

KINGDOM OF BELGIUM



ANNUAL REPORT

2001

Published by: The Office of the Federal Ombudsmen of Belgium
P.-Y. MONETTE & H. WUYTS
Rue Ducale / Hertogstraat 43, 1000 Brussels

2002 The reproduction of all or part of this report is encouraged
 providing that the source is quoted.

Realisation: Vanden Broele Grafische Groep

A WORD OF INTRODUCTION

For the second time the Annual Report by the Office of the Federal Ombudsmen (available in the three national languages) covers a full calendar year. With the amendment of the organic act establishing the Office, the latter is required to submit by March at the latest an annual report covering its activities from 1 January to 31 December of the previous year. This development, a response to a general recommendation by the Office, is positive in that it increases the transparency of the annual report and facilitates comprehension.

However, this amendment has not (yet) improved exploitation by the Parliament of the observations and recommendations made by the Office in its Annual Report. In the past, the submission of the Annual Report in October coincided with the start of the parliamentary year, in other words a time when Members of Parliament gave priority to matters other than scrutinising, discussing and following up the Federal Ombudsmen's Annual Report. This was in fact one of the reasons why the House decided to change the date of submission. However in the past year we have not, unfortunately, noted any increased scrutiny, discussion or follow-up by members of Parliament of administrative and regulatory malfunctioning identified by the Federal Ombudsmen or of the recommendations they make in their Report.

This problem of under-exploitation by a parliamentary assembly of the work of the Ombudsman does not affect the federal level only. In response to the wish expressed by its Conference of Presidents, the Walloon Parliament took steps to ensure better follow-up was given to the observations and recommendations made each year by the Walloon Ombudsman in his report, hence it amended its rule of procedure to this end. The same happened in the Flemish Parliament. Moreover, during a visit to Belgium on the invitation of the Federal Ombudsmen, the Ombudsman of the Republic of France explained to the Speaker of the House how efficient use was also made of his recommendations (page 12).

The Office trusts that the same spirit that reigned over its establishment five years ago will now induce the House to adopt structural solutions to ensure a significant improvement in the way it exploits the observations and recommendations addressed to it

each year by the Federal Ombudsmen. We will come back to this matter in the following pages, where we will also analyse the degree and method of exploitation of the Office's work by the Government and Civil Service (pages 11 and after).



The Federal Ombudsmen presenting their Annual Report before the Petitions Committee.

Apart from this mission of reporting to the House, another task conducted by the Office (often the only one known to the general public) is to receive grievances lodged by citizens concerning the Federal Civil Service and to attempt, on the basis of a consensus and using efficient tools, to find individual or even structural solutions to them. This process has been strengthened constantly since the establishment of the Federal Office. This is reflected not only in a regular increase in the number of complaints referred to the Office, but also in an improvement each year in targeting the complaints for which it is competent and lastly, and above all, in a high rate of success as regards the action taken by the parliamentary ombudsman, which has been consolidated from one year to the next.

There is one explanation for these good results, which are analysed below in statistical form (pages 28 and after): the Office is an institution which is now in its stride, is becoming increasingly familiar to citizens and is enjoying more and more active cooperation on the part of the Federal Civil Service. This propitious development is in fact the culmination of a long and tireless job of continuing

training within the Office, of communication to citizens, their representatives and civil servants, and of clarification of the role of the ombudsman, his means of action and his position within State bodies. It is also the result of the constructive and measured criticism which the Ombudsman must make regarding the Civil Service, and of the Office's support for the Federal Civil Service, for which it can be a valuable ally when the political authorities are taking stock of needs that remain to be satisfied. Lastly it is the result of the Office's legal and administrative reflection, which takes the form of legal contributions on the one hand and of the organisation of scientific colloquia on the other, thereby inducing the Office to take part in improving law and administrative science. The first part of this Annual Report provides an overview of the work of the Office of the Federal Ombudsman in these various fields in the past year (pages 11 to 21).

*
* *

Like the previous Annual Reports of the Office of the Federal Ombudsmen, this one is divided into three parts.

In the first part, "I. General Considerations" (pages 11 and after), we take stock of the cooperation between the Office, on the one hand, and the Civil Service, the Government and the Parliament, on the other. We discuss the action taken and efforts made to ensure continuous awareness of the Federal Ombudsman and his missions among citizens as well as among political and administrative officials. We describe the Office's international contacts and, lastly, the internal development of the Office of the Federal Ombudsmen.

The second part, "II. Statistical Analysis" (pages 27 and after), contains general statistics, considerably fleshed-out compared with previous years, and, in a bid to satisfy a request by the House Petitions Committee, a comparison with the figures for the year 2000.

The third part of the Annual Report, "III. Recommendations" (pages 45 and after), contains three new general recommendations. We have also included a summary of the measures taken by Parliament and the Government as regards analysing the recommendations from previous years and, in the event of adoption, implementing them. This is a kind of scoreboard which allows the work performed (or still to be carried out) to be measured. Lastly, we list

the official recommendations which the Office sent to the Government/Civil Service during the handling of the cases referred to it in the past year.

As you will see, we have also annexed “the Federal Ombudsmen act of 22 March 1995” to the present report (pages 59 and after).

