

## ■ Law on Síndic de Greuges de Catalunya

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ACT 14/1984  
of March 20, on the "SINDIC DE GREUGES"

(Ombudsman or Parliamentary Commissioner)  
(Official Bulletin of the Generalitat of  
Catalonia  
number 421 of 03-30-1984)  
amended by Act 12/1989 of November 29  
(O.B.G.C. number 1234, of 12-22-1989)

In accordance with the mandate contained in article 35 of Catalonia's Statute of Autonomy, this Act sets forth the organization and operation of the "Síndic de Greuges" (Ombudsman or Parliamentary Commissioner) Institution.

### GENERAL PROVISIONS

#### Article 1

1.- The "Síndic de Greuges" is the Institution which, in accordance with article 35 of Catalonia's Statute of Autonomy, is in charge of defending the citizens' fundamental rights and public liberties. To that end, it supervises the performance of the Generalitat's public Administration and of the authorities and personnel depending therefrom 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.

2.- 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.

#### Article 2

1.- The Síndic de Greuges is elected by the Parliament in accordance with the proceedings -and the majority votes set forth in article 5.

2.- The Síndic de Greuges has relation with the Parliament through a Commission constituted for this purpose. This Commission also takes cognizance of any claims and petitions related to the defence of the citizens' fundamental rights and liberties presented to same.

3.- The Síndic de Greuges may address at any time the parliamentary Commission referred to in the above paragraph and the Commission may ask him to appear before the Parliament to report on matters under his competence.

4.- Every year, the Síndic de Greuges reports on his performance to

the Parliament.

### **Article 3**

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.

### **Article 4**

1.- In order to comply with the provisions of this Act, the Sindic de Greuges must cooperate with the "Defensor del Pueblo" (Spain's Central State Ombudsman) and coordinate his functions with the latter.

2.- In accordance with the precedent paragraph, the Sindic de Greuges may enter into agreements with the Defensor del Pueblo. Such agreements shall set up the life thereof, the scope of the Administrations involved, the hypothesis for the Sindic de Greuges' action, the authorities he will be entitled to exercise and the communications he shall have with the Defensor del Pueblo.

3.- The Sindic de Greuges shall convey to the Defensor del Pueblo any claims presented to him concerning the activity of any body of the Central State's public Administration in Catalonia and he shall inform the claimant of such conveyance.

## **TITLE I**

On the election, termination and conditions  
of the Sindic de Greuges

### **Article 5**

1.- Whenever an election of the Sindic de Greuges will have to take place in accordance with this Act, the parliamentary Commission referred to in article 2 shall present the candidate or candidates to the Parliament's Plenum within a period of no more than one month.

2.- The proposal having been made, the Parliament's Plenum, at a session called for this sole purpose, shall elect the Sindic de Greuges by a majority of three fifths. Sindic de Greuges' mandates are for five years.

3.- If the said majority of three fifths is not attained, the same procedure shall be started all over again. If none of the candidates proposed has obtained the majority set forth in the preceding paragraph three months thereafter, an absolute majority will suffice at the subsequent voting.

## **Article 6**

1.- The appointment of the Sindic de Greuges shall be authorized by the signature of the Chairman of the Parliament and shall be published in the Official Bulletin of the Generalitat of Catalonia and in the Official Bulletin of the Central state.

2.- The Sindic de Greuges shall take possession of his office in the presence of the Parliament's Board.

## **Article 7**

To qualify for election as Sindic de Greuges candidates must meet the following conditions:

- a. They must have the political status of Catalan.
- b. They must be of legal age and in full possession of civil and political rights.

## **Article 8**

The status of Sindic de Greuges is incompatible with:

- a. Any representative mandate.
- b. The performance of executive functions and membership in any political parties, trade unions and management associations.
- c. Being a member of the Generalitat's Consultive Council or of the Constitutional Court.
- d. Any political office or administration function of the Central State, Autonomous Communities or local agencies.
- e. The exercise of military career
- f. Any professional, any, judiciary prosecutor or commercial or employee activity.

2.- If anyone elected Sindic de Greuges is affected by any cause of incompatibility, prior to taking office he shall cease to hold the office or perform the activity being the cause of incompatibility or shall apply for leave of absence from the function. If he fails to do so no later than eight days following the election, it will be understood that he does not accept the appointment. The same rule shall apply if any incompatibility should arise after his appointment.

## **Article 9**

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.

## **Article 10**

The Sindic de Greuges enjoy the prerogatives required to properly exercise his functions in keeping with the legislation currently in force.

## **Article 11**

1.- The Sindic de Greuges will cease to be in office because of any of the following causes:

- a. Resignation
- b. Expiration of the period for which he has' been elected.
- c. Death.
- d. Loss of the political status of Catalan
- e. Incapacity or disability to exercise political rights declared by any final judicial decision.
- f. Conviction under final sentence' because of any fraudulent offense.
- g. Notorious negligence in the fulfilment of the obligations and duties of his office.

