

the federal **Ombudsman**

The world, my village

Annual Report 2014

Cross-border mobility for citizens is increasing year after year. They go abroad to settle and work, acquire property in another country, ...

Very many and increasingly more so families are spread throughout the world. Sometimes children move abroad with one parent, other times they remain here with the other, and other times yet they do not all go along.

These situations are no longer exceptional and create new forms of travel, family life, consumption, ...

They in turn often require new rules and administrative practices, or the adaptation of the ones in place.

An administrative authority in step with such realities offers citizens solutions that take account of these changes.

- **Family allowances beyond borders**

Annual report, p. 29

Mrs Mertens¹ and her daughter joined the father in the UK where he works as an expatriate. Informed of this moving, the Belgian family allowances fund blocked the payments of family allowances. When the father tried to sort things out, he was referred to the family allowances fund in the UK and then to the Belgian embassy.

Situation

Family allowances issues are often complex.

Complaints received through the years show that cross-border cooperation for the payment of family allowances does not always run smoothly. The exchange of information is often slow and arduous, particularly because the relevant forms are not completed or understood in the same way everywhere.

Mediation, at times across borders, can provide a solution for those concerned.

> Exchange of information between Belgian and foreign family allowances funds must still be improved.

¹ All names are fictitious.

- **Cross-border use of a vehicle**

Annual report, p. 86

Mr Collard lives in Arlon. He uses the car of his son who lives in Luxembourg to pick him up at the airport in Brussels. During a roadside check, he is told that he has to pay both the Belgian vehicle registration tax and the road tax.

Situation

The regulation, though really not known, is clear enough: Every Belgian resident is required to register a vehicle used on Belgian territory with the DIV [Vehicle Registration Service], even if the car is already registered abroad and he can use it only occasionally and free of charge.

The tax authorities were unwavering for years.

As a result of a decision of the European Court of Justice which ruled against the Netherlands for a similar practice, deemed to run contrary to the principle of free movement, we asked the tax authorities to rectify this situation.

After an initial adaptation by the tax authorities, a definitive solution was found by amending the regulation: Belgian vehicle registration tax and road tax are no longer payable for a car which is registered abroad and which is used by natural persons free of charge for at most one month.

A document from the owner attesting that he has granted permission for the temporary use of the vehicle must be onboard, however.

- **Double VAT charge**

Mr Willems, a farmer, buys a second-hand tractor in France. The VAT was charged on the invoice. When the vehicle was cleared through customs in Belgium, the Belgian inland revenue charged VAT once again...

Situation

Some citizens turn to us because they have been charged VAT twice.

Inland revenue used to refer complainants, without information or help, to the foreign seller, in order to recover the invoiced VAT. If that foreign supplier refused, the citizen had no other option than to take the matter to court or let it rest.

Henceforth, inland revenue tries to recover the VAT from the foreign supplier first.

If that does not work, before turning to the Belgian customer, he refers the citizen to the Federal Ombudsman or SOLVIT.

If necessary, we contact our fellow ombudsman in the country concerned in an attempt to get the problem solved.

< A European decision is needed to deal with the situation if VAT is charged twice.

- **Telephone charges in prison**

Annual report, p. 47

Mr Vereecke calls his family once a week from prison. He is surprised at the high cost of the telephone calls, and asks the prison warden to apprise him of the rates. But he never gets a clear answer...

Situation

Following several complaints by detainees, we noted that telephone charges in prison were too high.

Some charges were still based on the “Belgacom rate” of 2002, valid for public telephone booths. These are far too high by comparison with the charges in force on the market today.

The telephone is often the sole means for a detainee to keep in contact with the outside world and to maintain a certain relationship with his family and friends.

Recommendation OR 14/03 to the Department of Penitentiary Facilities

The telephone charges for detainees must be brought to the level that can be considered compliant with market rates outside the prison. Transparency must be assured in the event of discrepancy.