*
* *

In addition to its Annual Report, the Office of the Federal Ombudsmen is for the first time publishing a selection of its jurisprudence, relating to the year 2001. Available to date on its web site only (in French: www.mediateurfederal.be; in Dutch: www.federaalombudsman.be; English version -www.federalombudsman.be- under construction), the Office’s jurisprudence consists of its evaluation of the contentious administrative decisions referred to it. As a body with the task of monitoring proper administration¹, the Office must in fact, when closing each case referred to it, examine the administrative act or measure being challenged from the point of view of the criteria of legality, proper administration and equity, and even good governance. This perspective applied by the Federal Ombudsman, consisting of seventeen criteria², and its application to the cases closed in 2001 are therefore described in this work, *Jurisprudence 2001*. Each case is concisely summarised, with the Office applying one of its nine possible evaluations³. In the case of a negative evaluation, the criterion (criteria) infringed by the Civil Service is (are) described.

Apart from the importance of jurisprudence from a scientific point of view, it can be useful because of the many and specific examples it contains, which provide the Federal Civil Service departments that are seeking to improve themselves with a proactive definition of proper administration. It is also a source of law, albeit not bin-

¹ OFO, *Annual Report 2000*, p. 18 to 25.

² Proper application of the rules of law, equality, reasonableness, non-abuse of power, impartiality, legal certainty, legitimate confidence, protection of privacy, compliance with the Charter of Users of Public Service, the right of defence, reasonable deadline, conscientious handling, justification of administrative acts, adequate filing, provision of active and passive information, courtesy, appropriate access. For further details, see OFO, *Annual Report 1999*, p. 32.

³ Proper administration, proper administration following intervention, improper administration, consensus, application of equity, responsibility not determinable, responsibility shared, closed due to lack of information and case not appraised. For further details, see OFO, *Annual Report 2000*, p. 16-17.

ding, that can be used by courts and tribunals in their reflections, as well as by the Council of State and for the purpose of doctrine.



Pictures: Murielle Noncle

*
* *

To end this introduction, we would like once again to underline the valuable cooperation of our staff members. Most of them have now become permanent officials following a selection procedure that was rigorous in academic, technical and language terms and after completing a one- to two- year probation period. They do their best to perform a job that requires humanity, diplomacy and rigour and in which, like us, they believe deeply.

The Office of the Federal Ombudsmen

Pierre-Yves Monette

dr. Herman Wuyts

I. General Considerations



I. GENERAL CONSIDERATIONS

1. Towards a better use of the Office's observations and recommendations

Apart from settling individual disputes between citizens and the Federal Civil Service, the Office of the Federal Ombudsmen also has the task of identifying structural administrative, regulatory and legislative malfunctioning and of passing on this information, where appropriate in the form of recommendations, to the Federal authorities whose job it is to find a solution.

The Civil Service. In its five years of existence the Office has cooperated on many occasions with the Federal administrative authorities, enabling it not only to settle a large number of individual cases, but also to discuss more structural problems. These contacts, which in some cases are even institutionalised, provide a particularly appropriate opportunity to the Office to denounce structural malfunctioning and to put forward a solution to remedy it. The Civil Service is the first body to which the Federal Ombudsmen communicate administrative malfunctioning, for two reasons: not only because of the obvious need for the Civil Service to assume responsibility in this respect, but also in a bid to ensure speed and efficiency.

At the risk of repeating ourselves, and while the views of the Office and the Federal Civil Service are obviously not fully or automatically identical, the Office welcomes the cooperation that it enjoys with this first level of power, while the Civil Service sees the Federal Ombudsman as indeed, an external controller, but one that is pursuing the same objective as itself: namely the permanent improvement of public services.

The Government. Apart from their legal obligation to notify the supervisory minister as a matter of course when they send a recommendation to his department, and the cases in which the minister himself, as a Federal administrative authority, is the subject of a complaint referred to the Office, the Federal Ombudsmen must also contact government members when Civil Service departments reject recommendations addressed to them by the Office or when the solution to the structural malfunctioning denounced by the Office is not the responsibility of the Civil Service, but of the minister himself. This is the case, for instance, when there is a regulatory or legislative malfunctioning.

In this respect, the measures taken by government members in relation to the Office's observations and recommendations depend to a large extent on the minister in question. While in some cases very good cooperation has been established, and the Office's recommendations have been followed, either by means of a ministerial circular or by a bill, there are still far too many cases in which the Federal Ombudsmen's recommendations are not even analysed, or in which correspondence from the Office concerning structural malfunctioning, which sometimes affects tens of thousands of citizens, is left unanswered by a minister, even after several reminders.

Unlike in France, for instance, there is no organised system in Belgium enabling the Government to take note officially of the national ombudsman's recommendations, to hear his explanations and arguments, to compare the recommendations he makes with its legislative, political and financial obligations, and to analyse the feasibility of these recommendations and the advisability of either eventually implementing them or of justifying rejection of them. In France this task is performed by the Government Secretary General, a position which, in Belgium, following the Copernic reform, is in some respects similar to that of the Chairman of the Management Committee of the Chancellery and General Services, and in other respects similar to that of the Director General of General Policy Coordination. The French Government Secretary General thus coordinates the analysis and automatic follow-up of recommendations put forward by the Ombudsman of the Republic by convening, in relation to each recommendation, a representative of the Office of Ombudsman and of the minister or ministers concerned by the recommendation.

