

no. 25

SUMMARY OF THE
**2022 Annual Report
to the Basque Parliament**



ararteko

Herrlaren Defendatzalea · Defensoría del Pueblo



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ARARTEKO

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Manuel Lezertua Rodríguez
Ararteko – Ombudsman of the
Basque Country

“We are way more powerful when we turn to each other [...], when we celebrate our diversity [...] and together tear down the mighty walls of injustice”

-Cynthia McKinney, US politician and activist-

Presenting the work of the Ararteko always constitutes a unique opportunity to take stock of the concerns that Basque society has brought to the attention of this institution as regards the functioning of the public services provided by the Basque administrations.

2022 brought back normality after the COVID-19 pandemic, whose aftermath includes ongoing health problems among people and a pressured health service. Dramatic issues such as the war in Ukraine have forced Basque public opinion to face the unacceptable reality of serious and massive violations of human rights.

It has been business as usual for the Ararteko. That situation of normality remained unchanged during the months that the Deputy Ararteko took the role of acting Ararteko with responsibility and commitment.

Yet again, our overall work has increased, and we have processed 12,700 proceedings. Citizens filed 7,500 complaints and consultations, we opened 21 ex officio cases and responded to 4,989 telephone enquiries. Special mention should also be made to notable efforts to promote external cooperation, with 209 meetings and all types of events.

As regards the functioning of the Basque administrations, it should be noted that in over 88% of the cases processed by the Ararteko, the administration in question has corrected and modified the action leading to the complaint.

However, some Basque administrations failed to pay due attention to their cooperation with this institution when activity came to a standstill during the COVID lockdown.

Thus, the Ararteko has noted the worrying trend of a progressive failure to respect the deadline to respond to requests for information regarding the complaints and to accept or reject our decisions. All the above prolongs the process to resolve complaints.

Consequently, the Ararteko has implemented several measures aimed at intensifying the requests to respond, in due time and form, by strengthening contacts, and recalling the consequences that failing to cooperate with the Ararteko has on guaranteeing the rights of citizens and on the institutional credibility itself.

Mention should also be made of the passing of 3 fundamental laws for the functions of the Ararteko:

Act 1/2022, of 3 March, as the second amendment to the Gender Equality Act, has reformed Act 4/2005, of 18 February.

Basque Income Guarantee System and Inclusion Act 14/2022, of 22 December.

Act 15/2022, of 12 July, for equal treatment and non-discrimination.

The Children and Young People's Rights Department has called attention to the need to raise awareness that working to guarantee the rights of children and young people, of people with disabilities, foreigners, migrants, members of the Roma community or of the LGBTI community requires authorities to ensure that the principle of non-discrimination is mainstreamed in the institutional agenda.

Noteworthy international undertakings included the institution's participation in reports of the European Fundamental Rights Agency (FRA); the visit to the Basque Country of the European Ombudsman, Emily O'Reilly as guest of the Ararteko; and hosting the ENYA Forum on Climate Justice, attended by young people from different European Countries, and the annual conference of the International Association of Language Commissioners (IALC), both of which were held in Bilbao.

For 2023, this institution will commit its efforts to strive to continue being a useful institution for Basque society, by defending citizen rights in the Basque Country.

THE ARARTEKO'S WORK IN FIGURES

During 2022, there were a total of **12,704 procedures** (a slightly higher number than the previous year), out of which **7,504** were **complaints and consultations** and 21 ex officio cases (special mention, by areas, should be made of those brought by the Children and Young People's Rights Department, and by the Security Department).

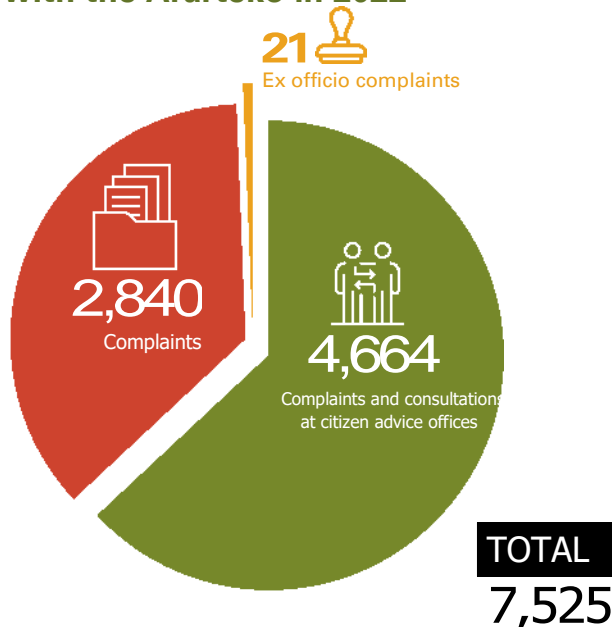
A total of 9,653 services were provided by the **direct service offices**. 4,664 of which were complaints and enquiries made in person at any of the three offices, and 4,989 were advice and information using the telephone hotline.

In 2022, we held 58 **meetings** with social organisations and actively took part in different acts, conferences and events, basically related to initiatives organised by administrations, social organisations and ombuds, at regional, state and international level. There were 147 activities of this type in 2022. The 28 activities performed by the Ararteko with an international or European dimension are likewise noteworthy.

In 2022, **2,328 complaints were resolved** and **1,355 decisions** were issued. The other cases were dismissed (duplication with other ombuds, cases pending a court ruling or with a final judgement, commencement of legal proceedings, etc.). The average length of the compliant proceedings was 66 days.

If we analyse those complaints, the administration in question had **acted incorrectly** in nearly **47%** of

Complaints and consultations filed with the Ararteko in 2022



Total procedures by the Ararteko in 2022

Complaints and consultations	7,504
Information and advice through the telephone service	4,989
Participation in external activities	119
Work meetings with administrations and social organisations	58
International activities and with other ombuds	28
Open days for the public	4
Inspection visits	2
Total	12,704

previous year (45%). The authority in question corrected and amended the action leading to the complaint in 88% of the cases. The Ararteko did not need to issue a formal recommendation in the majority of the cases.

Depending on the **thematic area** to which the complaints refer, we can see that there was a slight drop in claims regarding mechanisms to combat social exclusion: 458 (compared to 508 in 2021). Over 90% of the complaints were to do with different problems relating to the functioning of **Lanbide** [Basque Employment Service] and its procedures regarding the management of the Income Guarantee Payment (RGI) and the Housing Supplementary Benefit (PCV).

Nearly **46%** of the complaints processed were related to **social rights** (health, social inclusion, housing, education, etc.).

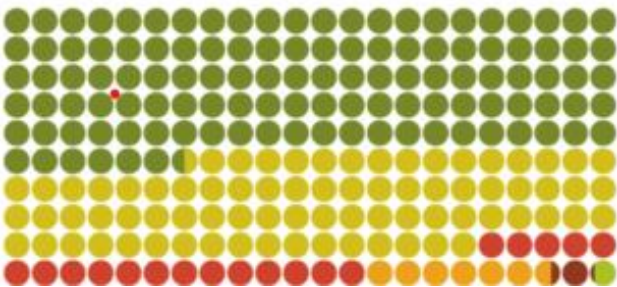
There were also a large number of complaints, just over 6%, to do with **public assistance schemes**. Many of those cases (including the social inclusion ones) were related to public policies aimed at guaranteeing the **real and effective equality** of everybody, removing the barriers that prevent or hinder women, older people, children and adolescents, people with disabilities, members of the LGTB community, immigrants, Romani people, etc. from exercising that right.

In terms of the proportion of the cases processed affecting each of the **administrations**, in the same way as in previous years, the Basque Government was the one against which most written complaints were filed in 2022 (nearly 54%), and referring to procedures of the local councils of our Autonomous Community (34%) remained

practically unchanged. Nearly 10% involved the provincial councils.

In any event, analysing the procedures of the administrations involved does not necessarily mean that they have acted in any incorrect way, but merely that a complaint has been brought in that regard.

Distribution of the cases processed by the administrations in question



● Basque Government _____	52.60%
● Local administration _____	34.12%
● Provincial administration _____	8.69%
● Public entities _____	3.78%
● Administration of the State _____	0.57%
● Justice _____	0.24%

DEGREE OF SATISFACTION

Some years ago, we embarked on a citizen outreach process with the aim to discover the opinion of the people who have requested our intervention and, thus, to improve the service we offer. Therefore, we send a questionnaire to the person filing the complaint at the end of the process and ask them to answer – on a completely voluntary and anonymous basis – a series of questions to assess the service provided.

When assessing the results, it is important to remember that the administration in question was found to have acted incorrectly in the case of 48% of the complaint processes completed in 2022.

When asked to assess the **assistance provided** by Ararteko's staff, **72%** of the citizens considered that **"the assistance has been good or very good"**.

Regarding the intervention of the Ararteko (availability, interest shown, formalities performed), over 72% said that it had been very positive or positive.

Nearly **84%** would recommend resorting to the **Ararteko** for any problem with the Administration.

