

"EL SÍNDIC DE GREUGES": CATALONIA'S OMBUDSMAN



THE SÍNDIC DE GREUGES IS A WAY OF CONTROLLING THE ADMINISTRATION, COMMISSIONED BY PARLIAMENT TO DEFEND THE RIGHTS OF THE POPULATION.

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The establishment of a democratic political regime in Spain brought with it the recognition of Catalonia's right to political autonomy as an expression of its national reality. In keeping with this principle, the restoration of the home-rule institutions that make up the *Generalitat de Catalunya*, Parliament, President and Executive Council, has been completed with the appearance of institutions that are new to Catalan law. One of these is the *Sindic de Greuges*, or Ombudsman, a figure introduced under article 35 of the *Estatut d'Autonomia*, passed on 18th December 1979, inspired in the model provided by the Swedish Ombudsman and responsible for guaranteeing the rights of individuals.

Although the figure is unquestionably a novelty, there are nevertheless —as Professor Pitarch has pointed out— “certain historical echos based on limited analogies with elements of historical institutions whose mission it has been to ensure their harmony, at the same time guaranteeing that the King's servants observe the law”.

The figure of ombudsman is now recognized in the statutes of autonomy of all the Catalan-speaking autonomous communities (Catalonia, *País Valencià* and the Balearic Isles), though so far it is only in Catalonia that the post has been filled (Frederic Rahola).

The Catalan parliament regulated the ombudsman's juridical regime according to the law passed on 20th March 1984. According to its first article, “the ombudsman's mission is to defend the individual rights and the public freedom of the citizens. To this end he will oversee the work of the administration and of the *Generalitat* and of those authorities and employees for which they are responsible or who form part of a public service”.

As can be seen, the *Sindic de Greuges* is a way of controlling the administration, commissioned by parliament to defend the rights of the citizens. The figure represents a non-judicial civil guaranty that takes the form of a *magistracy of conviction* in respect of the various branches of the administration, in defence of legal principles and the correct administration of public business. This conviction is expressed through the recommendations addressed to the administrative organs and the reports presented to parliament. The fulfillment of these duties is independent of and complementary to the parliamentary or judicial control which, for whatever reason, may



be exercised over the *Generalitat's* administrative activity.

This function is not the exclusive responsibility of the *Sindic de Greuges*. According to the state's autonomic structure foreseen in the Spanish constitution of 1978, the Catalan ombudsman has to cooperate with the *Defensor del Pueblo*, the equivalent institution at state level, and the two must co-ordinate the functions attributed to them. In this respect, the two institutions can establish agreements whereby they collaborate on specific questions, with the respective exchange of personal and material resources.

The *Sindic de Greuges* is elected by parliament, with a majority of three fifths of the house and for a period of 5 years. The size of the majority needed and the length of the appointment, exceeding the

four years of the parliamentary term of office, are intended to ensure the stability and independence of the ombudsman in the execution of his functions.

The way in which the individual approaches the *Sindic de Greuges* has been conceived from the point of view of facilitating communication with the institution. The procedure is short and simple, all that is needed being the completion of the corresponding form on the part of the individuals or legal entities who express an interest in the object of the complaint, for the ombudsman's work to begin. In this respect it should be emphasized that the petitioner's nationality, his legal situation, the fact of his being in prison or, in general, his subjection to or dependence on the administration can in no way act as an obstacle.

The *Sindic de Greuges* has to register and acknowledge all the complaints made to him, and he can process them or turn them down; in the latter case he has to inform the applicant via an explanatory reply.

His sphere of activity is limited when the judicial authorities are involved. To be precise, he cannot investigate complaints regarding matters that are awaiting a court resolution, and he can suspend his activities if, having once started, one of the individuals involved takes legal action or makes an appeal in court. However, he will have to suspend it when the action is simply awaiting sentence.

The recommendations and reports he makes are not decisive, neither can they be the object of any kind of appeal.

As can be seen, the *Generalitat de Catalunya* possesses an organism that, in keeping with the trend started all over the world during the fifties, will provide a new form of control of this great administrative Leviathan, will contribute to the smoother running of the administrative structure and to the generalized respect for individuals' rights. From the reports presented to parliament by the *Sindic de Greuges*, one can deduce the existence of important social expectations regarding the new institutions. But it cannot be said to be firmly established in the society, nor that its incidence on civil servants or administrative bodies is consolidated as yet. We do not yet have enough experience to draw solid conclusions. It seems clear, however, that we are facing a challenge, and only practice, based on determined independence regarding the public authorities, can show the timeliness or otherwise of our decision. ■