The Parliament. A collateral body of the House of Representatives, the Office of the Federal Ombudsmen reports to the latter at least once a year by submitting an activities report which, pursuant to the law, contains its recommendations and also, where appropriate, the problems it encounters in fulfilling its missions. In 1997 the House set up the Petitions Committee to establish a privileged relationship with the Office from within the Parliament. Thus the Petitions Committee – the presidency of which changed last year – analyses the Office's annual report, hears the Federal Ombudsmen's explanations and then draws up a report before forwarding to the House's standing committees, according to their remits, the different parts of the Office's annual report as well as the recommendations it contains, where appropriate. While the Petitions Committee can also decide to investigate some of the

Office's recommendations itself, it is not however empowered to turn them into proposals for legislation: to do this, it must forward them to the relevant standing committee.

In the last five years, however, the Office's annual report, the improper administration it denounces and the general recommendations it contains have never been analysed or discussed by a standing committee, with one exception. As for the House, meeting in plenary session, the report drawn up in 1998 by the Petitions Committee following the submission of the Ombudsmen's annual report was the only one ever discussed. This is why the Petitions Committee concluded its last two reports using the same words: *"The Petitions Committee [...] is also forced to point out that the House's standing committees appear to lack enthusiasm when it comes to examining the (Office's) general recommendations submitted to them in the past. It would, therefore, unanimously urge the plenary meeting of the House to examine this report."*⁴

Thus only some individual members of Parliament and senators make use of the Office's reports in their parliamentary work. While we obviously welcome this, we regret however that the House does not take advantage of the Office's work in a more structured way, through its various bodies. Yet the Office is in fact a collateral body, set up by the Act of 22 March 1995 precisely to communicate to it the administrative and even legislative maladministration it has identified, and thus to enable it to perform better its role as Legislator, on the one hand, and on the other its mission of controlling the Executive (parliamentary questions, convening of civil servants, oral questions, written questions, requests to the Office or to the Board of Audit for investigation of a civil service department, etc.). Various members of Parliament recently wrote the following in this respect: *"From the Parliament's point of view, is it not paradoxical to set up a collateral body whose work in terms of proximity to administrative reality, objectivity and legal correctness, is of the highest quality, and then not to respond to its often very pertinent suggestions?"*⁵.

An improvement in the use made by parliament of the Ombudsman's work and recommendations is found at regional level. Since 2001, following an amendment of Article 75 of the Walloon Parliament's rules of procedure, initiated by its Confe-

⁴ House of Representatives, Doc. 50 1186/001 of 4 April 2001, p. 17, and Doc. 50 1420/001 of 21 September 2001, p. 13.

⁵ Ms De Meyer, Mr Chastel, Mr Decroly and Mr Lefèvre, House of Representatives, Doc. 50 1406/001 of 10 September 2001, p. 5.

rence of Presidents, the Walloon Ombudsman presents his annual report first in outline to the Committee on Internal Affairs and the Civil Service and then, depending on their respective remits, to the Walloon Parliament's various standing committees. The latter examine the recommendations concerning them and hear the Walloon Ombudsman before each drawing up a report which is subsequently forwarded to the Committee on Internal Affairs and the Civil Service, the latter being responsible for drafting a summary report which the Conference of Presidents may, where appropriate, decide to present during the plenary session. The same applies in Flanders where, as a result of an agreement between the President of the Flemish Parliament and the Flemish Petitions Committee, the standing committees each discuss the parts of the Flemish Ombudsman's annual report according to their remits.

At Federal level, the Petitions Committee unanimously proposed that the House's regulations be amended to institutionalise the analysis by each standing committee of the Office's report and recommendations concerning matters within their respective remits⁶. Several members of the Petitions Committee tabled a proposal to amend Article 17-6 of the House regulations to this effect in September 2001. The proposal recommended the compulsory inclusion in the calendar of each standing committee of a meeting once every three months devoted to discussing the Office's general recommendations, and the optional inclusion on the agenda of these meetings of a discussion on the parts of the Office's report concerning each committee respectively⁷. No further progress was made on this matter.

⁶ The Speaker of the House of Representatives, Mr H. De Croo, shared this view on 25 October 1999 when the Office of the Federal Ombudsmen officially presented its Annual Report 1999/1.

⁷ Ibid.

2. Continuing to raise awareness of the Office and its tasks

The ombudsman, through the mediation task entrusted to him, works on behalf of citizens. However, the latter must be aware of his existence. Therefore the Office organised a publicity campaign at the end of 1999 and beginning of 2000 involving television advertisements and a reminder in newspapers which focused on a free brochure explaining the role and means of action of the Federal Ombudsman. In addition to this campaign, the Federal Ombudsmen used, and in fact still use, other means to continue raising awareness of the existence and role of the Office.

Conferences. For several years, the conferences to present the Office have taken up part of the working time of the ombudsmen and of the Office staff members delegated to this task. Aimed at a young and not-so-young audience, both professionals and ordinary citizens, the conferences form a very useful channel of information on the existence and means of action of the parliamentary ombudsman.

In this connection it is interesting to refer to the cooperation that has become established between the Office and the National College of Taxation and also between the Office and the Training Institute for Federal Administration. Both of these continuing training bodies for Federal civil servants regularly invite the ombudsmen to explain the missions and functioning of the Office to trainee civil servants.

Articles in the press. The columns which the Federal Ombudsmen publish in the press are another essential vector of information for citizens. Using specific cases relating to the various matters for which the Office is competent, the Federal Ombudsmen perform an educational task, explaining every fortnight or every month the Office's tasks, powers and what citizens can expect from it.

