



the federal **Ombudsman**

a bridge between citizens and the public services

Experience in the service of citizens

Annual Report 2013

... to watch better over the protection of their fundamental rights

- **Marital status of Belgians abroad and contestations of nationality**
 - *Annual Report, p. 62*

Arthur¹ has held a Belgian passport for years. Suddenly, the Federal Public Service (FPS) Foreign Affairs considers that the embassy that had issued it to him, had been mistaken for years. According to the administrative authorities, Arthur is not Belgian. His identity documents are withdrawn...

Christophe divorced his French wife in 1998 while they were living in Dubai. Sixteen years later, the FPS Foreign Affairs is the only authority that still refuses to recognise the effects of their divorce...

Situation

The Federal Ombudsman has for some years now noted an increase in disputes between the FPS Foreign Affairs and Belgians residing abroad or members of their family.

When doubts arise about the validity of a document, a citizen may find that it is particularly complicated to exercise such fundamental rights as that of living with his or her family, getting married, or naming his or her child...

In July 2013, the Federal Ombudsman submitted a thematic report devoted to the problems encountered by Belgians abroad (TR 2013/3), in which it made nine recommendations to avoid the Kafkaesque situations identified.

Recommendations

- 7 recommendations are made to the FPS Foreign Affairs to reinforce the culture of service at diplomatic and consular posts to Belgians abroad and members of their family;
- 2 recommendations are made to the FPS Justice to guarantee legal security for nationality and marital status.

¹ All first names are fictitious.

- **Children at the Open Return Centre in Holsbeek**
 - *Annual Rapport, p. 26*

The Federal Ombudsman visited the Open Return Centre in Holsbeek, accompanied by the French-speaking and Dutch-speaking Commissioners for the Rights of the Child.

Situation

Further to their visit of the centre, the three institutions made several observations, in particular that:

- the right to education is not guaranteed;
- the space intended for playing and relaxing is too small.

The Federal Ombudsman and the French-speaking and Dutch-speaking Commissioners for the Rights of the Child made two joint recommendations.

Recommendations

- The centre must cooperate with schools in the vicinity and organise appropriate courses on its premises (OR 13/01).
- The centre must provide sufficient space where children can play and relax before the winter starts (OR 13/02).

> The Department of Immigration and Naturalisation and Fedasil (the Federal Agency for the Reception of Asylum Seekers) have taken measures to meet these recommendations.

- **The appalling plight of sectioned patients in prison facilities**
 - *Annual report, p. 35*

Eric was transferred from an ordinary wing of the prison and put in a cell with a common criminal. He was beaten by his cell mate. Eric's problematic behaviour irritated the other detainees....

Situation

The Federal Ombudsman received several complaints from sectioned patients who are kept in ordinary prison quarters because of lack of space.

Diversity of profiles, inadequate supervision, lack of appropriate care... Overcrowding problems cannot possibly justify this situation.

The law provides that persons suffering from a mental disorder, who have committed a crime or an offence must be provided appropriate treatment in premises suitable for their condition.

Recommendation to FPS Justice (OR 13/07)

The prison service must take the vulnerability of these persons into account and protect them by:

- putting an immediate end to their detention in ordinary prison quarters;
- taking such measures as necessary to ensure that they are cared for in an appropriate institution.

... to limit the consequences of computer glitches to a strict minimum

○ *Annual report, p. 49*

Emma was not able to take part in the next step of a selection because Selor (the Selection Bureau of the Belgian Federal Government) did not send her an invitation. Selor had nonetheless promised her that it would do so. The new computerised system used to send invitations had some problems.

Elise did not receive family allowances for 6 months because of computer problems at the ONAFTS (National Office of Family Allowances for Salaried Employees): the certificate that guarantees the continuity of payments of family allowances, in spite of a change in situation, could not be sent on time...

Situation

Selor, the ONAFTS but also the ONEM (National Employment Office) experienced computer problems that deprived citizens of the service they counted on: a missed invitation for a job or promotion, an allowance not paid, etc.

A new computerised system experiences unexpected difficulties at times. If the problems cannot be solved immediately, provisional measures must be taken to ensure that the services continue to be provided.

The introduction of a new computerised system must not impair the quality of the service provided to citizens.

Recommendation to Parliament (GR 13/01)

When a new electronic process is introduced, the administrative authorities must endeavour to improve not only their own efficiency, but also the service provided, which entails reacting rapidly and appropriately to the teething problems of the new system.

... to convince the administrative authorities to make life easier for citizens

- **by correcting obvious errors and omissions in tax returns**
 - *Annual report, p. 92*

Angela forgot to indicate deductible amounts for her mortgage loan in her tax return, although she had done so every year. She noticed it when she completed her tax return the following year. Angela can prove on paper that it is an omission, but the tax authorities refuse to take it into account, considering her omission to be a deliberate choice...

Situation

Completing tax returns is a complex matter for taxpayers. Taxation procedures, however, leave little room for rectifying errors, and complaints to that effect have been lodged with the Federal Ombudsman over many years.

