

From the very beginning the Sindic de Greuges has been participating to the ENYA project. Two of its young advisors participated in the Annual Conference in Strasbourg and another to have participated to ENYA meeting in Belfast in July 2011, together with their coordinator and also coordinator for the Violence group, and the Deputy for Children Rights. For the Deputy for Children Rights, the ENYA project has been and it still is a priority.

The visits program to children's facilities, resources, residential equipments, foster agencies, schools, among others, is always on, whether reactive to emergency or severe situations, or as a regular activity.

The office has also developed a strong activity to let schools and care institutions know the existence of the ombudsperson institution and we are carrying activities in schools and high schools to let young people and children know how the ombudsperson institution works and how we can help them. We have also started relations with the education department from the Catalan Parliament and together we are preparing pedagogical materials to work in schools.