Duty offices outside Brussels. The Legislator wished to make the referral of cases to the Federal Ombudsman as informal as possible. While in most cases this is done, as mentioned on page 30, by post, e-mail or fax, it can also take the form of a visit to the Federal Office. For those wishing to lodge a complaint in this way but are unable to go to Brussels, the Office has established a system of monthly duty offices outside Brussels. With the support of the Luxembourg and Western Flanders Governors, the highest decentralised authorities of the Federal State in these most remote provinces, and the municipal authorities of Arlon, Houffalize, Libramont, Marche-en-Famenne, Brugge, Kortrijk and Leper, citizens

can directly contact the Federal Ombudsman or his representative on a fixed day each month. Depending on the results of this experience, the Office intends to extend this system to the other provinces.

Meetings with Members of Parliament. Institutional mediation is sometimes regarded by some Members of Parliament as being in competition with the help services (or social duty offices) set up by them. When addressing its previous annual report to the Members of Parliament, the Federal Ombudsmen had an opportunity to recall the valuable complementary nature of the ombudsman and the members of Parliament in terms of working for citizens exposed to Federal executive bodies. Since then, rather than approaching the Federal authorities directly themselves, several Members of Parliament decided to refer to the Office cases of administrative problems brought to their attention by visitors to their social duty offices. The Members of Parliament, who are kept informed by the Office of Federal Ombudsmen of developments regarding these cases, can thus relieve themselves of a particularly cumbersome job while maintaining full contact with the citizens involved. Moreover, this contact with the Ombudsmen also means that they remain directly informed of any improper administration which the Office comes across when handling these cases, such information being of capital importance in their parliamentary work.

In a bid to step up this cooperation and to improve even more the service rendered to citizens who are in dispute with the Federal Civil Service, the Office intends to start holding meetings with elected representatives at every level - Federal, regional, provincial and local. These meetings, which will be organised in each province and in Brussels, will start next spring in Mons, with the help in this case of the Governor of Hainaut, before being extended to the other provincial capitals. An initial meeting, confined to burgomasters, was held in the province of Namur in December 2001, at the invitation of the Governor.

Organisation of and participation in colloquia. The Federal Ombudsmen and their staff also spend a lot of time organising and taking part in colloquia in order both to publicise better the missions of the parliamentary ombudsman and the resulting synergies among law, mediation and administrative science professionals, and to respond to the need for continuing training. In addition to attending the colloquium at the Parliament in January 2001 organised by the Presidencies of the House of Representatives and of the Petitions Committee, the theme of which was *Public Mediation*,

the Federal Ombudsmen and/or their staff members took part in a number of seminars both in Belgium (see below) and abroad.

Moreover, in addition to attending colloquia, the Office was also active in organising such events in 2001. In September, taking advantage of the fact that Belgium held the Presidency of the European Union, the Federal Ombudsmen, together with the Walloon and Flemish regional ombudsmen and the European Ombudsman, co-organised a seminar in Brussels on the topic *Ombudsmen against discrimination*, which was attended by all national and regional ombudsmen from the fifteen European Union Members and from the Schengen area countries.

In cooperation with the King Baudouin Foundation, the French-speaking Federal Ombudsman and the Flemish regional ombudsman organised a seminar in Brussels in October 2001 entitled *The ombudsman: the core values of the position*. This was aimed at politicians, judges, civil servants and mediation professionals, the aim being to raise awareness of institutional mediation.

Scientific contributions. Along the same lines, Pierre-Yves Monette published three legal and administrative science analyses in 2001: first, *“Du contrôle de la légalité au contrôle de l'équité: une analyse du contrôle exercé par l'ombudsman parlementaire sur l'action de l'administration”* (From control of legality to control of equity: an analysis of the control over administrative action exercised by the parliamentary ombudsman), published in the *Revue belge de droit constitutionnel* (Belgian Constitutional Law Revue); second, *“Le principe du raisonnable dans l'action administrative”* (the principle of reasonableness in administrative action) published in *Chroniques de droit public/Publiekrechtelijke Kronieken* (Public Law Chronicles); and lastly, *“The parliamentary ombudsman in Belgium: strengthening democracy”*, published by Kluwer Law International. Such initiatives make a specific target group more familiar with the tasks of the Federal Ombudsmen, and also enable the latter to defend progress in the area of administrative science and law.

Student training schemes and academic contacts. In 2001 the Office continued to host students undertaking training schemes lasting two to sixteen weeks at the Office in the context of their university and college studies. These training schemes are one of the ways in which the Office maintains contact with the academic world. The Ombudsmen are also invited to take part in courses to explain the role and working methods of the Office of Federal Ombudsmen.

The Office's Internet site. Inaugurated in December 1999, the web site of the Office of the Federal Ombudsmen (in Dutch: www.fe-

deraalombudsman.be; in French: www.mediateurfederal.be; in German: www.foderalerombudsman.be; English version -www.federalombudsman.be- under construction) was revised and completed at the end of 2001. It is a valuable information tool destined for both citizens and civil servants, who will find there descriptions of the tasks, means of action and functioning of the Office, its organic law, rules of procedure, jurisprudence, annual reports, publications by the Federal Ombudsmen and useful addresses, etc.

An information portal: ombudsman.be. Together with the regional and local ombudsmen and the sectoral mediation services, and in cooperation with private sector mediation services, the Office took part in setting up an information portal comprising all the data and FAQ (frequently asked questions) concerning mediation. To this end, the Office reserved three Internet domain names: *ombudsman*, *médiations* and *bemiddelingen*. The portal, which will be completed in 2002, will be a valuable tool for citizens since all the useful information in this field will be centralised at a single address, with links to the Internet sites of the various ombudsmen and mediation services.