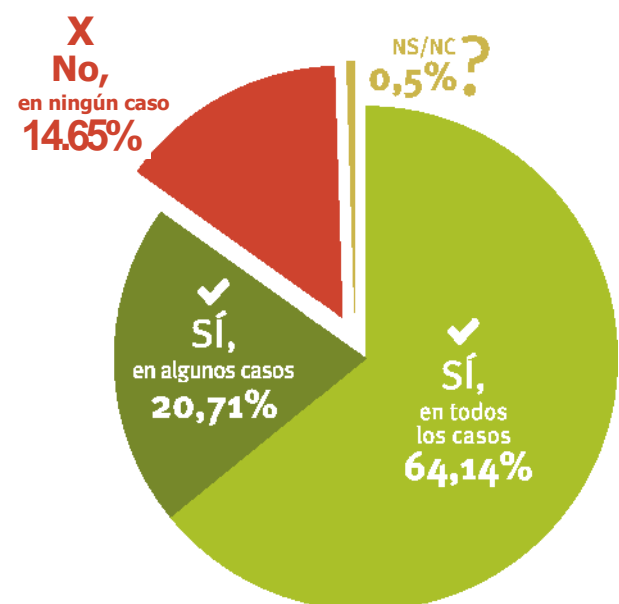
Furthermore, in recent years we have asked about awareness of two key instruments of the Ararteko: the **website** as a basic element for information about our services and interaction with citizens (known by nearly 72% of users) and the **Service Charter** of the Ararteko, which sets out all the quality commitments and the rights of the users with respect to the institution, along with the way to exercise them (known by 57% of people who completed the survey). A very positive aspect highlighted in the results of the survey was the ease of carrying out formalities with the Ararteko.

The results allow us to conclude that when the opinions related to direct intervention areas of the Arateklo - which depend on its own activity and personal resources -, the assessment of the work performed is positive.

The emphasis has likewise been for some time now on encouraging citizens to submit suggestions or opinions about the services provided by the Ararteko and the reform of the [Service Charter](#). In 2022, 11 requests and complaints were submitted.

Furthermore, the reform of the Service Charter has included the right to access the public information of the Ararteko and the exercising of the rights related to protecting personal data. 16 additional requests were submitted and managed in this regard.

Would you recommend anybody with problems with the Administration to turn to the Ararteko?



THE BASQUE GOVERNMENT'S MINISTRY OF EDUCATION TO ALLOW A CITIZEN TO DECIDE BETWEEN THE DIFFERENT NURSING LEAVE OPTIONS

A citizen sought the intervention of the Ararteko regarding how the Basque Government's Ministry of Education was applying paternity leave within the non-university educational system and, specifically, the option of accumulated nursing leave.

The complainant became an adoptive father in March 2021. He had previously already informed the Secondary Staff Service of the Education Delegation of that fact and expressed his intention to take his adoption leave in two parts: the second part during the 2021-2022 academic year, followed by the paid leave for the accumulated nursing leave.

According to what he indicated, the person in charge of this matter in that service assured him that that option was possible but that, taking in account that the later part of the leave would happen once the following academic year was under way, access to accumulated nursing leave required that his post was guaranteed up to the date on which his child turned one (26 February 2022), and he had to be covering a vacancy or somebody on protracted leave.

On 14 September, he took up a vacancy due to retirement, and his appointment for the 2021-2022 academic year would be until 31 August 2022, i.e., some months after the date on which the child would turn one.

The citizen then again contacted the Staff Service to indicate his intention to take the second part of the leave between 10 January 2022 and 6 February 2022, followed by the days of accumulated nursing leave. He also asked to be notified of the number of days to which he was entitled for the latter circumstance.

After several attempts to contact them by telephone and by email, several days later he received an email stating that even though he held a post covering a vacancy, the fact that he had not been appointed to the post on 1 September meant that he could be granted the accumulated nursing leave, as that was a condition that had to be met.



Furthermore, as we could see in the documentation submitted along with the complaint, the reply was that the legislation had changed in that academic year, when the individual pointed out, by that same channel, that the new information contradicted what had previously been provided by the education authority and which he had taken into account to exercise his right.

However, in general, the applicable legislation in the sector gives the people who are entitled to nursing leave the right to opt for it to be implemented either by means of a daily break or absence of one hour in length until the child turns one, or as a total absence during the full days that result from accumulating the hours in question if they had opted to the first option.

Therefore, the Ararteko recommended the Basque Government's Ministry of Education to allow that citizen to choose between the different nursing leave options.

THE ARARTEKO CONCLUDED A PROCEDURE AFTER THE BASQUE HEALTH SYSTEM - OSAKIDETZA DECIDED TO CHANGE THE CRITERIA FOR FINANCING DIABETES MONITORING DEVICE

The Ararteko processed the complaint of an 81-year-old woman, with Type 2 diabetes, who for many years had to inject herself with insulin at least 3 times a day and control her glucose level, to balance her sugar levels due to the sharp rises and falls.

Her fingers could not feel anymore due to the repeated needle pricks, which had an impact on other daily tasks, including looking after her 91-year-old husband with a severe disability.

Therefore, she decided to buy a "flash" monitoring system, used to measure glucose levels in the interstitial fluid, thus avoiding needle pricks. The device meant she needed to pay around €60 every fortnight, which was very expensive given that she was on a pension of €600 a month.

The complainant knew that Osakidetza did finance the device for young patients with Type 1 mellitus diabetes, even though the finger injuries caused by the standard needle tests are similar in both cases. She filed a claim at Cruces Hospital and Osakidetza's answer was that she was not entitled to the monitor being financing, not because of her age, but because of the type of diabetes.

In 2019, the Ministry of Health announced on the Basque Government website that this device was included in its portfolio of services, which would mean *"an important improvement to the quality of life of people with diabetes"*.

Therefore, the Ararteko informed the Basque Health Service that it seemed reasonable to argue that the improving of the quality of life of those patients is not linked so much to their type of diabetes, but rather to the fact that they no longer had to use a method involving a large number of needle pricks.

Osakidetza informed us that the financing criteria had changed, that the patient now met them and that they had already contacted her to collect the monitors from her medical centre.

ARARTEKO'S INTERVENTION BROUGHT OSAKIDETZA TO CHANGE POSITION AND ALLOW A CITIZEN TO ACCESS THE MEDICAL RECORDS OF HIS DAUGHTER

A citizen contacted the Ararteko after Osakidetza had refused him access to the information on the health of his daughter as he was divorced.

The Ararteko asked Osakidetza to provide the reason for refusing access to that information as the divorce by mutual agreement decree established shared custody of the daughters.

In its reply, Osakidetza acknowledged the error committed by the health centre staff when dealing with the right of the citizen to access the medical records of the child under his parental authority. Furthermore, it specified that it had issued specific institutions to inform the complainant of the formalities to be carried out to obtain the health information of his daughter by means of the appropriate representation.

Therefore, the Ararteko's office concluded its intervention in this case as it considered that the necessary measures had been adopted to settle the problem in question without it being necessary to issue a recommendation.



THE BASQUE GOVERNMENT WILL REMOVE MUNICIPAL CENSUS REGISTRY REQUIREMENT FOR PEOPLE WITH PERMANENT REDUCED MOBILITY IN PUBLIC HOUSING ALLOCATION PROCEDURES

The Ararteko was thus notified, after its office had informed the Basque Government's Ministry of Territorial Planning, Housing and Transport of the need to guarantee the participation of that group in the procedures to allocate adapted housing in the Basque Autonomous Community, regardless of whether their registration on the municipal census tallies with the municipality of the development.

The Ararteko began to act after agreed to proceed with the complaint of a citizen expressing her disagreement with the decision of the Bizkaia territorial housing delegate to exclude her request to be included in the process to allocate rental social housing in Getxo.

Her family unit is made up of three members. One of them, the son, uses a wheelchair, is suffering from a degenerative illness and is officially severely dependent and with 86% disability. Housing on the free market is therefore not appropriate for them.

Given the need for housing adapted to the needs of her child, the citizen applied to take part in the procedure to allocate 91 housing units in Getxo, where 4 adapted housing units had been reserved for people with an official disability with permanent reduced mobility.



Given the circumstances, the Ararteko recommended that the Ministry reconsider the decision of the Bizkaia territorial housing delegate. The Ministry, which fully accepted the points raised in the recommendation, argued that the review of the exclusion ruling would lead to situations that were also unfair, as people had already been allocated the adapted housing of that development, and there was a waiting list of those people meeting the municipal census requirement.

Even though the specific case of the complainant was not reviewed, the Ararteko considers as positive the decision of the Ministry to remove, moving forward, the requirement to be on the municipal census for people with permanent reduced mobility and of the victims of gender-based violence in the procedures to allocate social housing and time-limited accommodation.

THE ARARTEKO ASKED ONDARROA LOCAL COUNCIL TO RESPOND TO THE REQUEST FILED BY A CITIZEN FOUR YEARS AGO

A person contacted the Ararteko because in December 2018 she had asked Ondarroa Local Council to review the property tax (IBI) receipts that she had been issued by the council over the last four years, but had not receive an answer.

The citizen is the owner of a dwelling that is on loan to Alkoabide (Basque Government's public rental management company), to be made

available on the affordable rental market. She indicated in her complaint that when renewing the usufruct contract with Alkoabide, the latter informed her that she could benefit from a reduction of up to 50% in the IBI.

As she did not receive an answer to her request, she formally insisted that it be processed. However, as of the time of writing, the local council is yet to respond.

IN OBSERVANCE OF CRITERIA ISSUED BY THE ARARTEKO, THE INSTITUTE FOR ADULT'S BASQUE LITERACY - HABA HAS ADAPTED THE TERMS TO CONVENIE THE EXAM SO THAT HIGH LEVEL ATHLETES CAN CHANGE THE DATE IF COMPETING



An individual contacted Ararteko after HABA had refused the request to take the open oral exam to accredit C1 linguistic level at the extra session established in the 2021 exam announcement.

The complaint set out that two high performance sportspeople enrolled in April 2021, within the period for that purpose, to take part in the HABA open call of exams to accredit the C1 level and paid the relevant fee.

