

# FOCUS ON TRUST BETWEEN CITIZENS AND THE ADMINISTRATION



the federal **Ombudsman**

# Reopening dialogue by restoring confidence

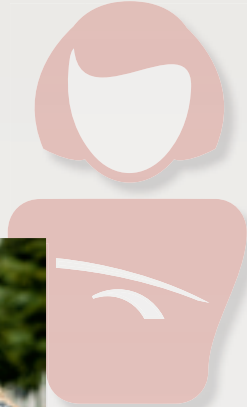
In an ever-changing society, providing citizens with a quality service is setting the authorities before an increasingly challenging task. Citizens, for their part, are not necessarily trying to sidestep their obligations. Listening to both sides is the first step in finding a solution. Trust and dialogue, the Federal Ombudsman's leitmotiv!



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*“Mutual confidence is indispensable if we want to build a stable society, one that is able to deal with the challenges of tomorrow.”*

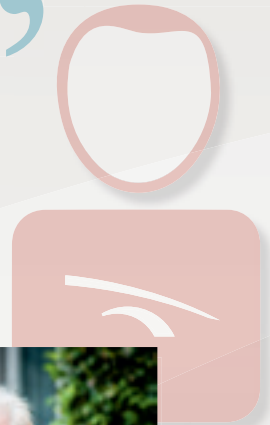
*Catherine De Bruecker  
Federal Ombudsman*



*“Most of the time, citizens are not looking for complex legal answers. What they want is timely, intelligible information and a sound, substantiated decision.”*

*Guido Herman  
Federal Ombudsman*

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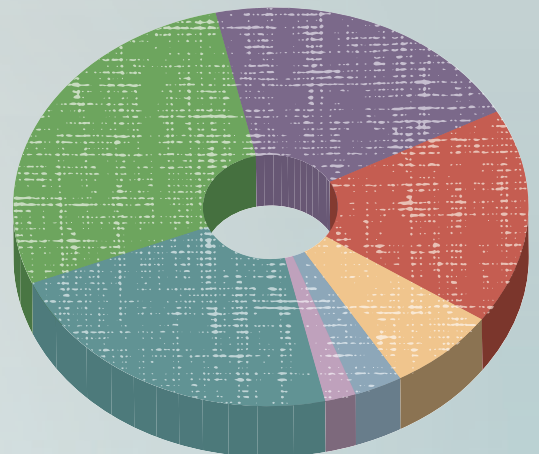


**6.008 new files**

**4.276  
complaints**

**1.732  
requests for  
information**

**Complaints by area**



# The Federal Ombudsman resolves

We intervene as a last resort to resolve thousands of issues. Two citizens, who had a problem with the federal authorities which we were able to resolve, tell their story. Through dialogue, we help citizens exercise their rights.

*"I didn't receive the allowance I was entitled to"*



Because of his disability, Marcel qualified for an integration allowance. But he didn't agree with the amount of nor the date at which he became eligible for his allowance. He was being paid the singles allowance even though he was living with his partner. People living in a shared household are entitled to a higher allowance. Convinced that he lost out on a higher allowance for several years, he contacted the Federal Ombudsman. The problem could be attributed to the National Register: Marcel's details were incorrect as he had been registered as a single person even though he had been living with his partner since... 1978! Marcel did have a certificate from his municipality to support his claim.

*At the request of the Federal Ombudsman, the administration took this new document into consideration and duly awarded him the correct integration allowance and adjusted his payments for the previous years.*








*"I almost missed the birth of my son"*



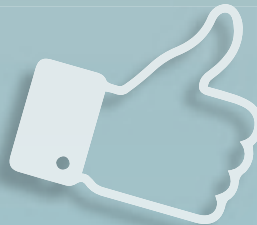
Yanis applied for a short-term visa for Belgium because he wanted to attend the birth of his son. The Immigration Office turned down his application on the grounds that his file was incomplete. Yanis contested the decision as he had sent on all the documents the Embassy in Algeria had asked for. The Federal Ombudsman requested that the file be re-examined as it believed the decision of the Immigration Office to be disproportionate. Yanis had the relevant funds to come to Belgium. Aside from that, the administration is obliged to take specific situations into account and to avoid that people are pointlessly restricted in their right to lead a family life. This notably includes Yanis's right to attend the birth of his first child.