3. International contacts

The international community of ombudsmen is quite well structured, for one simple reason: there is by definition only one national ombudsman or national mediation body per country and the exchange of experiences, as essential in this profession as it is in all others, therefore requires international contacts.

With regard to international cooperation, because of several cases submitted to it which contained elements of foreign origin, the Office has had the opportunity of cooperating with other European and non-European national ombudsmen. Moreover, like other ombudsmen in EU countries, there are often contacts with the European Ombudsman on matters of a Community nature. In fact the European Ombudsman and the national EU ombudsmen have set up a network of liaison officers, to which the Office delegated its director, who attended, in this capacity, a meeting in Strasbourg in November.

As for bilateral contacts, the Office received a visit in May from a Brazilian lawyer who spent a few days finding out about the possibility of establishing a parliamentary ombudsman in Brazil. The Federal Ombudsmen also received a Slovakian parliamentary delegation in September in relation to the creation of the post of national ombudsman in Slovakia. In October, the Federal Ombudsmen hosted their French counterpart, Mr Bernard Stasi, the Ombudsman of the Republic, for a day-long meeting. Mr Stasi and the Federal Ombudsmen were received by the Speaker of the House and by the Petitions Committee. Lastly, in November, the Federal Ombudsmen held a seminar at the Office with their Hungarian counterpart, Mr Jenö Kaltenbach, parliamentary commissioner.

The plan to organise a week's training for an Office staff member at the Office of the Ombudsman of the Republic of France, in Paris, was agreed in principle. This training will take place in 2002. In addition, staff members from the Albanian Ombudsman's Office underwent a week's training at the Federal Office. The Office was also to receive a staff member from the Romanian Ombudsman's Office for a week's training, but this was finally cancelled for reasons relating to the Romanian Office.

A junior official (*attachée*), the coordinator of the "state departments" section, the Director and the French-speaking Federal Ombudsman attended a training congress/seminar in Andorra on 14-18 October which was organised by the Association of Ombudsmen and Mediators of the Francophonie (*Association des Ombuds-*

mans et Médiateurs de la Francophonie – AOMF). The theme was the Protection of Human Rights and Proximity to Citizens: the Ombudsman's prerogatives. Their submissions concerned in particular the question of *the rights of foreigners and the ombudsman*. Pierre-Yves Monette also attended a colloquium in Ljubljana (Slovenia) on 12 and 13 November concerning *Relationship between ombudsmen and judicial bodies*, where he talked mainly on the topics *The ombudsman and judicial reviews* and *The ombudsman and informal sources of law*.

Lastly, at the request of the Council of Europe, Pierre-Yves Monette took part as an expert in the seminar jointly organised by this institution and by the OSCE in the context of the Stability Pact for South-Eastern European countries, which was aimed at strengthening the offices of ombudsman in these countries. The seminar was held in Banja Luka (Bosnia-Herzegovina) and Zagreb (Croatia) on 20 and 21 February. Mr Monette was also invited to present an address on the subject *Moving from adversarial to non-adversarial approaches – a contemporary approach in ombudsmanship* at a symposium organised in Cyprus on 12-14 September 2001 by the national ombudsman of Cyprus, one of the candidate countries for accession to the European Union, on the occasion of the tenth anniversary of the national Cypriot office of ombudsman. It should be noted that the costs arising from these expert missions (performed free of charge) were not paid by the Office, but by the organisers.

On 29 and 30 March 2001, in his capacity as Regional Vice-President for Europe of the *International Ombudsman Institute (IOI)*, Dr Herman Wuyts visited his predecessor, the Danish Ombudsman, Dr Hans Gammeltoft-Hansen, thus creating an opportunity for both of them to discuss the administration inherent to this position in order to ensure continuity.

The exchange of documentation was followed by a visit to Barcelona from 2 to 4 April, to the President of the European Ombudsman Institute, the Catalan Ombudsman Anton Cañellas. Possibilities of establishing closer cooperation between the organisations were discussed at this meeting.

From 23 to 26 September, Herman Wuyts and the Director took part in a conference in Copenhagen attended by European as well as Latin American and Caribbean ombudsmen. The theme was *The Work and Cooperation of Ombudsman and National Human Rights Institutions*. Dr Wuyts spoke on *Combating Discrimination (combating non-application of non-discrimination regulations)*. The conference was

followed by in-depth exchanges of views with UNESCO on the one hand and the European Union on the other, resulting in two brief trips to Paris (on 10 October and on 27 November respectively).

The annual meeting of the IOI management board took place in Seoul (South Korea) from 27 to 31 October. The activities report and accounts from the previous year were approved, as were those of the international secretariat. The drafts for 2002 were also discussed at this meeting.

Lastly, Herman Wuyts organised the annual meeting of European Ombudsmen in Zurich on 21 November, at which he reported on his activities and on those of his European colleagues, directors of the IOI. The meeting also focused on the future objectives of the organisation. This meeting is always held at the same time as the Biennial Round Table of the Council of Europe attended by ombudsmen from the whole continent of Europe, which this year was organised in cooperation with our Swiss colleagues.

4. Logistical management

The Office of the Federal Ombudsmen continued in 2001 to apply the day-by-day management procedures arising from the internal organisation, staff management, financial and budgetary policies laid down in previous years.

The various logistical functions are essentially organised by internal management, with or without the assistance (increasingly diminishing) of third parties, but always by assigning a small number of staff members to this purpose.