The administrative interpretation of the notion of material error, which limits it to a pure clerical error, is often too restrictive and creates unfair situations in the eyes of citizens.

An amendment to the relevant legislation at the end of 2013 provided some improvements. The problem is not solved, however. Sometimes, local taxation offices are receptive to the arguments of taxpayers, but the approach is not generalised.

> The central services of FPS Finance must apprise the external services that they can adopt a more flexible interpretation of the notion of material error and will remind them that the taxpayer must be given the benefit of the doubt.

> The commentary on the Income Tax Code 1992 will be updated and completed by concrete examples to support a uniform approach.

- **by convening European citizens to renew their identity card**
 - *Annual Report, p. 85*

José is Spanish and has been living in Belgium for several years. He did not receive a notice summoning him to renew his identity card. Convinced that he would be getting such a notice, he inadvertently failed to renew his ID card on time. He finds himself without valid document as a result, with all the difficulties that entails...

Situation

The legislation does not require the administrative authorities to summon the citizen whose identity card will soon expire. The administrative authorities nonetheless do so for Belgian citizens, but not for European citizens.

The Federal Ombudsman has called on the administrative authorities to put an end to this difference in treatment which shocks European citizens. The instructions to the municipalities concerning the renewal of identity cards must be adapted and extended to European citizens, with appropriate support from the FPS Interior.

Recommendation to FPS Interior (OR 13/06)

The FPS Interior must take the necessary measures to enable the municipalities to summon European citizens before their identity card expires so that they can renew it.

The FPS Interior is prepared to comply with this recommendation. It nonetheless asks for the time needed to make the indispensable adaptations to computer software applications used for the process.

... in many other fields, such as

- **social security:**
 - although the local police districts have, since the police reform of 2002, paid the contributions for the coverage of occupational diseases to the ONSAAPL (National Social Security Office of Provincial and Local Administrative Authorities), the FMP (Occupational Diseases Fund) has since refused to indemnify local police officers suffering from recognised occupational diseases, citing a lack of appropriate legal basis.
 - > The draft royal decrees needed to remedy the situation are pending publication.
 - Several previous recommendations were met in 2013: one on the late correction of social contributions for self-employed workers; another on parental leave for employees of embassies and SHAPE; and the last one concerning the possibility for self-employed workers unfit for work to do volunteer service.

- **Mobility:**
 - The DIV (Vehicle Registration Service) must communicate the abnormal extension of registration time limits on its website.
 - Citizens who wrongly paid €10 too much for their number plate in January 2012, will finally be reimbursed.

- **Legal security**
 - The current lease registration system does not provide the legal security that the parties are entitled to expect.
 - Inland revenue must pay spontaneously the default interest provided by the relevant legislation.

- **The Interior:**
 - The registration of house numbers in the National Register must be improved.
 - The period of validity of the identity card of citizens aged over 75 must be extended to 30 years.

... in a few numbers

- **Number of case files**

In 2013, the Federal Ombudsman received 6,609 files, of which 5,242 were complaints and 1,367 requests for information.

60% of the case files were submitted by e-mail or by using the electronic complaint form on the website. This method of referral is being used more and more.

The Federal Ombudsman was contacted 10,000 times by telephone during the year.

- **Top 3 complaints**

As was the case last year, the number one grievance is that the administrative authorities are too slow to act, accounting for every other complaint.

Complaints about the quality of public service provided rank number two.

The poor application of the regulations by the administrative authorities completes the podium.

- **Time it takes to process a complaint**

Four complaints out of 10 are solved within 3 months. More than one complaint out of two is dealt with within 6 months.

Conversely, too many complaints take more than 12 months (1 out of 3).

- **Recommendations in 2013**

The Federal Ombudsman made 19 new recommendations.

10 previous recommendations were met.

... at the heart of the challenges faced by the new team

- Support for the development of a real culture of service and integrity in administrative authorities:
 - Implementation of front line complaint management by the administrative authorities;
 - New "alert launcher" competency: examination of reported irregularities in the federal administrative authorities and protection for whistleblowers.
- More systemic analyses.
- Cooperation with other bodies for the defence of human rights and their counterparts in Parliament.
- Implementation of the 6th reform of the State: avoid having the citizens foot the bill for problems with concrete implementation of the reform.
- Information campaign: every citizen must know that the Federal Ombudsman can prove useful to him or her for many facets of daily life.

... some particulars

Anyone facing a problem with a federal administrative authority can contact the Federal Ombudsman:

- by dialling the toll-free number **0800 99 961** ;
- via the website **www.federalombudsman.be** (electronic complaint form) ;
- by coming to our offices, preferably by appointment, from 9:00 AM to 12:30 PM and from 1:30 to 5:00 PM: **48 Rue de Louvain, Box 6 Leuvenseweg, 1000 Brussels.**
- by visiting one of the **surgeries** in the provinces.