Spain 2024

Information from: Ombudsman of Spain

Democracy - checks and balances, disinformation, and other topics

The Ombudsman considers that the rule of law, the separation of powers and its checks and balances are working properly in Spain. In accordance with its legal system, the actions of the Ombudsman as High Commissioner of the Spanish Parliament, appointed by the latter to defend fundamental rights, are focused on the defence of human rights, with the power to formulate warnings, recommendations, reminders of their legal duties and suggestions for the adoption of new measures to the authorities and officials of the Public Administrations.

Separation of powers

In 2023, there were legislative, regional and local elections without any notable incident. The Spanish Ombudsman supervise the administration through complaints and through wider supervision.

Furthermore, no laws or other regulations related to the separation of powers have been adopted which have given rise to appeals of unconstitutionality or which have been recommended for amendment.

The process for preparing and enacting laws

Some irregularities have been detected in local regulatory processes. For instance, in urban planning (see page 313 of 2022 Annual Report). These irregularities are not overly significant due to their scarcity and the highly regulated nature of local authorities´ competences. In these cases, the administration has been reminded of its legal obligations regarding participation of civil society in law-making through timely and meaningful public consultations.

Access to information

There is a high level of litigation on the topic of access to information, which indicates a certain lack of respect for the culture of transparency by some branches of public administration, despite the great efforts being made to improve it (mainly legislative development, training of officials, and the growing interest of civil society and the culture of transparency). These

conflicts arise especially with regard to environmental issues, urban planning, selective processes, or locally, among others (See, for instance, section 16.7 and 17.1 and 2 of the Annual Report of 2022).

In order to improve this situation, the Spanish NHRI has issued recommendations in relation to publicity, transparency (actions have been initiated with the Transparency Council based on citizen complaints), and the obligation of the administration to respond to requests for information.

Independence and effectiveness of independent institutions (other than NHRIs)

The Law 15/2022, of 12th July on equal treatment and non-discrimination, created, an Independent Authority for Equal Treatment and Non-Discrimination which should have been established in January 2023. Furthermore, the deadline set by Law 2/2023 on the protection of whistleblowers and anti-corruption, for the establishment of the Independent Authority for the Protection of Whistleblowers is March 2024. To date both authorities have not been established.

Enabling environment for civil society and human rights defenders

No serious and widespread structural problems related to disproportionate or unwarranted actions by the authorities towards civil society have been identified. The Ombudsman does not have the power to assess the actions of the courts of justice, and therefore cannot make a strict assessment of the existence of strategic lawsuits against public participation (SLAPPs). However, the Ombudsman remains concerned about the impact it may have on the quality of democracy and the monitoring of European initiatives on this issue.

The Ombudsman maintains an ongoing daily-based dialogue with civil society stakeholders through meetings, participation in public forums or through the processing of specific complaints, which are particularly useful for improving the administrations' monitoring work. It is possible to follow the Ombudsman and other Ombudsman staff´s agenda at the institution website.

NHRI’s recommendations to national and regional authorities

The Ombudsman considers that the rule of law, the separation of powers and its checks and balances and guarantees are functioning adequately in Spain and has therefore not made recommendations specifically aimed at improving the system of institutional checks and balances, but rather the supervisory

recommendations made aiming at improving or amending the performance of the administrations in relation to citizens' rights.

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