The Office has no longer been using the services of a social secretariat for the administrative aspects of salaries since January 2002. Instead it calls upon the Central Fixed Expenditure Service of the Ministry of Finance. This should result in a significant reduction in management costs and in greater efficiency.

For its accounts (based on business accounting practices as mentioned in the previous Annual Reports), the Office of the Federal Ombudsmen no longer calls upon the services of an external accountant except in very specific cases in which it requires technical assistance (special entries, closing of the financial year and accounts, adoption of new measures such as the introduction of the euro, etc.).

4.1. Staff management

The table below shows the staff at 1 January 2002.

Level	Language		Sex		Status		Total staff	Total framework of the personnel
	Dutch-speaking	French-speaking	M	F	Statutory	On Contract		
A	11	11	12	10	20 (*)	2	22	24
B	6	6	4	8	12	0	12	12
C	1	1	1	0	0	1	1	2
D (**)	1	1	0	2	0	2	2	2
<i>Total</i>	18	19	17	20	32	5	37	38+2 (**)

(*) including 2 special advisers with temporary mandate (the administrator and the director),

(**) cleaning staff, similar to Level D, article 4 of the framework of the personnel

Compared with 1 January 2001, the staff has increased by one unit, thus the situation is the same as at 1 January 2000.

The number of staff members on temporary contracts fell from six to five: following a recruitment competition held in 2001 in cooperation with SELOR, there was only one manager on a temporary contract at 1 January 2002, who was replacing a permanent staff member who had left the Office the previous year. The position of IT officer (university level) was also occupied by an employee on a contractual basis at 1 January 2002. In fact it had not proved possible to find a suitable candidate to fill this post following the above-mentioned recruitment competition (junior official or *attaché* level). As for the three remaining staff members on contracts, the organisational framework explicitly states that these positions shall be assumed by members on temporary contracts, because of the special nature of the posts.

The Office of the Federal Ombudsmen was unable in the past year to complete fully the process begun in 2001 to recruit four coordinators. At the end of 2000, two of the Office's employees who met the statutory criteria had passed the assessment organised in conjunction with SELOR. A specific examination, following an external advertisement, was held in 2001 to fill the two posts still vacant, however it was not a success. Because of the lack of successful candidates, only one of the two vacancies was filled as a result.

Lastly, the Office continued to implement the human resources policy described in the previous Annual Reports.

4.2. *Financial and budget management*

The budget for 2002 amounts to EUR 3 114 411 (BEF 125 635 000). The slight increase (+2.78%) compared with 2001 is mainly a result of the index-linked salaries plus normal career development. The increase is in fact in keeping with the multi-annual estimate presented and approved by the House in 1998.

4.3. *Logistical management*

A new computer system, developed in-house, has been in operation since 4 April 2001. This program for monitoring cases, aimed at combining efficiency and effectiveness, simplicity and a multitude of operating possibilities (statistics, management information, etc.), will act as the mainspring for the Office's future IT development. A working group consisting of system users was involved in bringing about these developments.

II. STATISTICAL ANALYSES



II. STATISTICAL ANALYSES

1. Introduction

Here the reader will find a series of general statistical data which give an overall picture of the number of complaints, the language, the means of communication used, the geographic breakdown, the breakdown per sector, the handling phase, the cases passed on to others and the final evaluation of each case handled.

The figures given in the various tables always refer to the situation at 31 December 2001. Following on from the 2000 Annual Report (1 January 2000 – 31 December 2000), and mindful of the new Article 15 of the act of 22 March 1995 establishing the Federal Ombudsmen (see above), the period covered by this 2001 Annual Report is twelve months (1 January 2001 – 31 December 2001). In response to a request by the House Petitions Committee, the trend in the general figures for 2000 and 2001 is compared whenever the elements are available or comparable.

It is useful to bear in mind the following explanations when analysing the various Federal ministries.

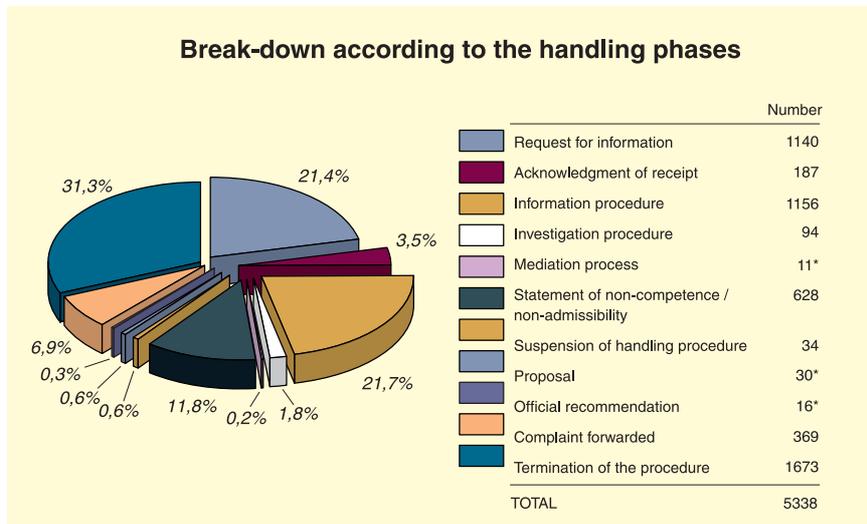
- A case being handled may concern either a complaint or a mediation request.
- With the exception of semi-public bodies operating in the social field and of the semi-public bodies and the public corporations which are not attached to a specific ministry from an organisational point of view, we will analyse semi-public bodies together with their supervisory ministry, although we are quite aware that these institutions do not form part of the ministry properly speaking.
- Pursuant to Article 14 of the Coordinated Laws on the Council of State, a minister is also a Federal administrative authority. The Office of the Federal Ombudsmen is therefore also competent to evaluate his (purely administrative) action in the course of handling a complaint or a mediation request.

