

the federal **Ombudsman**



INQUIRY / 05 - SUMMARY

THE SIMPLIFIED DECLARATION PROPOSAL

**IS THE FPS FINANCE SUFFICIENTLY CLEAR
AND TRANSPARENT TOWARDS CITIZENS?**



INQUIRY INTO THE SDP

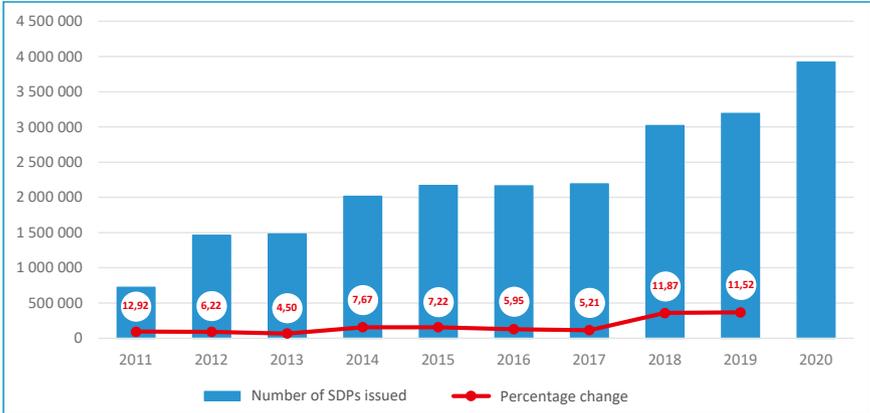
Since 2018, the Federal Ombudsman has been receiving complaints and signals about the simplified declaration proposal (also known as SDP) on a regular basis. Thus, he decided to launch an inquiry to establish whether the FPS Finance is sufficiently clear and transparent towards citizens so that they can consent to the SDP in full knowledge of the facts.

The FPS Finance has been issuing certain categories of citizens with a simplified declaration proposal since 2011. This proposal contains a simulation of the calculation of their taxes on the basis of the data known to the FPS Finance. Citizens who receive the simplified declaration proposal no longer have to file a traditional tax return. If they don't get back to the FPS Finance, it is assumed that they are in agreement with the proposed calculation.

While the aim of the SDP is to simplify citizens' tax obligations, it also allows the administration to further automate the tax assessment process. Thus, the administrative simplification would appear to be a no-brainer provided that tax payers are guaranteed that they end up paying the correct amount of tax.

Over the past ten years, the number of citizens who receive an SDP has increased significantly, with the result that, gradually, categories of citizens with ever more complex tax situations end up in the net.

Evolution of the number of SDPs sent out and the percentage change by tax year



Source: FPS Finance

The percentage change for the year 2020 was not yet known at the time the inquiry was concluded.

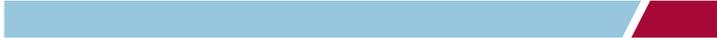
The complexity of the tax regulations is one of the main stumbling blocks when it comes to ensuring that the SDP results in accurate taxation. That complexity makes it as difficult for the FPS Finance to collect the necessary data as it does for citizens to verify the data and all the more essential that the FPS Finance provides clear and transparent information about the data and criteria used in the SDP.

The inquiry brought to light that many citizens are unable to properly check their SDP at present. The financial consequences of that can be significant and may even lead to the total loss of a tax credit. The situation is all the more concerning given that the SDP has become one of the main ways to file personal income tax returns. In 2020, 3,920,000 citizens received an SDP, which boils down to 59 % of citizens (not including the self-employed).

Over the past five years, the number of citizens who received an SDP has risen by 80 %.

To tackle the problems identified, the Federal Ombudsman issued twelve recommendations, one of which to the Federal Parliament and eleven to the FPS Finance.

The FPS Finance fully cooperated with the inquiry which was concluded on 22 July 2020. Below, you will find a summary of the main findings and recommendations. The full inquiry report is only available in French and Dutch.



CITIZEN INFORMATION

In spite of the FPS Finance's efforts to pre-complete the SDP as best as possible, a number of data may be missing, incomplete or incorrect. The Federal Ombudsman found that citizens are in need of sufficient reference points to enable them to verify the accuracy of their data so that they don't lose out on certain tax credits. Citizens are not sufficiently reminded that they should scrutinise their SDP with care.

At that, the FPS Finance does not explicitly inform citizens who receive an SDP that they too, like any taxpayer who needs to complete a traditional tax return, can avail of assistance. Furthermore, some citizens realise far too late that they no longer receive an SDP and experience problems completing their traditional return.

Example of a complaint

Carla has been receiving an SDP for a number of years now. Her tax liability varies from year to year and can range from € 1,500 to € 3,400. When Carla learned in February 2020 that she could run into problems with her dependent children tax credit in the SDP, she checked her most recent SDPs. She has three children and, until the 2015 tax year, all three of them were listed as dependants in her SDPs. In 2016, just one child was listed, in 2017 and 2018 only two. Carla's two eldest children, Nicolas and Jade, are adults and had a summer job. In 2016, neither of the two was listed as dependants on Carla's SDP. However, only Nicolas earned more than the maximum permitted amount and no longer qualified as fiscally dependent on Carla.

Jade did not exceed the maximum amount that year and could still be qualified as dependent on Carla. So Carla lost her tax credit for one of her children for that particular year.