*In the end, the Immigration Office reviewed its decision and issued Yanis with a visa in time.*

## Positive results

-  Asylum and migration 28%
-  Social security 21%
-  Taxation 17%
-  Mobility 7%
-  Identity documents 3%
-  Detention 2%
-  Other areas 22%

*More than one complaint in two is resolved within three months*



*88.5 % of valid complaints are resolved*

# The Federal Ombudsman recommends

Where the complaints we receive give us reason to believe that other people may be faced with a similar problem in the future, we make a recommendation to the administration or to Parliament. Our recommendations are designed to improve administrative practices and the legislation. Thus we enhance good governance.

## Assessing the sanction businesses incur for incorrect Nacebel codes

Entrepreneurs are obliged to register their business activities with the Department of the Central Corporate Database on the basis of codes, known as "Nacebel codes". Stemming from a European Regulation, these codes seek to enhance transparency in economic activity and to combat moonlighting.

Registering one's activities correctly is key. The correct Nacebel code prevents nasty surprises in court when a customer fails to settle his invoices. In fact, under an article of the Code of Economic Law, a customer can, in certain situations, avoid prosecution if a business did not use the correct code to register its activity, with the result that the invoices will remain unpaid.

**Close on 600.000 Nacebel codes are registered every year**



**During the first two years, more than 100.000 Nacebel codes were changed**

*2014 to 2016 figures / Source: FPS Economy*

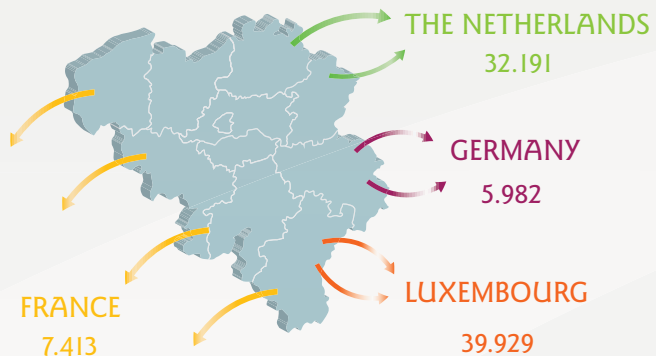
In most cases, businesses do not set out to commit fraud. Often, activities simply evolve over time and the Nacebel codes are not updated. At that, registering a new activity or a niche activity under the correct code can prove to be a complicated matter. For businesses like these, the sanction seems disproportionate.

We therefore recommended that the relevance and efficacy of this sanction be evaluated.

## Guaranteeing the social rights of cross-border workers

**85.515 Belgians are working cross-border (2015)**

*Source: National Institute for Health and Disability Insurance (INAMI)*



Belgian citizens who worked cross-border during the length of their career risk finding themselves without a pension or benefits for a number of years. This is because the neighbouring country pays their pension. Unlike in Belgium, where the retirement age stands at 65 years, workers in the Netherlands retire later.

So, once these workers turn 65, they are no longer entitled to benefits (unemployment benefit in particular) in Belgium. Thus, cross-border workers who worked in the Netherlands are left to their own devices for a number of years. On the one hand, they are no longer entitled to benefits in Belgium while, on the other, they are not eligible to their Dutch pension yet.

We recommended that the Parliament takes the necessary measures to ensure that the social rights of cross-border workers are guaranteed.

## Other recommendations

- Assessing alternatives to detaining families with children in closed centres.
- Setting up an external and independent supervisory committee for each forensic psychiatric centre.
- Deregistering anyone who is no longer living at the address listed from the consular population registers.
- Enhancing the inventorying of personal belongings of detainees held in solitary confinement.
- Allowing owners of electric bikes to exchange their licence plates for the new, smaller, version under certain conditions.

# The Federal Ombudsman persuades

There is not always need to resort to issuing recommendations however. Because we enter into dialogue with the authorities, certain issues can be resolved quickly. We rely on the know-how of the authorities who, in general, welcome our findings.

## A predictable tax sanction that is proportionate to the seriousness of the offence

To put an end to a number of fraudulent practices, sanctions have changed for taxpayers who do not automatically declare their income (article 444 of the Income Tax Code).