After a selection process of several competitions, they were chosen to go to the Under-23 and Youth World Championships, being held in Slovenia from 6 to 11 July.

Both athletes had successfully passed the written expression and understanding exams, and had to take the oral expression and understanding exams. The exam schedule published by HABA coincided with the dates of the world championships. They therefore submitted - in the time and form indicated in the requirements of the exam announcement - the relevant request to change the date in order to be able to sit the exam at the extra session planned for 16 July, or to take the exam at the scheduled time and day, but remotely. They attached an official supporting document from the national Under-23 and Youth coach of the Spanish Royal Canoe Federation.

The complainant considered that the circumstances had occurred unexpectedly and for reasons of force majeure, as they did not know at the time of enrolling that they would be selected to represent the national team at that championship. Furthermore, given the exceptional situation of the sporting world due

to the pandemic, it was not confirmed at that time that the championship could go ahead.

According to the HABA ruling, in the case of this announcement, *"...the reason for requesting a change to the scheduled date to take the exam must occur unexpectedly and for reasons of force majeure"*. HABA therefore refused their request and indicated that the alleged grounds did not meet those requirements.

The Ararteko has issued decisions regarding unexpected circumstances and reasons of force majeure with respect to the taking of tests to access a public post with exams on a single date and on a competitive basis. The arguments can be applied to the case in question, even though there is no competitive basis given the conditions of equality among the exam candidates.

The decision of the Ararteko referred to a ruling of the Castilla y León High Court of Justice that established that *"the concept of 'force majeure' does not have to be taken in its technical meaning ('strictly speaking'), but rather as a 'synonym of unintended obstacle (beyond the control of the candidate and which prevents them from going to the test)'"*.

After raising these points with HABA and requesting information in this regard, the organisation informed the Ararteko that it would be taking the arguments in the aforementioned ruling into account moving forward. Furthermore, HABA amended the 2022 exam announcement, so that elite athletes could take the exam at an extra session simply by providing proof that the exam dates coincided with international competitions.

THE ARARTEKO RECOMMENDED DURANGO LOCAL COUNCIL TO REQUEST A BAR OWNER PROOF OF COMPLIANCE OF CORRECTIVE MEASURES IMPOSED TO THE BUSINESS CERTIFICATE



A citizen filed a complaint with the Ararteko regarding the lack of response by Durango Local Council to the complaints regarding the lack of compliance of a hospitality establishment located close to his home. He pointed out the lack of environmental control of the serious noise and vibration nuisance that he suffered at home due to the high volume of music at that establishment and as it systematically failed to comply with its closing time.

In October 2021, he reported that the premises lacked the necessary level of insulation and that the doors were always kept open. He alleged that the situation was seriously harming his health.

The Ararteko requested information from Durango local council in order to establish what action the local corporation had taken to correct the nuisance related to the running of the establishment.

The local council answered that a business activity licence had been granted in June 2007, which established the obligation to comply with a series of measures.

Apart from granting the relevant licences, the local council must likewise ensure compliance of the corrective measures while the potentially nuisance activity is being carried out, as regards controlling the noise generated and other environmental requirements.

Therefore, the Ararteko recommended that Durango Local Council immediately require the owner of the establishment to ensure the activity is compliant. The Ararteko likewise recalled that if the establishment could not be legalised as it was failing to comply with current legislation, it should be closed down.

THE ARARTEKO ASKED BILBAO CITY COUNCIL TO CHANGE THE GENERAL HOURLY PARKING FEE, WHICH WAS CONTRARY TO THE PRINCIPLE OF EQUALITY AND OF ECONOMIC CAPACITY

A citizen filed a complaint with the Ararteko in which he queried, on the grounds of the right to equality, the different way in which Bilbao City Council was processing the parking fee in the OTA (public street parking) areas, during the first 15 minutes, depending on whether the ticket was obtained from the parking meters or using the Bilbao Park app.

He explained that if the ticket was obtained from the ticket machine, the parking of the vehicle was subject to the payment of a fee of €0.10; but it was free if permission was given using the Bilbao Park app.

The Ararteko asked the city council to set out the reasons for the tax ordinance treating both situations differently.

As a definitive answer, the Mobility and Sustainability Area informed us that: *"the aim of this measure is to foster and promote the use of the app with the intention to gradually replace the parking meters in order to progress in accessibility policies"*.

The justification of this benefit, as expressed by Bilbao City Council, lies in the promoting and fostering of the use of the app to pay for the public street parking, in order to gradually remove the public street parking meters and, thus, improve accessibility in the city.

It should be borne in mind that even though the digitalisation of the Administration and of society itself is advancing exponentially, public administrations also have to remove the obstacles so that nobody is left behind in that process.



FOLLOWING THE RECOMMENDATION OF THE ARARTEKO, BARAKALDO LOCAL COUNCIL TO AMEND THE SOCIAL EMERGENCY ASSISTANCE (AES) APPLICATION FORM

An association contacted the Ararteko to report different irregularities in the processing of the social emergency assistance (AES) in Barakaldo. They included the irregularities in the form used to apply for the assistance, in which the AES applicants have to select between different blocks of types of costs that are mutually incompatible.

The Ararteko sought the cooperation of Barakaldo Council, which provided information on the different issues affecting the procedure, along with the criteria, time periods and formalities to authorise the AES. As regards the application form, it argued the usefulness of clearly explaining the possibility of the assistance being authorised.

The processing of this case has shed light on the procedure followed by Barakaldo Local Council to authorise the AES and the effort to objectively

manage the reception of a high number of applications.

In a decision addressed to Barakaldo Local Council, the Ararteko assessed the importance of the basic guarantees of the procedure, with respect to which the local council expressed its commitment. And, as regards the considerations contained, it recommended that the AES application form should be modified by removing the sentence *“the concepts of Block 1 and 2 are mutually incompatible”*.

The local council has accepted the recommendation and has informed us that it is going to change the assistance application by removing the aforementioned sentence and replacing it with *“the authorising of Block 1 implies the application of the maximum limits in Block 2”*. The form will also be modified on the website.



THE ARARTEKO ASKED TO REVIEW THE REJECTION OF A REQUEST TO CHANGE HOUSING ON THE GROUNDS THAT THE PROPERTY IS NOT ADEQUATE FOR THE SPECIFIC NEEDS OF THE FAMILY UNIT, A WOMAN AND HER CHILD

The complainant was a member of a single-parent family unit with a dependent 10-year-old son. Alokabide allocated the housing in 2019 and she accepted it because of her difficult economic situation and the high price of rents on the free market. However, the property has only one bedroom and that has been hindering the development of her son's personality, due to the obvious lack of privacy, and she has been forced to sleep on the bed settee in the living area (living

room-kitchen-dining area).

As the coexistence with her son was being badly affected due to the lack of privacy, she requested that a specific housing need be recognised. Therefore, in the reasons section of the form provided by Alokabide, she marked the option for *“Duly accredited specific needs”* and submitted a report from her family doctor on the psychological situation of the mother and son.

Alokabide rejected the request as it considered that the medical report was not conclusive and that there was no overcrowding. Alokabide also warned her that it would not assess another relocation request on the same grounds for two years.

In the opinion of the Ararteko, the fact that the housing unit only had one bedroom and the woman was forced to sleep on the bed settee meant that the request for recognition of the specific need to change housing is duly justified according to the Law.

THE ARARTEKO RECOMMENDED SESTAO LOCAL COUNCIL TO REVERSE THE AMOUNT COLLECTED TO REMOVE A VEHICLE

A citizen resorted to the Ararteko after filing a document with the General Registry of Sestao Local Council and not receiving an answer. The document challenged a local police officer's reporting his vehicle for the handbrake not being fully on, which resulted in the vehicle moving and hitting another; and his vehicle being towed for that reason.

He also asked for the amount to be returned that he had to pay to recover the vehicle from the municipal pound (141 euros).

As he explained, when he went to recover the vehicle, he decided to push it to see if the handbrake was on and he realised that the car could not be moved. He called an officer who was there and the latter checked that the handbrake was on.

The Ararteko asked for information from Sestao local council. According to the report, no disciplinary proceedings had been started and no fine issued. The only matter in the report was the charging of the fee.

Therefore, the Ararteko recommended that Sestao Local Council reverse ex officio the payment made as the fee to remove the vehicle and that the amount collected improperly be repaid in full.

FOLLOWING THE ARARTEKO'S INTERVENTION, BILBAO CITY COUNCIL CANCELLED A PENALTY ISSUED FOR INFRINGEMENT OF THE RULES ON MOTORCYCLE EMISSIONS INSPECTION

While the complainant was riding through Bilbao municipal district, a municipal inspector warned him that the noise levels of a citizen's motorcycle could be over the permitted limits.

