

The Public Ministry: A black box hard to evaluate

Despite that article 25 of the Justice System Act forces members of the judicial system to “present annually and publicly, a detailed and precise report of its performance” done on the previous year, the Public Ministry has turned a blind eye on this mandate and along the years has been offering information in an “unstable and changing” way, which “makes it difficult to obtain solid results and thus, evaluating and comparing the performance from one year to the other”.

Thus denounced Acceso a la Justicia on the “Report on the Performance of the Public Ministry (2000-2018), which it prepared along 2019 and for which it reviewed all the performance reports presented to the National Assembly by the different general attorneys since the beginning of the century.

One of the main shortcomings detected by the investigators team that drafted the study is that the organism presents only the number of cases that prosecutors got, but not stating if said investigations were initiated ex-officio, by denunciation, complaint or flagrancy, “for which it is impossible to know the prosecutors’ level of proactivity and the compliance with its functions at this initial stage”.

The same shortcoming was observed when trying to see the response the Public Ministry gave to the cases that reached its purview. “There are years in which only the totality of the closing acts were informed without discriminating them by type (accusation, dismissal, prosecutors’ archive), as happened in 2009 and 2010”, it is read in the report.

Halfway

Although the Public Ministry fulfilled its constitutional and legal accountability duty to the parliament until 2017, Acceso a la Justicia found that the same was made in a deficient manner and so was clear when reviewing the statistics on common crimes matters, that is, homicide, grand thefts, kidnappings and simple thefts.

In this area, the organism not only “generically” presented the data on closing acts matters, but also “there were not reported all of the years and we do not know what acts it covers; although in a disperse manner between 2002 and 2007, the outgoing cases were represented by its closing acts, dismissals requests, application of the opportunity principle, conditional suspension of the process and

compensatory agreements; but in other years like 2010, the gap of these indicators became wider, to the point of including from outgoing cases to mere procedural writs sent to courts which would explain the motives for which beginning that year the outgoing cases were higher to the incoming cases, together with the fact that all annual reports include within outgoing cases, those cases from years prior to the one under evaluation, not specifying the accumulated remnant; thus in 2012, there were registered 343.936 incoming cases and 370.297 outgoing cases.

Where the opacity proved to be greater was on the matter of homicides, where the quantity of cases incoming and outgoing was not informed, nor there was detailed information on its incidence up to year 2015, in which “for the first time in the Venezuelan accusatory system’s history”, it was informed that there had been 17.778 people dead due to willful homicides that year, which showed a rate of 58 homicides per each 100 thousand inhabitants, which confirmed that Venezuela is one of the most violent and dangerous countries of the region, indicates the report.

That same year, the Public Ministry also reported that it filed charges against 7.121 people for this crime on that year, “which would represent a 40,06% of the dead, in the case the people accused belonged to the dead reported that year, of which we have no certainty; there were a total of 4.465 requests of apprehension warrants, of which they reported that “some were to be enforced”, not specifying quantity” the document adds.

Like the crab

Despite the Public Ministry has not rendered account to Venezuelans in a detail and precise fashion, the truth is that it cannot be considered as one of the most opaque in the region. At least as per an analysis of the Center for the Study of Justice of the Americas (CEJA by its acronym in Spanish), that, for the year 2015 placed it as 15 of the 28 organisms evaluated, Acceso a la Justicia found.

Notwithstanding, since in August of 2017 Tarek William Saab was designated to the questioned Constituent National Assembly as the Republic’s General Attorney, Acceso a la Justicia identified important setbacks. Thus, previous administration’s annual reports were deleted from the organism’s webpage and on it there is information on the number of prosecutors in the country, who they are and where they are neither.

The investigation on the Public Ministry was coordinated and carried forward by Elienai González together with Lissette González, Carmen Jiménez, Thais López and Keymer Ávila.

¿And how does this affect you, Venezuelan?

The lack of transparency with which the Public Ministry has handled the information complicates the possibility of objectively evaluating its work, detect failures and apply corrections that result in a better service to the Venezuelan (citizen). By not having the majority of the actions discriminated by crimes, for example, serious difficulties arise to verify the criminal acts that are originating the majority of the investigations or (for which) the accusations are being made, therefore it cannot be determined the type of attention given to the most grave or the bigger entity criminal types.

The opacity prevents soundly determining if the person punished is that that should be punished, or to demonstrate that on the contrary, it those who perpetrate the lesser crimes are excessively punished and the State do not persecute those who it has to really punish, that are those that perpetrate the graver crimes.