But this change also affected people who did not file their tax returns but whose income was known to the tax administration. These negligent citizens had nothing to gain. Quite to the contrary, some of them lost their tax credits. Without having been notified of the new rules, they were penalised with a tax increase of several thousand euro. A sanction that is disproportionate to the seriousness of their offence.

Collaboration with the Tax Conciliation Department and discussions with the minister resulted in a solution. The tax increases, for the years 2013, 2014 and 2015, were cancelled but the fine had to be paid. And the tax administration would remind taxpayers of their obligation to file a return.

## Family unity at the centre of the visa procedure

To join a person in Belgium, members of one and the same family may at times have to follow different visa procedures: family reunification or a humanitarian visa.

The two departments within the Immigration Office, tasked with processing these types of applications, did not liaise with one another. A family member who applied for family reunification used to receive a reply faster than a family member who was applying for a visa on humanitarian grounds. This led to situations where one child of the family was left awaiting a decision in the country of origin on its own.

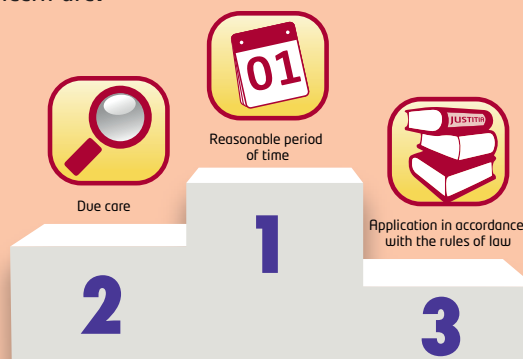
As a result of our intervention, the Immigration Office amended its procedures, in the best interest of the child. Henceforth, it will prioritise the processing of humanitarian visa applications linked to family reunification files and will do its utmost to take its decisions simultaneously. In doing so, it has made a commitment to, where possible, ensure that families can stay together while their visa applications are being examined.

## Citizens' concerns

Citizens are entitled to expect a quality service from the authorities. The Federal Ombudsman assesses complaints on a scale of standards that defines the quality of this service.

The three standards that give citizens most cause for concern are:

1. Authorities must take their decisions within a reasonable period of time.
2. Authorities must act cautiously and take their decisions with full knowledge of the facts and in a conscientious manner.
3. Authorities must apply the regulations correctly and respect citizens' fundamental rights.





# The Federal Ombudsman investigates

If the analysis of a recurrent problem brings difficulties that need to be looked at in the light of a broader context, we launch a systemic investigation. This entails looking at the problem as a whole, as always, from an independent and impartial perspective.

## Residence permits on medical grounds

We scrutinised the processing of applications for residence on medical grounds (article 9ter of the Immigration Act). The investigation notably brought to light that the circumstances in which the physicians at the Immigration Office are expected to carry out their task do not always allow them to follow medical ethics. It also highlighted that there is no consistency in the time frames within which residence applications are processed.

We presented the conclusions of our investigation report to Parliament in February 2017 and issued 26 recommendations. Furthermore, we asked that a physician be appointed to head the Immigration Office medical cell.

## Safety in prisons

The investigation into prison safety measures, launched in 2016, is still ongoing. It looks into violations of detainees' human dignity, notably during body searches.

Our team visited 12 prisons and examined how disciplinary and safety measures are implemented. The investigation report is expected to be ready by the end of 2017.

### Did you know that...

The Federal Ombudsman monitors the integrity of the federal authorities?