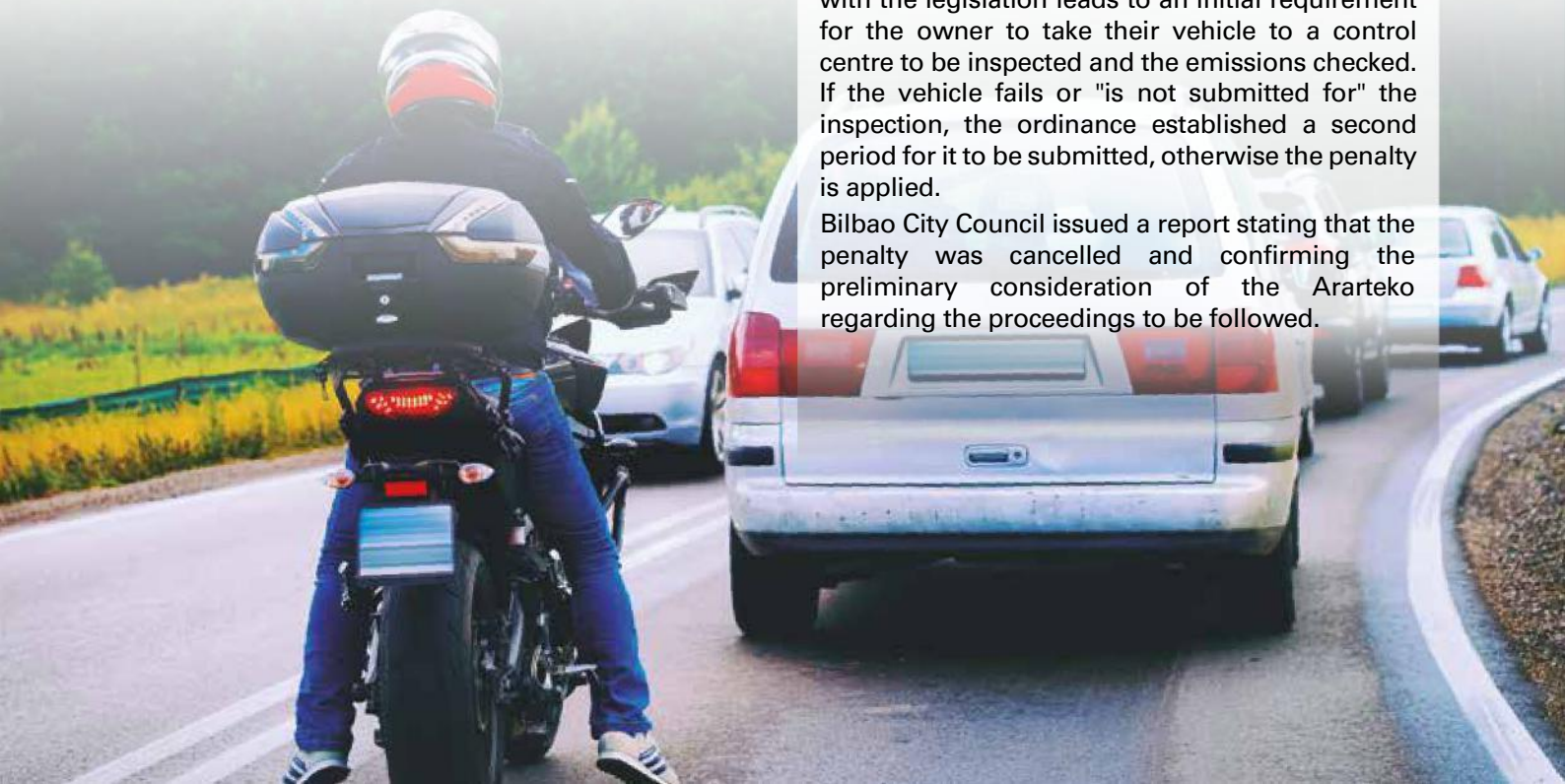
Bilbao City Council formally requested him to attend a municipal vehicle control centre within 15 days, in order to check whether the motorcycle met current regulations regarding noise emissions. As he did not comply with the request, the city council started disciplinary proceedings.


Once an attempt had been made to serve the notification, the ruling was published in the BOE [Spanish Official Gazette] without the interested party making representations. The local council settled the case by issuing a fine of €300).

According to the complainant, he was not aware of the disciplinary proceedings until he was served the penalty ruling to his address. Once he was aware of the facts, he took his motorcycle to be inspected and it was established that its noise level was not over the legally established limit.

The Ararteko requested information on the disciplinary proceedings from Bilbao City Council. The institution informed the Ararteko that the Municipal Ordinance for the Protection of the Environment establishes that the failure to comply with the legislation leads to an initial requirement for the owner to take their vehicle to a control centre to be inspected and the emissions checked. If the vehicle fails or "is not submitted for" the inspection, the ordinance established a second period for it to be submitted, otherwise the penalty is applied.

Bilbao City Council issued a report stating that the penalty was cancelled and confirming the preliminary consideration of the Ararteko regarding the proceedings to be followed.





THE ARARTEKO RECOMMENDED THE BASQUE ENERGY BOARD TO REVERSE ITS REJECTION OF A GRANT REQUEST TO PURCHASE A VEHICLE WITHIN THE 2021 VEHICLE SCRAPPAGE PLAN (PLAN RENOVE)

A citizen filed a complaint with the Ararteko as he had been refused a grant to purchase a vehicle requested as part of the 2021 Renove Vehicle Scrappage Plan (PAVEA) of the Basque Energy Board (EVE).

The EVE refused the grant as it deemed that the grant applicant did not coincide with the owner of the scrapped vehicle on the documentation submitted.

The complainant appealed and asked for the rejection to be reviewed. He alleged that the discrepancy in the data was due to the document obtained by EVE from the Directorate-General for Traffic (DGT) being incomplete. Even though it was true that the owner of the scrapped vehicle, who appeared on the DGT document, was another person, it was because they were the joint owners of the vehicle.

While processing the appeal, the EVE gave the complainant 10 days to provide the former with a certificate from the DGT supporting the joint-ownership of the vehicle.

The complainant provided the certificate outside the 10-day period set. As he informed the EVE, the delay was the result of a delay in the management of in-person appointments at the DGT.

Despite this, the EVE ruled on the appeal and yet again rejected the application as it considered that the proof of ownership requirement had not been fulfilled.

The terms and conditions approved by the EVE general manager for the grant programme for investments in efficient and alternative vehicles in 2021 established that it would be EVE that had to automatically check a series of documents including: the ID of the applicant, the certificates of being in good standing with their tax obligations, the municipal census certificate and *“the registration certificates of the vehicle to be scrapped and the vehicle purchased”*.

The terms and conditions established that the interested parties would not have to provide those documents as they were already in the possession of the public administrations.

However, in the information provided to EVE by DGT, the registration certificate of the vehicle to be scrapped did not expressly include the applicant as the owner of the vehicle.

The Ararteko believed that the EVE should have accepted the scrappage certificate submitted with the owner's details or, otherwise, ex officio ask the DGT for the additional documents as proof of the data coinciding as the accreditation of the ownership of the scrapped vehicle of the grant applicant.

Therefore, it recommended that the Basque Energy Board reverse its rejection of the grant application and approve the complainant's application.

BIZKAIA PROVINCIAL COUNCIL ACCEPTED TWO RECOMMENDATIONS MADE BY THE ARARTEKO TO FULFIL THE FUNDAMENTAL REQUIREMENTS OF THE ADMINISTRATIVE PROCEDURE BY ELECTRONIC MEANS

The Provincial Council's Infrastructures and Territorial Development Department has agreed to make the relevant technical and legal changes in the processing of the subsidies for users of the toll road infrastructures.

In one of the cases, the Ararteko recommended that the provincial authority add the Bidesaria platform to its website, so that people have the technical and legal security guarantees in their relations with the administration to obtain subsidies. It likewise asked for legal and technical resources, including skilled staff, be set up in order to streamline the administrative processing and guarantee assistance for the public, so that the latter can use electronic means in their relations with the Administration, as envisaged in the legislation.

In the other case, a citizen informed the Ararteko that he disagreed with the stopping of a subsidy that he had been receiving since April 2022, as the Administration deemed that he did not meet the requirements to continue as a beneficiary. The publicly-owned company Interbiak, in charge of managing the subsidies, informed the citizen, through the Bidesaria subsidy management electronic system and by email, that he had to submit his driving licence, given the possibility that it had expired. The subsidy previously granted in January 2022 was suspended for several months until the citizen finally uploaded the requested document to Bidesaria.

FOLLOWING A RECOMMENDATION OF THE ARARTEKO, GIPUZKOA PROVINCIAL COUNCIL TO ESTABLISH NON-ELECTRONIC MEANS TO MANAGE AND COLLECT THE FEE TO USE ROAD INFRASTRUCTURES

A citizen filed a complaint about the Bidegi, a company coming under the Road Infrastructure Department of Gipuzkoa Provincial Council, as his vehicle could not be linked to a bank card as the user of the Beasain highway as he did not have an email address.

Bidegi is tasked with levying, managing and collecting the fee for using road infrastructures and, specifically, for the Beasain-Bergara section.

It set up a website to manage and collect the fee, where the highway users had to enter details in order to link a vehicle registration number with a bank card. That website required an email address in order to be validated in the system and, thus, be able to link the registration number with the bank card.

The Ararteko published a study on digital administration and citizen relations. The points covered included the degree to which the digital divide affects certain groups or individuals in the exercising of their rights and how digital relations between citizens and the Administration should be effectively structured.

Therefore, the Ararteko recommended that the Provincial Council apply the principles of good governance regulated in the Good Governance Provincial Standard, by providing the means that allow citizens to select the channel for their relations with the provincial public sector without restrictions or discrimination.



THE ARARTEKO NOTED COMPLIANCE WITH ITS GENERAL RECOMMENDATION REGARDING ASSISTANCE FOR HOMELESS PEOPLE



The Ararteko has promoted the proposals of international and European authorities to combat homelessness and showcase the Basque social protection system and organisational and legal tools available for an effective response to the needs of the homeless.