2.- In the latter case, termination is decided by a majority of three fifths of the members of Parliament at a specific debate which the Sindic de Greuges is entitled to attend and address before the voting. In all other cases, cessation is declared by the Chairman of the Parliament who must notify the Plenum immediately thereafter.

3.- Once termination will have taken place, proceedings shall start for the election of the new Sindic de Greuges which shall be made in accordance with article 5. In the second hypothesis of section first of this article, the Sindic de Greuges shall continue in the exercise of his functions until the appointment of his successor.

## **TITLE II**

Sindic de Greuges' procedure and action

## **Article 12**

1.- To the effects of the provisions in' article 1, applications may be filed for the Sindic de Greuges to take action in connection with their claims by:

- a. Any natural persons or body corporates invoking a legitimate interest concerning the object of complaint, no impediment being involved because of nationality, residence, age minority, legal incapacity of the subject, internment in a penitentiary center or reclusion, or, in general, any special subjection or dependency relation with any Administration or public power.
- b. The members of Catalonia's Parliament and also the members of the State Central Parliament and Senate elected in Catalonia's electoral districts.
- c. Parliamentary Commissions, in particular those in charge of inquests, and the one referred to in paragraph 2 of article 2.

2.- Applications may also be made to the Sindic de Greuges by - incumbents of elected offices in Catalonia's local entities asking him to take action within the territorial scope of his competence.

## **Article 13**

1.- Claims must be presented by interested parties by means of a reasoned written report enclosing any documents that may be useful to clarify the case.

2.- Any Sindic de Greuges' actions are free for the interested parties and no attendance of lawyers or solicitors is required.

#### **Article 14**

Any correspondence and other communications that individuals deprived of liberty because of their being held in detention, internment or custody centres may want to have with the Sindic de Greuges will have the guarantees provided for by the legislation currently in force.

#### **Article 15**

No more than one year may elapse between the occurrence of the fact being the object of the claim and the written formulation thereof to the Sindic de Greuges. When proceedings will take place ex officio, the beginning thereof is not subject to any preclusive term.

#### **Article 16**

1.- 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.

2.- The Sindic de Greuges -may not make inquests in connection with claims whose object is pending on any judicial resolution and he may discontinue his action if, after starting same, any interested person files a claim or appeal before any court; however, he shall discontinue it when the proceedings will only be pending on judgement.

3.- The Sindic de Greuges must see to it that any petitions and appeals filed with the Administration be resolved in due time and form.

4.- The Sindic de Greuges shall reject any anonymous claims, any claims where he may detect bad faith, lack of grounds or assertions, and any claims the processing of which might involve any damage to the legitimate rights of third parties.

#### **Article 17**

The Sindic de Greuges' decisions and resolutions are not the object of any appeal whatsoever and the claims presented to him do in no way affect the terms provided for to exercise any actions applying under administrative or jurisdictional channels.

#### **Article 18**

With respect to the Sindic de Greuges' action and to the right to resort to him when states of emergency or siege have been declared, the provisions of the legislation currently in force shall apply.

#### **Article 19**

The claim having been admitted for processing or the proceedings having been started ex officio, the Sindic de Greuges shall take any inquest steps he will consider appropriate to clarify same. He may inform thereof the Department, body, entity or administration agency

affected so that the head thereof may send him a written report within a term of fifteen days which may be extended as a function of any circumstances involved.

#### **Article 20**

1.- If the claim to be investigated or the ex officio proceedings affect the performance of individuals at the Administration's service, the Sindic de Greuges shall notify their hierarchical superior and, if appropriate, the head of personnel to whom they report.

2.- At the same time, he will request the affected party to answer in writing, no later than fifteen days thereafter in any case, with respect to the facts or circumstances which are the object of the claim or proceedings, and to enclose any complementary documents' and evidence a he may deem fit.

3.- Without detriment to the documents presented as referred to in the paragraph above, the Sindic de Greuges may request the person affected to appear and report before him.

#### **Article 21**

Any hierarchical superior or authority forbidding the personnel at their service to respond to the Sindic de Greuges' requisitions shall give notice thereof to the affected party and to the Sindic de Greuges by means of a reasoned written document.

#### **Article 22**

Authorities, public servants and, in general, any personnel under the Administration or affected to a public service shall give the Sindic de Greuges or any person appointed by him all the information, assistance and access to any agencies, centres, bodies and entities as they may request, as well as any data, files and other documents making it possible to adequately carry out proceedings and inquests.

#### **Article 23**

Any proceedings required in the course of inquests must be carried out with utmost reserve and discretion, without detriment to the inclusion thereof in the reports to Parliament, should the Sindic de Greuges consider this appropriate.