2. Some figures

A total of 5 338 cases was handled in 2001. Of these, one case had been initiated during the nine months of 1997, eleven were started during the twelve months covered by the Annual Report 1998 and 114 during the fifteen months covered by the Annual Reports 1999 and 1999/1. Of these 5 338 cases, 1 073 were started during 2000 and 3 999 during 2001; this figure includes 1 140 requests for information. Such requests increased considerably in 2001 compared with 2000, the year in which the Office recorded “only” 341 requests for information. Apart from the fact that there was a real increase in such requests, this rise is a result of the performance of our new computerised monitoring program which permits better identification of data (see above, Part I/4, Logistical management, pages 22 and after).

From 1 January 2001, the Office of the Federal Ombudsmen adopted the rule of closing an individual case at the latest after two years, with some exceptions, compared with three years in the past, and of monitoring the matter, where necessary, at a more general level on the basis of cases of principle. Every three months, the Office therefore closes all cases of over two years that are still open. The vast majority of cases are, however, closed after a few months, or even one year.

The cases are broken down in accordance with the ten phases of handling listed under Article 12 of the Rules of Procedure of the Office of the Federal Ombudsmen (*Moniteur belge/Belgisch Staatsblad* (Belgian Official Gazette), 27 January 1999, p. 2339-2345, see also OFO, Annual Report 1997, p. 44-46): acknowledgement of receipt, information procedure, investigation, mediation process, statement of non-competence / non-admissibility, suspension of handling procedure, proposal, official recommendation, complaint forwarded and finally, termination of the procedure.



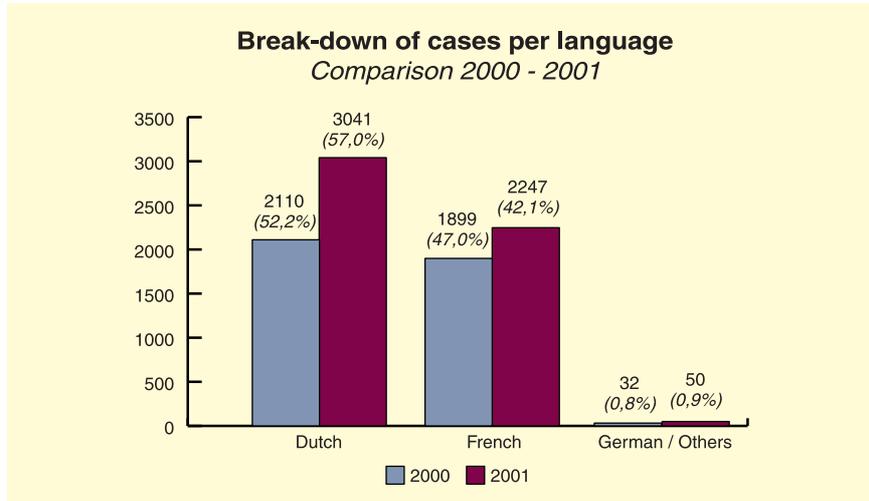
(*) There were 16 mediation processes, 42 proposals and 24 official recommendations in the past year. The figures shown in the graph reflect (only) the situation at 31 December 2001, since the phases of a case are by definition progressive.

The complaints handled in 2001 are also broken down according to the language in which they were filed: French: 2 247, Dutch: 3 041, others (including German): 50.

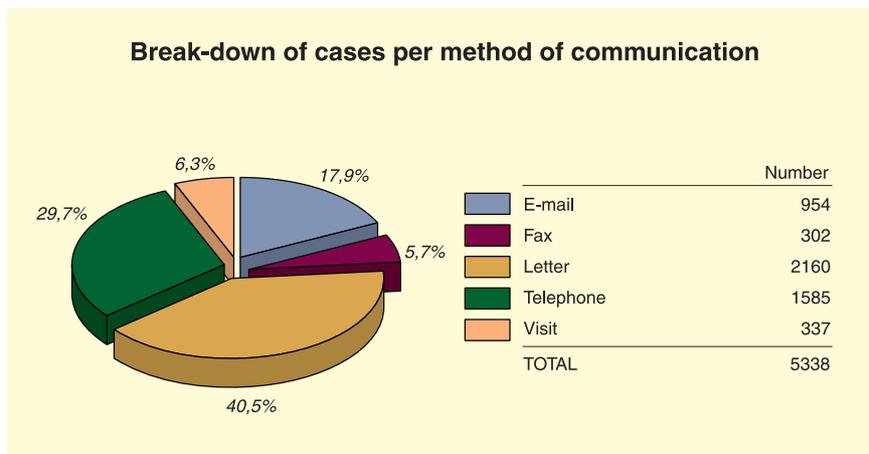
The following graph shows the evolution in the number of cases according to the breakdown in 2000 and 2001 (situation at 31 December of each year). In proceeding in this way, a number of cases (opened before 1 January 2001) are listed in the 2000 statistics as well as in those for 2001. These figures are still very relevant, though, as they reflect the Office's real workload according to year and language of the cases.