In 2022, the Ararteko completed the monitoring of the General Recommendation of the Ararteko 2/2020, of 5 June 2020: *The Basque public administrations need to continue to build on the work so far to provide assistance of the people living in the street, by complying with the directives of the Basque Strategy for the Homeless (2018-2021).*

The social context and framework, the existing appraisals and assessments and the actions implemented the different public authorities that were asked to collaborate have been analysed.

Since the mid-2019s, we have noted an increased in the number of homeless women and men in the streets of our cities, which is also reflected in an increase in complaints and consultations made to the Ararteko. Some were to do with women, most of whom were over 50, which has been an additional factor for concern.

The complaints were down to the lack of sufficient residential places, the mismatch to the specific needs of the users (by sex, age, mental health, safety...), shortcoming in social intervention, health needs and other basic needs not covered (hygiene or food), etc.

The analysis of the answers received allowed the involvement of the Basque public administrations to be recognised as regards the care of homeless people during lockdown and the effort to ensure

continuity of the inclusion processes underway and the programmes deployed.

Since the two states of alarm and the extensions ended, the administrations have continued with the measures and programmes implemented and have adapted and given impetus to new programmes and actions, which means that we can conclude that the general recommendation of the Ararteko has been fulfilled.

However, that endeavour has not been sufficient to solve the problem of the growing *homelessness* in our streets and to ensure that sufficiently agile progress has been made after lockdown to set up a quality, stable and structured system within the Basque social services system and in conjunction with other public systems such as housing and minimum income guarantees.

The lesson learnt is that a new approach is needed to provide assistance for the homeless - women and men alike - that is focused on care programmes and infrastructures, along with fulfilling the right to decent and adequate housing.

The increase in the number of homeless women, regardless of whether or not they are in a couple, raises serious questions about the preventive measures to be adopted beforehand and regarding the specific meeting of their needs.

When the homeless are evicted from their temporary shelter, they are left outdoors and exposed to the elements; that is seriously endangering their personal integrity and aggravating their vulnerable situation and severe social exclusion.

INSTITUTIONAL DECLARATIONS

The *institutional declarations* are the opportunity for the Ararteko to publicly reflect on different areas of interest in order to pass on a message to Basque society at the time of marking important milestones. The main institutional declarations in 2022 are summarised below.

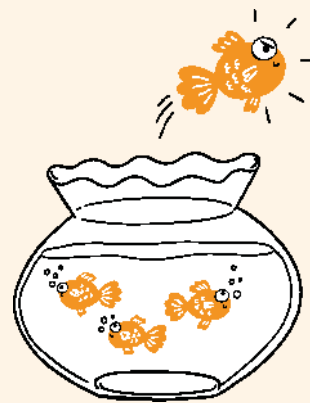


15 JUNE World Elder Abuse Awareness Day

*It is only fair to repay
older people for their
contribution to society*

Old age and ageing are circumstances that may involve greater vulnerability and deserve special attention and appropriate public responses. It is true that there is ever greater emphasis on preventing and detecting *situations of abuse*, particularly psychological as it is more difficult to detect; however, the public response in this line needs to be intensified in the area of health and social services. Furthermore, there needs to be greater social awareness about such situations being unacceptable, so any suspected cases trigger alarms.

On this UN World Elder Abuse Awareness Day, the Ararteko wishes to stress that the current situation still requires multiple interventions: social awareness, training professionals, making people aware of their own rights, prevention, and, above all, an in-depth reflection on the way in which care for the people with the most pressing need is organised by society.



20 JUNE WORLD REFUGEE DAY

*More and more people are being
forced to flee from conflicts or
persecutions in a never-ending
spiral.*

The current situation in Europe plainly and clearly illustrates the harsh cruelty of war and its absolute absurdity, but at the same time the interdependence between peoples and the imperative need for human solidarity.

However, the protection of those vulnerable and desperate people is far from being at the centre of the public policies, despite the existence of different international instruments regarding the protection of fundamental rights and current humanitarian law in this regard.

Our cities and people receive millions of people who have been forced to leave the places where they were born, where they had their roots, their ties, their homes. They are victims of geo-strategic or political and economic interests and decisions that have put an end to the likelihood of those people being able to survive, develop, train, bring up their children and enjoy a decent life in their places of origin. The minimum requirement is that, when they seeking help from us, their abused dignity be fully respected and their human rights guaranteed, regardless of their origin, ethnicity or administrative status. Those issues must remain at the heart of public debate and of the decisions of our authorities, irrespective of their provenance or place of national origin.



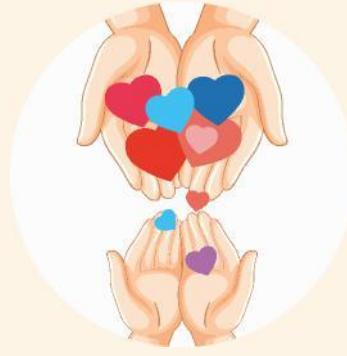
10 OCTOBER
World Mental Health Day

The Ararteko wished to stress that people with mental disorders or illnesses, in their multiple forms, are a group to which this institution has always paid special attention given their special vulnerability.

The focus on mental health requires a great effort by the healthcare authorities, but goes further. Coordination between systems, particularly in the social sphere is also essential, and more particularly in the social and healthcare area, which plays a crucial role when addressing this problem. Intersectoral cooperation must be fostered, particularly to understand the structural and social determining factors of mental health, and the intervention should be in such a way to reduce the risks.

Yet that requires the commitment of everybody and the establishing of community networks of interconnected services.

The resources - a commitment of the public authorities, but also a vision of the problems, their causes and aggravating factors, the triggers of mental disorders - include having clear protocols that allow not only appropriate prevention, but also empathetic support for the persons affected and their families.



17 OCTOBER
International Day for the Eradication of Poverty

The Ararteko warned about the social inequality in the Basque Country and stressed the need for far-reaching structural change to prevent an ever-greater social divide.

The firm commitment to the dignity, freedom and equality of people must be linked to a more level economic playing field. Public policies and a legal framework are needed to curb the concentration of economic resources. The search for profit, without taking into account human rights, environmental pollution or the hardship of the residents, countries and whole continents, is no longer socially or politically sustainable.

The Basque welfare system has meant that severe poverty has been avoided in the Basque Country and has addressed the risk of social exclusion.

The eradication of poverty no only requires social transfers, but also measures to combat discrimination and social inequality so that everybody can access skilled training, a first-rate job, and safe and adequate housing; in short, to enjoy a decent life, regardless of gender, ethnicity, nationality, age, functional diversity, or health, among other determining factors of vulnerable situations and social exclusion.

In the same vein, the Ararteko calls on the public administrations and society, particularly those who have the most, to create, in a spirit of community and solidarity, the conditions to break the circle of poverty and to make advances in social equality and achieving dignity.

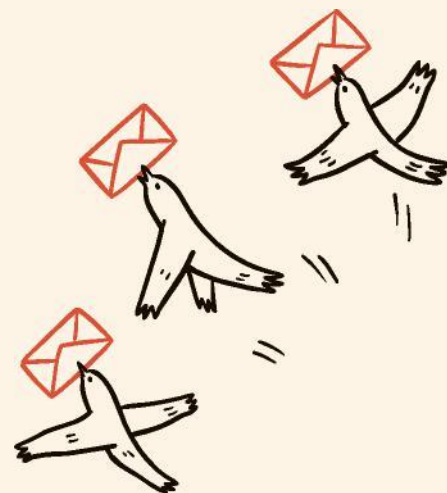
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3 DECEMBER
International Day of the Basque Language

The Basque Language contributes diversity and cohesion to our society and the world

2022 was the 40th anniversary of the coming into force of Act **10/1982, of 23 November, governing the mainstreaming of the use of Basque**, the most important legal instrument in that regard in the Basque Autonomous Community. It has likewise been the fundamental tool of the Ararteko to defend the fundamental linguistic rights of Basque citizens throughout that period.

After 40 years of policies to mainstream Basque as a minority language, the Ararteko believes that any citizen of our Autonomous Community is entitled to be addressed in either of the two official languages as standard and smoothly when using the public



PUBLICATIONS AND REPORTS

MENTAL HEALTH CARE IN THE BASQUE COUNTRY. NEW MODEL, EXISTING RESOURCES, IDENTIFIED NEEDS AND COORDINATION BETWEEN SYSTEMS

Publication by the Ararteko of the papers and materials of the Summer Course held in Donostia-San Sebastián.



The publication contains the papers of the course organised by the Ararteko, as part of the *XLI Summer Courses of the University of the Basque Country (UPV/ EHU)*, at the Miramar Palace in Donostia-San Sebastián in July.

Preventing mental health problems is a crucial social challenge; that necessarily leads to ratifying the importance of the earliest possible detection and care, and the role that primary care plays in the process.

The social and healthcare situation caused by the COVID-19 pandemic has affected the population as a whole. However, as in the majority of social crises, it has particularly affected the most physically, psychological and socially vulnerable, and even more so when they are in positions of job insecurity and when they do not have family or community support networks.

The pandemic has triggered situations of great existential stress, has increased demands for care, and has highlighted possible shortcomings of the systems and available resources (both socially and individually).

A WHO survey in mid-2020 clearly showed that the care services for mental and neurological disorders and substance abuse had been greatly disrupted during the pandemic.

The course focused on detecting key factors in mental health care, mainly as regards anticipating, detecting risks and their control, accessibility to services, relations and coordination among professionals, and the referral to specialised resources, along with dialogue with other stakeholders and the community itself.