#### **Article 24**

The Sindic de Greuges is entitled to make public the name of the persons and Departments, bodies or entities having hindered the exercise of his functions and to emphasize such attitudes in his annual report to Parliament or to notify the Commission referred to in article 2.2.

#### **Article 25**

Any authority or personnel at the Administration's service preventing the Sindic de Greuge's action by refusing to convey any reports, documents or files requested by him may incur in criminal liability under the legislation currently in force. In that case, the Sindic de Greuges shall convey the records to the Public Prosecutor so that he may exercise any appropriate actions.

#### **Article 26**

If any presumptions of disciplinary infringement or of presumably delinquent behaviour or facts were observed during the inquest, the Sindic de Greuges shall so notify the competent body or shall immediately inform the Public Prosecutor.

#### **Article 27**

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.

#### **Article 28**

1.- Within the scope of the legislation currently in force, the Sindic de Greuges may propose to the affected Department, body or entity any formulae of conciliation or agreement likely to lead to a positive and prompt resolution of claims.

2.- If in the inquest of a claim or proceeding the Sindic de Greuges should consider that the application of regulations would lead to an unfair or detrimental result, he will be entitled to recommend or suggest to the competent institution, Department or entity any steps or criteria he may consider adequate to remedy this, or any amendments he may think appropriate to make in the text of regulations.

#### **Article 29**

The Sindic de Greuges must report the result of 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 in the claim or in the ex officio action, even if proceedings are filed away.

### **TITLE III**

The relations with Parliament

#### **Article 30**

1.- Once a year, no later than thirty days after the beginning of the second ordinary period of sessions, the Sindic de Greuges shall present to the Parliament a report of his activities where he shall necessarily state:

- a. The number and kind of claims received and of proceedings started ex officio.
- b. Any claims rejected, underway and investigated, with any results attained and also the reasons having given rise to same.

2.- No personal data must appear in the report which might permit public identification of the parties interested in the inquest proceedings. However, when the Sindic de Greuges will consider it necessary, he will be entitled to include the name of those persons referred to in article 23.

3.- Within the same period of time, he shall present the statement of accounts of the institution's budget pertaining to the precedent fiscal year.

4.- He may also present extraordinary reports when required by the urgency or importance of the facts giving rise to his intervention.

### **Article 31**

The Sindic de Greuges must present an oral summary of the said report at a specific meeting of the Parliament's Plenum, at the conclusion of which the various parliamentary Groups will be entitled to express their position.

### **Article 32**

Whenever the Parliament' will' be dissolved, the Sindic de Greuges shall relate with said through the Permanent Delegation

### **Article 33**

1.- To carry out his functions, the Sindic de Greuges shall be provided with an office whose organization and operation will be coordinated and managed by him; to that end he will be entitled to issue any pertinent instructions.

2.- The office in question shall have any personnel and material means as required, in accordance with budget items to be included in the budget of the Parliament of Catalonia.

3. The Sindic de Greuges will be in charge of preparing the budget draft referred to in the precedent paragraph

### **Article 34**

1.- With the prior agreement of the parliamentary commission referred to in article 2, the Sindic de Greuges will be entitled to appoint some trusted person to fill the post of Deputy. Such person shall meet the conditions set forth in article 7 and shall not be affected by an incompatibility listed in article 8.

2.- The Deputy shall assist the Sindic de Greuges and assume any investigation functions assigned or entrusted to him in the resolution of any claim or proceeding; in that case, he will enjoy the same prerogatives, rights and obligations.

3.- In those cases referred to in c) , e) , f) and g) of article 11, the Deputy shall temporarily exercise the Sindic de Greuge's functions until the vacancy will have been covered by Parliament.

4.- The Deputy shall cease immediately upon the new Sindic de Greuge's taking office.

5.- With the prior agreement of the parliamentary Commission referred to in article 2, the Sindic de Greuges may appoint some trusted person to hold the office of Deputy for the defence of children's rights. Such person shall meet the conditions set forth in article 7 and shall not be affected by the incompatibilities listed in article 8.

6.- Any Deputy assigned to the defence of children's' rights, shall assume any inquest functions assigned or entrusted to him by the Sindic 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.

7.- The Deputy for the defence o children's rights shall automatically cease upon the new Sindic de Greuges taking office.

### **ADDITIONAL PROVISION**

In the event that the termination of the Sindic de Greuges' mandate should take place while Parliament is dissolved, he will continue in

the exercise of his functions until the new Parliament will have appointed a successor.

**TRANSITORY PROVISION**

No later than four months after this Act will become effective, the Parliament shall start proceedings to appoint the Sindic de Greuges.

**FINAL PROVISION**

This Act will become effective the day after its publication in the Official Bulletin of the Generalitat.