1. Citizens are inadequately and not clearly informed that certain data in the SDP may be missing, incomplete or incorrect. The information the FPS Finance furnishes citizens with, whether via the SDP itself, its website or its communication to the general public, is particularly limited and general in the extreme. While the inquiry brought to light that the data that are most often missing, incorrect or incomplete in the main relate to the most common tax credits such as those associated with mortgages, childcare costs, exemption from commuting expenses, gifts, etc., the FPS gives few concrete examples of high-risk data.
2. The FPS Finance does not explicitly offer citizens help to review their SDP. Communication about sessions to complete the declaration is exclusively geared towards taxpayers who file a traditional tax return. As far as the Federal Ombudsman is concerned, that distinction is unwarranted. **At that, the FPS Finance strongly urges citizens to consult and correct their SDP online.** However, many citizens do not have access to the Internet, don't have the necessary digital skills or struggle with the administrative steps. The inquiry also brought to light that the majority of citizens who do receive an SDP do not consult it online and wait until they receive the paper version.
3. Citizens who no longer receive an SDP are not notified. When their tax situation changes, some citizens no longer receive an SDP and are required to complete a traditional tax return again. But the FPS Finance does not notify them to that effect. Many citizens do not understand the reasons for that change. On some it only dawns when they receive a reminder from the

FPS Finance informing them that they leave themselves open to a fine if they don't respond within 14 days.

The FPS Finance must communicate more clearly and transparently. The Federal Ombudsman recommends that the FPS Finance:

- points out to citizens that certain data in the SDP may be missing, incomplete or incorrect.
- expressly informs citizens that they can get hotline and physical assistance to review or correct their SDP;
- notifies citizens when they no longer receive an SDP, stating the possible reasons.



CREDITS FOR DEPENDENT CHILDREN

As regards citizens in de facto unions, the inquiry brought significant problems to light with regard to the details of dependent children. The financial implications thereof can be significant. Sometimes citizens may lose all or part of their dependent children tax credits. For one, the inquiry has shown that the criterion the FPS Finance uses to assign children in the SDP (and on Tax-on-web) is unsuitable. The inquiry also brought to light that, in the event of an audit, practices between the various departments of the FPS Finance differ greatly. In general, citizens do not have the necessary information to exercise their rights in full knowledge of the facts.

Example of a complaint

Jan and Nadia have three children together. Nadia received an SDP. As she is the family's reference person, the FPS Finance assigned the children to her. Being a self-employed entrepreneur, Jan completes a traditional tax return. As he did every year, Jan listed the 3 children on his tax return. He never checked whether the children had been listed as dependants in Nadia's SDP. He subsequently received a notification from the FPS Finance stating that the children are dependent on their mother. Jan didn't get back to them as he assumed that the administration knows what is best for his family, which is not the case. He was self-employed and Nadia was unemployed. The couple lost € 2,672. The following year Nadia and Jan were married, submitted a joint tax return and discovered the problem. But by now it was too late as the deadline to contest the tax had expired.

1. When it comes to parents in de facto unions, the FPS Finance automatically gives a tax credit to the parent who is registered as the reference person in the municipality's population registers even though that is not a suitable criterion. A reference person is the parent of the household who is listed as contact person with the municipal administration, which is the sole purpose of that criterion. In other words, it cannot be used for tax purposes because it does not allow one to establish which parent the children are dependent on. Many citizens don't even know who their household's reference person is and are unaware of the tax implications. The FPS Finance does not provide any information whatsoever on the subject.
2. The Federal Ombudsman found that, at this moment in time, there is no conclusive criterion to assign dependent children to parents in a de facto union. The complexity of family taxation is a major stumbling block when it comes to the administrative simplification and effectiveness the SDP aims to ensure. Many citizens do not understand the complex tax calculation rules. They are unable to assess the financial implications of the children being assigned to one or other parent.
3. The inquiry also points to considerable discrepancies in the administrative audits carried out by the various FPS Finance departments when one and the same child is listed as dependent on both parents of a de facto family. The lack of administrative instructions makes that the criteria for assigning children varies from department to department and that rectifications are not properly substantiated. The same applies in situations where the parents previously stated which one of them claims the dependent child's tax credit. Not all departments are aware of the fact that this choice can be logged for subsequent tax years.

The Federal Ombudsman recommends that the FPS Finance:

- informs citizens about the criteria that are used to assign children and the possible financial implications;
- in the event of an inconsistent return with regard to the dependent children, first contacts the taxpayer who is not affiliated to the child or has the lower income and properly substantiates the adjustment notice;
- takes account of the choices citizens made in previous tax years inasmuch as possible.

The Federal Ombudsman recommends that the Federal Parliament:

- simplifies the rules to allocate tax credits for dependent children so that they are not only neutral in respect of the various family forms but, in addition, that they are not dictated by the different ways in which personal income tax returns are filed.



REPLY FROM THE FPS FINANCE

In its reply, the FPS Finance did not dispute the Federal Ombudsman's findings. It acknowledged that it is difficult to pre-complete certain details and indicated that, in respect of some financial differences, in particular those pertaining to dependent children, it is not up to the FPS Finance to optimise citizens' tax situation. It felt that the simplification the SDP offers and the fact that the proposal does not have to be signed have led to greater expectations in terms of accuracy and a decline in the level of vigilance among citizens.

In its continuous efforts to enhance the SDP, the FPS Finance will take account of the inquiry but did point out that there are a number of constraints, both at a technical level and from a legibility point of view, and this because of the complexity of the tax legislation.

With the exception of the recommendations to provide assistance with reviews, in respect of which it indicated that the idea is not to put a greater emphasis on physical assistance but to give preference to hotline support, the FPS Finance is committed to working on implementing the Federal Ombudsman's recommendations.



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