VIDEO-SUMMARY OF THE SESSIONS OF THE SUMMER COURSE OF THE ARARTEKO



Furthermore, this video contains a summary of the sessions by the speakers on the course organised by the Ararteko as part of the *XLI Summer Courses of the UPV/ EHU*, at the

Miramar Palace of Donostia-San Sebastián in July and entitled *Mental Health Care in the Basque Country. Approach Model, Existing Resources, Detected Needs and Coordination between Systems*.



THE ARARTEKO COMPILED THE DECISIONS ADDRESSED TO LANBIDE IN 2021



The document contains recommendations and suggestions issued by the Ararteko to the Basque Government's Ministry of Labour and Employment in 2021 and a summary of them. It also includes information on those that have been accepted, those pending a response and those rejected. As is generally known, decisions are issued when the problem leading to the intervention of the Ararteko has not been solved during the processing of a complaint. The majority of the complaints processed in 2021 have resulted in this institution finding that the action of Lanbide-Basque Employment Service needed to be addressed.

Thirty-three complaints were also processed using the simplified procedure. That procedure is used for cases whose *litis* has been the subject of decisions of the Ararteko and discussed in the meetings held between the staff of both institutions, but without Lanbide accepting the points raised and position of the Ararteko.

The compilation analyses complaints referring to the refusal, suspension and cancellation of the Income Guarantee Payment (RGI) and the Housing Supplementary Benefit (PCV). The Ararteko there found a lack of sufficient legal grounds for the action taken by the Lanbide or that the latter did not respect the procedural guarantees. In other cases, the Ararteko did not share the interpretation of the legislation or the probative weight given to certain aspects over other concurring factors.



INSTRUMENTS TO ADVANCE TOWARDS AN ADMINISTRATION CLOSER TO CITIZENS

Publication by the Ararteko of the papers and materials of the XL Summer School held in Donostia-San Sebastián in 2021

The publication contains the papers given during the course organised by the Ararteko, as part of the XL Summer Courses of the UPV/EHU, at the Carlos Santamaría Centre in Donostia/San Sebastián in September 2021.

The Public Administration derives its greatest meaning from the service it provides to citizens; thus, the principles of Article 3 of the Legal System of the Public Sector Act 40/2015, of 1 October, envisage that its actions must provide effective service to citizens; simplicity, clarity and proximity to people; and cooperation, collaboration and coordination among the public administrations.

Therefore, management focused on public service, and clear and transparent information – facilitated through different channels and adapted to the characteristics of the people - are essential.

The digitalisation of the Administration and of society itself is advancing exponentially. That likewise requires the administrations themselves and their work processes to be reformed in order to provide an empathetic, efficient and streamline service that leaves nobody behind; along with adopting measures to narrow the digital divide of the people who, for economic reasons or due to their lack of digital skills, cannot access those resources, in order to avoid digital exclusion and its consequences.

The Public Administration must use the different instruments proactively in order to provide an appropriate response to the citizens' needs. The purpose of the Ararteko's summer course was to analyse some of the tools to do so, in order to set up the best practices possible.

LECTURE BY EMILY O'REILLY, THE EUROPEAN OMBUDSMAN



During her visit to the Basque Country as the guest of the Ararteko Manuel Lezertua, the European Ombudsman **Emily O'Reilly** give a lecture in Leioa, entitled "Accountability, Transparency and Citizen Participation: In Pursuit of European Public Ethical Standards".

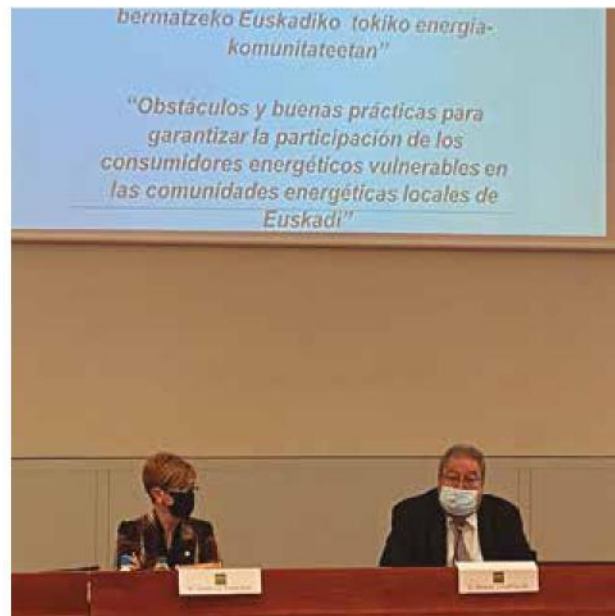
During her lecture, O'Reilly referred to small acts of corruption, of revolving doors between large companies and politics, as the backdrop to the gradual erosion of European values and democracy, and which has fostered the emergence of polarisation and the threats to democracy in Europe and in the USA.

Regarding the role of ombuds, she stressed their commitment to nurturing and strengthening democratic values.

SYMPOSIUM: OBSTACLES AND GOOD PRACTICES TO GUARANTEE THE PARTICIPATION OF VULNERABLE ENERGY CONSUMERS IN THE LOCAL ENERGY COMMUNITIES OF THE BASQUE COUNTRY

During the European Energy Poverty Week, the Ararteko held this session to analyse which mechanisms the public administrations and the social entities should introduce in order to manage energy poverty situations by means of self-consumption.

Ararteko Manuel Lezertua opened this session in Bilbao by considering two aspects. On the one hand, he said that the climate emergency facing the planet required an ecological and energy transition in order to mitigate the most serious effects of climate change. On the other hand, he noted that *"we have an ethical obligation to act and achieve a fair transition, where no one is left*



behind, particularly the most vulnerable groups, and which puts the citizen at the heart of climate and energy policies".

Lezertua likewise referred to energy poverty, a crude reality affecting many households and which is of particular importance in cold months.

MENTAL HEALTH CARE IN THE BASQUE COUNTRY

During the XLI Summer Courses of the UPV/EHU, the Ararteko organised in Donostia/ San Sebastián, a course entitled "Mental Health Care in the Basque Country. Approach Model, Existing Resources, Detected Needs and Coordination between Systems".

During the opening session, Ararteko Manuel Lezertua referred to the social and healthcare situation generated by the Covid-19 pandemic and which had affected the population as a whole.

Lezertua said that *"physical health problems, isolation, lack of social contact, the difficulty to achieve a work-life balance, changes in habits, work problems, etc. have 'taken their toll' on the mental health of the population".* He added that, *"as in the majority of social crises, that has particularly affected the most physically, psychologically and socially vulnerable".*

The challenges to be addressed include working on raising the awareness of society and on eradicating the stigma, and focusing on the prevention and early detection of any difficulty or problem, to avoid their aggravation or the individual putting their own life in danger.

THE SPANISH OMBUDSMAN VISITED THE ARARTEKO IN VITORIA-GASTEIZ



Ararteko Manuel Lezertua met with the Spanish Ombudsman, Ángel Gabilondo, in Vitoria-Gasteiz. Gabilondo went to the Ararteko's headquarters during his first official visit to the Basque Country since he took up the post of ombudsman in November 2021.

The ombudsman informed the Ararteko of his intention to give impetus to the cooperation between both institutions. In that regard, Gabilondo considered that they should press forward along the line of cooperation between the Spanish ombudsman and the ombuds of the autonomous communities, in order to ensure the rights of the citizens and public freedoms.

In turn, the Ararteko expressed his desire to continue working with the Spanish Ombudsman and stressed the mutual understanding between both institutions.

After the meeting, both ombuds met with Lehendakari Iñigo Urkullu, the Basque Premier, at the Ajuria Enea palace.

XXXV OMBUDS COORDINATION SESSIONS



The acting Ararteko, Inés Ibáñez de Maeztu, together with a delegation from the institution, took part in the XXXV Ombuds Coordination Sessions held in León. The representative of the ombuds institutions analysed the problems and complaints of the citizens related to **the provision of the public health service in rural areas.**

Spain has a public health system that seeks to be general and universal, mainly financed by the public budgets, and which guarantees equal healthcare to everybody.

However, it is also a system with many limitations, problems and which, sometimes, proves to be lacking given the needs of the population. One of the main limitations occurs in the countryside, to the point that the rural healthcare system is considered to be different from the urban one, leading to significant inequalities.

After analysing and discussing those points, the ombuds published the conclusions of the meeting.

XXVII GENERAL ASSEMBLY AND XXVI CONGRESS OF THE IBERO-AMERICAN OMBUDSPERSON FEDERATION



The ombuds attending the congress discussed and shared experiences on the human rights organisations and the guaranteeing of rights of people in situations of inequality; people with disabilities, indigenous people, those with sexual and gender diversity, women, girls and young women, older people, the homeless or migrants.

The acting Ararteko, Inés Ibáñez de Maeztu, spoke during a panel on "Stronger Protection for Priority Groups", which referred to the role of ombuds in defending and protection the human rights of LGTBI people.

She explained that even though LGTBI people in the Basque Country enjoy full legal recognition of equal rights, the experience of the diversity in sexual orientation and in gender identity seriously conditions access to a decent job, housing and health, among other rights.

Therefore, the institution of the Ararteko is working to encourage the public administrations of the Basque Country to strengthen the measures and actions aimed at eliminating any cause of discrimination towards LGTBI people.

THE ARARTEKO MARKS THE ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS



On 10 December, the Ararteko organised, together with the Bizkaia Law Society and the High Court of Justice of the Basque Countries, a series of lectures on **“Strategic Litigation for Climate Justice”** to mark the anniversary of the Universal Declaration of Human Rights.