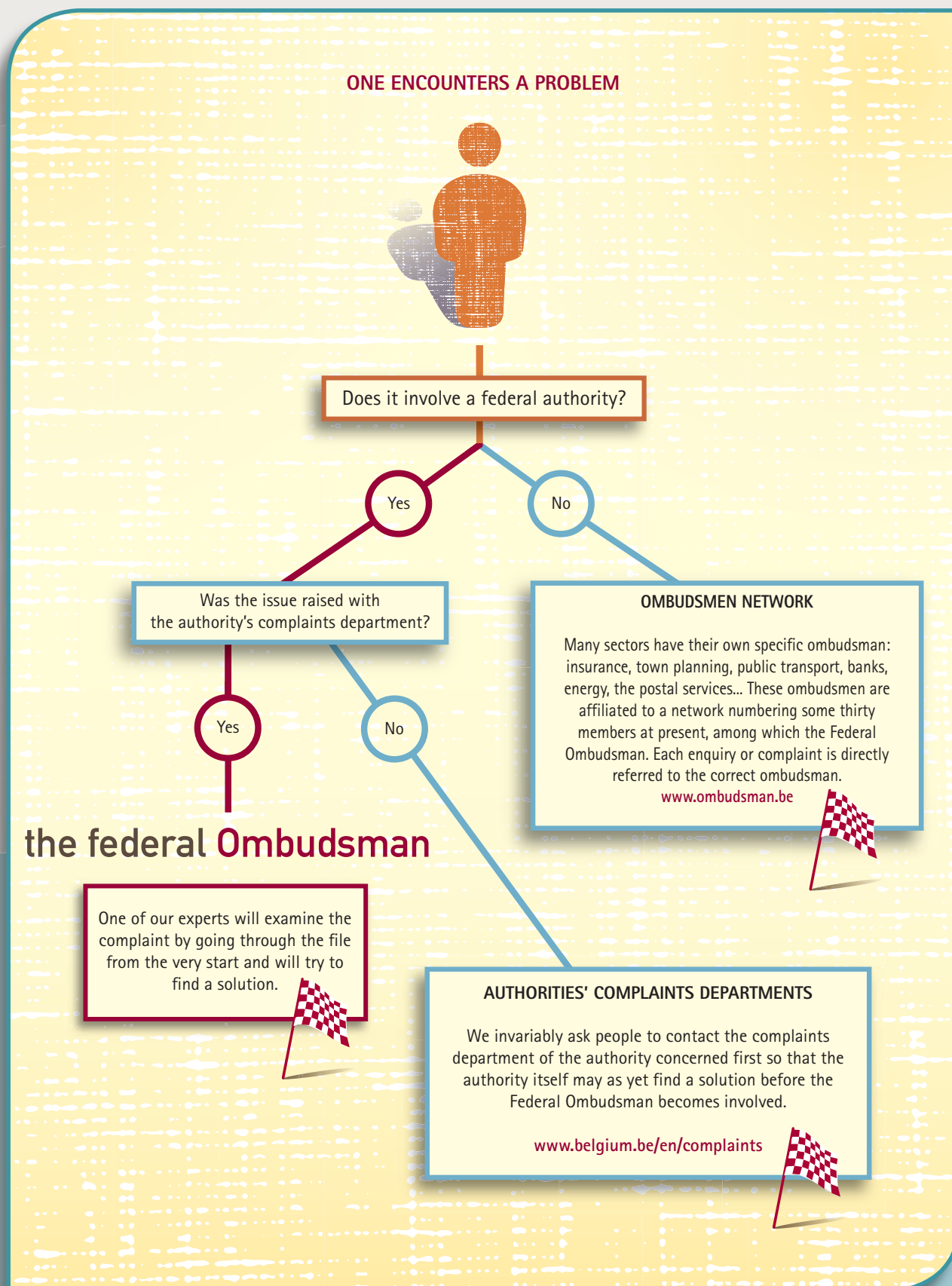
Federal employees can report any abuses (irregular procurement contracts, asset misappropriation, fraud, favouritism) they come across within the federal administration to the Integrity Centre at the Federal Ombudsman. In 2016, the Integrity Centre opened 31 files and launched 8 enquiries. Whistle-blowers enjoy protection.

### And that...

- The Federal Ombudsman recommended that all the federal authorities set up an internal complaints department? Thanks to their specific expertise, the authorities concerned can often help citizens effectively.
- By the end of 2016, 66 authorities had set up an internal complaints department?
- 33 of these 66 authorities already signed a collaboration agreement with the Federal Ombudsman which commits them to meeting certain quality criteria?

# The Federal Ombudsman helps you

We help citizens find the best possible resolution to their problems, free of charge. When we are contacted in relation to a problem that does not involve a federal authority, we refer them to the ombudsman or the department that will be able to help them.



# *The Federal Ombudsman near you*

To allow people to meet one of our experts, we host office hours in 13 cities across Belgium. They are organised once a month, all people need to do is to make an appointment.



“We rely on dialogue to help you.”

the federal **Ombudsman**

**0800 99 962**

**[www.federalombudsman.be](http://www.federalombudsman.be)**

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