- **Refusal of short-stay visa**

Annual report, p. 65

Mrs Arezu is Iranian and wishes to visit her daughter who lives in Belgium and is expecting twins. The Immigration and Naturalisation Service refused to issue her a visa for a short stay, because she did not show that she would return to Iran after the visit...

Situation

Citizens often do not understand why the Immigration Office refuses to issue a visa for a short stay to a family member who wishes to visit them in Belgium. Clarity here is very important.

According to the administration, proof is often lacking that the person concerned intends to leave Belgium before the visa expires. The Immigration Office therefore requires virtually irrefutable proof.

The fact that some applicants may also lay claim to family reunification plays against them at times as well.

In the absence of concrete indication of abuse of the procedure, an applicant may not be denied a visa for a family visit for the sole reason that s/he might want to remain in the country illegally.

Every person is entitled to respect for family life. This right, which is guaranteed by the European Convention on Human Rights, may be restricted only for concrete, serious reasons.

Recommendation to the Immigration Office and to the diplomatic and consular posts (OR 14/02)

The maintenance of family ties between Belgians or foreign nationals residing in Belgium must be reconciled better with the fight against illegal immigration.

- **Higher interest of the child**

Annual report, p. 25

Mrs Chakrit, a Thai national, has been living together with a Belgian for 15 years. They have a child, who is also Belgian. The father and child live in Belgium. Mrs Chakrit runs a hotel in Thailand, owned by the couple. She travels regularly to and fro. She is not issued a new visa, because the Immigration Office doubts the real purpose of her trip...

Situation

Because of the decision of the Immigration Office the child can see his mother only during school holidays, provided the family undertakes an expensive trip to Thailand.

According to the International Convention on the Rights of the Child, children may not be separated from their parents against their will, and are entitled to maintain regular contacts. States must see to that.

We have often noted that all too often, the federal administration fails to examine, assess and take the higher interests of the child concretely into consideration in different areas.

We have asked the Immigration and Naturalisation Service to pay particular attention when a minor is concerned in an application for a visa for a short stay. We also reminded Fedasil to take account of the higher interest of the child, in the event of multiple applications for asylum, so as to prevent a situation where the child winds up on the street.

Recommendation to Parliament (AA 14/01)

Assess the possible repercussions of every bill, regulation and administrative decision on children and the exercise of their rights.

Individual decisions that can have an (in)direct impact on a child must be assessed in the higher interest of the child.

Figures for 2014

- **Number of case files**

In 2014 we opened 7018 case files, of which 5017 were new complaints, and 2001 requests for information.

More than 60% of the cases were submitted via e-mail or the electronic complaint form on our website. In nearly 10% of the cases, the citizen came to explain his problem in person or during one of our office hours.

We recorded more than 11000 telephone calls in 2014.

- **Top 3 complaints**

The slow administrative process remains the most important complaint. We nonetheless noted a sharp drop in this type of complaints by comparison with 2013.

As in the previous year, the quality of the public service provided by the administration and the poor application of the regulation come in second and third place.

- **Processing time of a complaint**

It took less time to process a complaint in 2014. Nearly 1 out of 2 complaints were dealt with within 3 months. More than 6 out of 10 were solved within six months.

- **Recommendations in 2014**

We made 5 new recommendations.

At the end of 2014, 15 of the previous recommendations had led to a positive outcome.

Contact us

Everyone who has a problem with an administrative authority can call on the Federal Ombudsman, on condition that s/he has tried to settle the problem with the administrative authority on his/her own.

More information? **0800 99 962**

A complaint? **www.federalombudsman.be**

Sometimes it is easier to come and explain your problem in person:

- Our offices are open Monday to Friday, from 9:00 AM to 12:30 PM and from 1:30 to 5:00 PM, **Rue de Louvain 48 box 6 Leuvenseweg, 1000 Brussels;**
- We hold **office hours** in different cities in Belgium, in cooperation with other ombudsmen.