The lectures were given by **Jaime Doreste**, an environmental lawyer and associate lecturer in Environmental Law at the Autonomous University of Madrid, and by Lorena **Ruiz-Huerta**, a lawyer and the legal impact coordinator at Greenpeace Spain.

Before the speakers took to the stage, the acting Ararteko, Inés Ibáñez de Maeztu, stressed the potential of strategic litigation to drive compliance of the duties set by the public authorities to combat climate change, along with its value as a strategic novelty in the Spanish legal system.

Beyond the legal sphere, the Ararteko also has tools – the ex officio procedures and general recommendations – that are to some extent similar to this way of litigating.

Ibáñez de Maeztu stressed *“the potential of cooperation and synergies that can be created between the strategic litigation seeking social change and impact on human rights and these procedures of the Ararteko, aimed at protecting and safeguarding the environment and, consequently, the rights of everybody”*.

ALARDE OF HONDARRIBIA

On 8 September, the day of the Alarde of Hondarribia parade, and which was held again after being cancelled for two years due to the pandemic, the institution of the Ararteko was yet again present in the town to express its clear and firm support of the right of women to take part on an equal footing with men in the festivities. The Ararteko thus backs the fair claim that the Alarde of Hondarribia is by and for all citizens, without exception.

The acting Ararteko, Inés Ibáñez de Maeztu, thus led a delegation of the Ararteko to the *arkupes* [arcades] of Hondarribia Town Hall to greet and show their support for *Jai-zkibel*, a company with men and women, as it set off along the town's high street.



XVII TRIBUTE TO JUDGE JOSÉ MARÍA LIDÓN

The acting Ararteko, Inés Ibáñez de Maeztu took part in the closing session of the XVII Tribute to José María Lidón entitled *“The Euthanasia Debate”*.

During her speech, Ibáñez de Maeztu referred to the ageing population and the increased number of patients needing treatment for chronic pain, in a context of constant advances in medicine and technology, issues that our societies are increasingly facing.

She likewise noted the growing social awareness around the need to respect the freedom and dignity of the individual and patients' rights.



CONFERENCE OF THE INTERNATIONAL ASSOCIATION OF LANGUAGE COMMISSIONERS

The Deputy Ararteko, Inés Ibáñez de Maeztu, and the Commissioner of Official Languages of Canada, Raymond Thériault, opened the meeting organised by the Ararteko, where the points discussed included the impact of COVID on minority languages, the challenges that social media raises for the language commissioners and the role that official languages play within the duties of the ombuds.

The Deputy Ararteko referred to the significant advances in the use of the Basque language in the field of the public services, even though the right to be addressed in the language is still not guaranteed in areas such as justice and law enforcement.

Ibáñez de Maeztu added that, despite those advances, *“the COVID pandemic has yet again shown that linguistic rights are frequently considered to be secondary, as occurred in the healthcare field where the health emergency situation has frequently been used to breach the right to be addressed in Basque”*.

And she stressed that *“the right to be addressed in Basque is inherent to the minimum quality required of any public service, particularly in those that affect the rights related to intimacy, health and care”*.

Representatives of several countries and regions took part in this conference, which was also



attended by Agurne Gaubeka, the director of the Behatokia - Observatory of Linguistic Rights.

Defending the linguistic rights of the citizenry arising of the co-official status of Basque and Spanish is among the legally assigned duties of the Office of the Ararteko. It shares this task with similar institutions in other countries, which are members of the IALC.

The mission of the IALC is to support and advance language rights, equality and diversity throughout the world and to support language commissioners so they may work to the highest professional standards by:

- Advising or assisting in the establishment of Language Commissioners offices
- Facilitating an exchange of training and professional development resources, research and information
- Cooperating with like-minded organisations who value the promotion and protection of language rights and diversity
- Increasing awareness and understanding of the role and value of Language Commissioners among Governments, state agencies, academia, media and the general public
- Supporting regions that wish to create a position of language commissioner or advance their language rights
- Sharing evidence-based research in the interest of advancing language rights

EUSKARALDIA 2022

The Ararteko staff actively took part in the latest Euskaraldia. The main goal of **Euskaraldia** is to increase the use of Basque by changing the citizens' language habits. Apart from being involved individually (*asahobizi* or *belarri-prest*), they can also take part in groups, through the *arigune*, spaces where the use of Basque is always guaranteed.



NEW ARARTEKO WEBSITE

In 2022, the Ararteko launched its new website, a project aligned with its commitment to continue innovating and to make its services more user friendly.

The website is modern and eye-catching, and has new content, including the Children & Young People's Rights Department and the European and International Affairs Department.

Visitors to the website can browse its different sections, learn about our services and readily and intuitively access them, easily search our papers and documents, and use its faceted search engine to access all of the public and up-to-date content of the institution.



THE ARARTEKO LAUNCHES A NEW TRANSPARENCY PORTAL

The Ararteko has unveiled a new transparency portal as part of the projects to overhaul the web instruments to provide information on the institution.

The new portal has a modern and visual image that updates and streamlines the previous portal and its browsing is more intuitive. It has three main sections: general information on the Ararteko, public information of the institution (its work, activities, organisation, budget and economic management) and the procedure to exercise the right to access the information of the Ararteko.

The portal is a very useful way to strengthen the Ararteko's commitment to transparency and access to its information.

REFORM OF THE ARARTEKO SERVICE CHARTER

The Ararteko has approved a new text for the institution's service charter, with the aim of overhauling and update its commitments to the way it delivers its services, to facilitate information to exercise rights, and foster the best practices of transparency and information.

The text in force until now dated back to 2013 and the time elapsed and the legal reforms since then have meant that it was time for it to be updated.

The Ararteko service charter is a useful instrument for citizens to discover the services provided by the institution and its quality undertakings in the performance of its duties.

THE ARARTEKO SIGNS UP TO THE 2030 BASQUE GREEN PROCUREMENT PROGRAMME



The institution of the Ararteko has signed up to the 2030 Basque Green Procurement Programme. That involves highlighting the practices that - even though the vast majority are already implemented in the institution - contribute to the Sustainable Develop Goals, in terms of increasing public procurement with environmental criteria and the "greening" of the purchase of the goods and services categories prioritised for the coming years.

The aim is to cut the carbon emissions from the public sphere (and the private that supplies the later), increase the electricity supplied from renewable sources, and use more recyclable and reusable packaging in public procurement.

EITB MARATOIA



For the twenty-third year in a row, EITB ran a citizen awareness campaign on a cause with great social significance. Under the slogan *We are Unstoppable*, EITB Maratoia's cause was multiple sclerosis in 2022. The campaign ended with the EITB **Maratoia**, a day on which a call centre answers the calls of the citizens who wish to make donations. The acting Ararteko, Inés Ibáñez de Maeztu actively took part and answered the phone at the call centre.

The campaign seeks to raise awareness among citizens so they donate to the cause and, thus, collect funds for research and improve the quality of life of the people who have suffered and suffer multiple sclerosis.

WORKING WITH THE GASTEIZTXO PROGRAMME

Spreading a culture of respecting **all human rights** among the youngest members of society and disseminating their rights is one of the lines of action of the Ararteko regarding children and young people. We are therefore continuing to work with the Vitoria-Gasteiz Municipal Department of Education to prepare the *Informativo Gasteiztxo* [Gasteiztxo News]. Students from different schools visit the Ararteko's office and compile data and information related to the activity of the institution to then prepare a radio or television programme or a newspaper. We also welcome groups from high schools, vocational training centres and other education centres of the BAC.

THE ARARTEKO'S CHILDREN AND YOUNG PEOPLE'S COUNCIL

In 2010, the Ararteko set up the Children and Young People's Rights Department in order to specialise and strengthen the institution's work regarding the rights of children and adolescents. That work could not overlook their right to be heard; therefore, the **Children and Young People's Council** was set up at around the same time with the aim of including the view of young people, discovering what they thought regarding themes of interest, compare proposals, learn about their concerns...

The Council is currently made up of 24 young women and men, between 14 and 17 years old, from the different municipalities of the Basque Country.

The work of the Children and Young People's Council is structured around an annual theme, coordinated around 4 meetings during the year. During the first years the council was up and running, the participants chose the theme from among proposed by themselves or by the Ararteko. However, since 2017, the date on which the Ararteko's Children and Young People's Rights Department joined the **European Network of Ombudspersons for Children (ENOC)**, the Council signed up to the theme decided by that body for the year.

These are some of the past themes: the support families need, child-youth mental health, children and young people's rights in the digital environment, equality in emotional relationships, the right to expression and opinion, consent in sexual relationships, the impact of COVID-19 on the rights of children, etc.



ENYA FORUM 2022: CLIMATE JUSTICE

ORGANISED BY THE ARARTEKO, THIS INTERNATIONAL MEETING GATHERED TOGETHER REPRESENTATIVES OF 17 EUROPEAN REGIONS IN THE BASQUE



ENYA (European Network of Young Advisors) is the participatory body of children and young people between 13 and 17 of the European Network of Ombudspersons for Children (ENOC). The Ararteko's Young People's Council has been actively participating in this programme and network since 2017.

Every year, a theme is chosen and the young people make recommendations to the competent authorities. The theme for 2022 was **Climate Justice** and the process ended with all the participants preparing common recommendations at the ENYA FORUM.

Organised by the Ararteko's Children and Young People's Department, the **ENYA FORUM 2022** was held in the Basque Country in June. Thirty-four adolescents from 17 regions of Europe, two of whom were representing the Ararteko Council, met to pool their thoughts on the themes considered in each group:

- *Climate Action and the right to participate in environmental decisions*
- *North-South: climate change exacerbating inequalities*
- *Consumption and carbon footprint: questioning the growth paradigm*
- *Sustainable mobility and spatial planning*
- *Energy sources: their use and impact on climate and on our lives*

The territories taking part in 2022 were: Andalusia, Albania, Flanders, Bulgaria, Catalonia, Croatia, the Basque Country, Estonia, France, Greece, Italy,



Malta, Poland, Slovakia, Northern Ireland, Wales, Scotland and Jersey. Ukraine is part of the programme but sadly could not take part.

Apart from the work sessions, the group carried out an emissions compensation environmental activity in Urdaibai, under the guidance of the *Lurgaia Fundazioa*.

They also designed a "Climate Action" coordinated at European level which exercises the right to participate and be heard.

The Ararteko wishes to pay special attention to the participation process of young people as multipliers of the culture defending human rights.

Taking advantage of the hosting of this international meeting, the institution of the Ararteko hosted the visit of ombudspersons for children from different regions to Europe.

MEMBERS OF THE ARARTEKO'S YOUNG PEOPLE'S COUNCIL DELIVERED THE CONCLUSIONS OF THEIR WORK ON CLIMATE JUSTICE AND CHILDREN AND YOUNG PEOPLE'S RIGHTS TO THE BASQUE PARLIAMENT

They called on the competent authorities to renew their efforts to realize children's rights to a healthy environment.

The young people on the Council took part in an activity with the members of parliament. Accompanied by the acting Ararteko, Inés Ibáñez de Maeztu, they handed to the speaker of the Basque Parliament, Bakartxo Tejeria, the document with the recommendations reached from reflecting how the climate emergency is affecting the rights of children and young people.

Special mention should be made of their first Education recommendation regarding the need to include a subject on climate at all educational levels and including active learning methods.



COLOUR EARTH. AN ARARTEKO DOCUMENTARY ON CHILDHOOD AND CLIMATE JUSTICE

The documentary, using colours as inspiring concepts for change, is a collective and intergenerational conversation on how the climate crisis is affecting children and young people.

Children as a body are particularly vulnerable and lack representation in the political arena. In the context of climate change, children and young people start out from a situation of injustice. They are the ones who have least contributed to climate change, but who are most seriously affected by its consequences and have least real influence as regards decision making.

The documentary features a group conversation on climate justice and children's rights. It aims to provide information and be an invitation to start to reflect on climate change, the role of children and young people, and the mechanisms to defend their rights.

Colours – concepts such as red / action, white / transparency, brown / sustainability, orange / emergency... – are used in the conversation to trigger reflection on the role of the institutions to protect rights when addressing the climate crisis. The institution of the Ararteko is shown to be a benchmark in the protection and promotion of those rights, and when it comes to the younger population as well.

In 2022, the Ararteko's Young People's Council has considered how the climate crisis affect the rights of children and young people. This reflection exercise, pursued in tandem in Europe with the Council's involvement in the ENYA (European Network of Young Advisors) programme, provided the institution with the opportunity to directly listen to the concerns of the young people on the subject, and also to reflect with other knowledge brokers (from the world of science and activism).

The documentary was produced by Al Borde Films, a social initiative cooperative, lasts roughly 30 minutes and is available on the institutional YouTube Channel. It is subtitled in Basque, Spanish and English.

The 9a CHILDREN AND 9a YOUNG PEOPLE'S RIGHTS Department

□ **Number of complaints:** In 2022, the number of complaints expressly referring to or involving children and young people stood at 560, which meant 19.7% of all those filed with the institution of the Ararteko. Only two of complaints received were filed directly by a minor.

□ **Material areas:** Issues relating to education were the most numerous (39.6%) in 2022, closely following the material conditions affecting the life of the children (31.2%). The other areas are to do with policies to support families, social services for neglected children, such as those in the social and healthcare fields, and other more residual ones (sport, justice, safety, noise pollution, immigration...).

□ **Right to an adequate standard of living:** Addressing the situations of child poverty involves guaranteeing minimum income for families with children, which is mainly covered by the Basque income guarantee system in the Basque Country. As in previous year, the complaints filed in that regard mainly were to do with the refusal, suspension and cancellation of the Income Guarantee Payment (RGI) and the Housing Supplementary Benefit (PCV). Furthermore, the transfer to the Basque Country of the management of the

minimum living income (IMV) has seen an increase in the complaints regarding the benefit. With respect to access to housing, the complaints yet again underscore the problems of accessing decent, adequate and affordable housing and the urgent need for families with children to have rented social housing.

□ **Right to education:** In a year marked by the debate regarding the text of the new Education Act, a significant number of the complaints received in early in 2022, however, they referred to the protocols to manage positive and suspected cases of COVID-19 deployed in the field of education. After the end of the period of restrictions, the most important grounds for the complaints were again: situations of school segregation,

disagreements regarding the linguistic model allocated or with a lack of education available in the linguistic model A, bullying and peer abuse, lack of resources needed for students with special education needs, grant applications rejected, etc.

□ **Right to be protected for any type of violence or abuse:** The main grounds for complaints in this sphere remained the same in 2022: doubts and uncertainties in families regarding starting a case to assess neglect, delay in the start of the assessment or to activate a programme or





scheduled support, disagreements about the implementation of the protection measures already adopted or disagreement with the declaration of being destitute. Year after year, the consultations and complaints steadily increase in situations of contentious separations of the parents. Support for emancipation and the difficulties in the stages after reaching the age of majority continued to be the main reason for the procedures brought by young foreigners without family role members. Regarding assistance for situations of sexual exploitation and abuse of children and young people, the procedures have been monitored to comply with the proposals contained in the general recommendation of the Ararteko in 2021, and to care for the children and young people who are the victims of gender-based violence.

- **Right to a family:** The issues referring to the policies to support families have remained constant over the years and that was also the case in 2022: delay in the ruling on appeals against the refusal of economic aid, both for the dependent child and the assistance for work-life balance; disagreements regarding parental leave (maternity/paternity and nursing), processed by this institution only the cases of people working for the Basque public administrations, given the jurisdictions; problems with processing the large family status; refusal to provide information about children to separate parents and without custody. In the case of the court-ordered supervised family meeting points, nearly all of the complaints were related to the content of the reports that the public services issued to be assessed by the courts.

- **Right to health:** A large number of complaints in this area continued in 2022 to be related to the health situation and the obligations and restrictions imposed on citizens because of the COVID-19 pandemic: the education protocol and the impossibility to obtain the "COVID passport" based on antigen test results accounted for the bulk of the complaints of this type. Complaints were also received regarding the cancellation of appointments scheduled beforehand or longer waiting times for surgery. As regards the care for children and young people with mental health problems, special mention should be made of the complaints regarding the referral of chronic patients to specialist centres outside the Basque Country when there are no such centres in our territory. That is the case of young people with eating disorders, as well as that of two young people with serious mental illnesses who, after being treated at the hospital acute units, were recommended by the doctors to be admitted to a medium-long stay facility.

- **Children's rights in the field of justice:** In this area of imperative cooperation with legal practitioners, mention should be made of a group of complaints related to the carrying out of formalities in civil registries, some of which were to do with the appointment system, the difficulty to book an appointment and the long waiting times. Second, during the first full year after the transfer to the Basque Autonomous Community of jurisdiction regarding the running of Basque prisons, the complaints and consultations from prisoners increased related to communications with relatives and coexistence, on the one hand, and with completing sentences in Basque prisons, on the other.

- **Rights to play, rest and to artistic and sport activities:** The bulk of the claims relating to sport for children and young people were related to two issues already mentioned in earlier reports: the restrictions imposed on school sport due to COVID-19 and multi-sport being compulsory at certain ages.



DO YOU NEED TO DEFEND YOUR

Contact the institution of the Ararteko

- ▶ To investigate whether the Basque public administration has committed any abuse, illegality, arbitrariness, discrimination, error or negligence in your case.
- ▶ So that the local council, provincial council or Basque Government solves your problem if they have acted incorrectly.
- ▶ To recommend improvements for the benefit of everyone.

What is the Ararteko?

- ▶ It is the Ombudsman of the Basque Country.
- ▶ It is an independent institution.
- ▶ It is a free service.

What do we do?

- ▶ We defend people against the Basque public administrations.
- ▶ We mediate between citizens and the administration.
- ▶ We monitor and act to correct irregular situations.
- ▶ We propose solutions and foster amendments to legislation.

When should you contact us?

- ▶ When you have a problem with any authority or public service under it.
- ▶ After having filed a claim with the administration in question and not receiving a reply or solution.
- ▶ And within one year from that point.

When should you not resort to the Ararteko?

- ▶ If the dispute is between private individuals.
- ▶ If the dispute has led to judicial proceedings.

How should the complaints be filed?

- ▶ Contributing personal data (name, surname(s), address, telephone), copies of useful documents and, whenever possible, a document setting out the grounds for the complaint.
- ▶ By letter (Prado, 9 - 01005 Vitoria-Gasteiz).
- ▶ Through the website: www.ararteko.eus
- ▶ Or in person at any of the three offices.

How to contact us?

Direct service offices

In Álava

Prado, 9 • 01005 Vitoria - Gasteiz
Tel.: 945 13 51 18 • Fax: 945 13 51 02

In Bizkaia

Edificio Albia. San Vicente, 8 - Planta 11
48001 Bilbao
Tel.: 944 23 44 09

In Gipuzkoa

Arrasate, 19 - 1º
20005 Donostia - San Sebastián
Tel.: 943 42 08 88
Call us if you need more information



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