If we break down, still according to the language criterion, the 3 999 new cases opened in 2001, we get the following figures: French: 1 581 or 39.5%, Dutch: 2 380 or 59.5%, others (including German): 38 or 1.0%. When broken down according to whether they are new complaints or requests for mediation or for information, we get the following results:

- new complaints or requests for mediation (2 859): French: 1 205 or 42.1%, Dutch: 1 632 or 57.1%, others (including German): 16 or 1.4%.
- new requests for information (1 140): French: 376 or 33.0%, Dutch: 748 or 65.6%, others (including German): 22 or 0.8%.



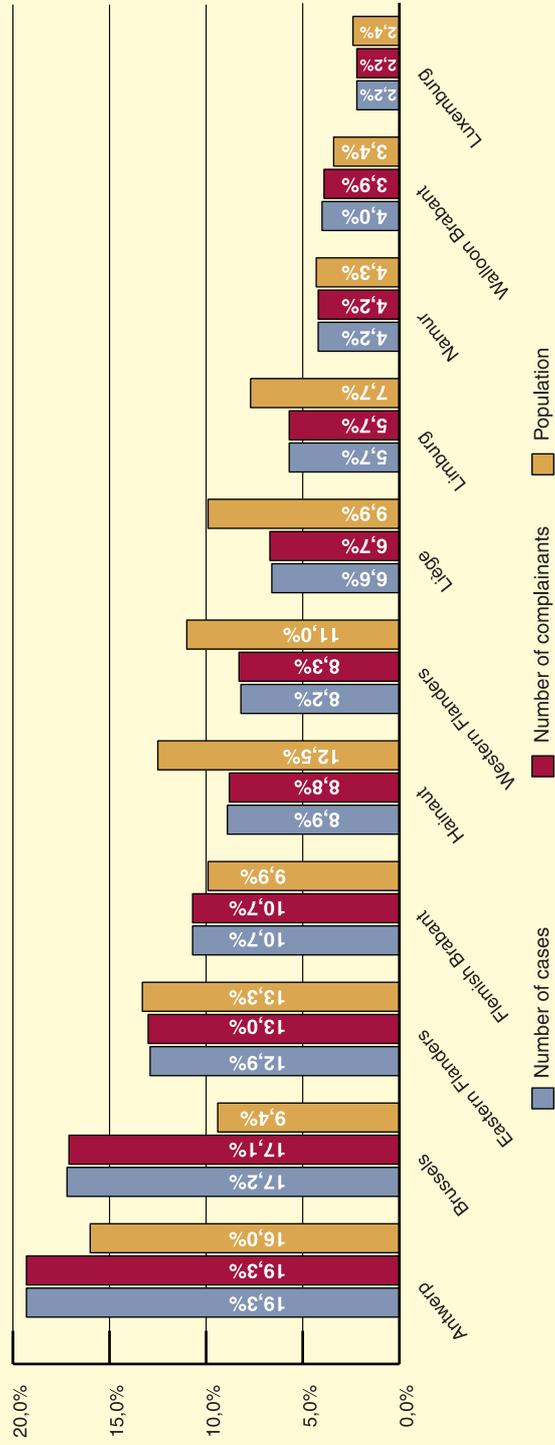
This year, for the first time, we are including a graph showing the breakdown of cases according to the method of communication used to file the complaint or submit the request for mediation or for information. In descending order, we recorded 2 160 new cases opened following receipt of a letter sent by post, 1 585 cases opened after a telephone conversation, 950 opened following receipt of an e-mail, 337 opened following a visit to the Office and, lastly, 302 opened as a result of a fax.



The following graph provides an overview⁸ of the geographic breakdown between the provinces and Brussels as regards both the number of cases (4 501 cases) and the complainants themselves (numbering 4 364). Of course these figures take account only of cases for which the residence of the complainant is known (this is not always true in the case of e-mails, requests for information or, obviously, anonymous complaints) and provided that the party concerned has mentioned a place of residence in Belgium. In fact one hundred cases came from people resident abroad.

⁸ Source: "Population et ménage – Population totale et belge au 1.1.2000" (Population and households – total and Belgian population at 01/01/2000), Ministry of Economic Affairs, INS.

Comparison between the number of cases, the number of complainants and the population per provinces and Brussels



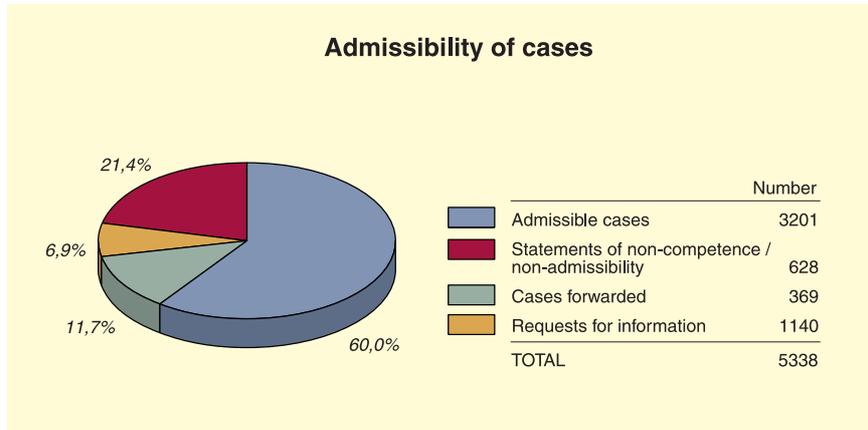
Some of these complaints (a total of 628) were in fact inadmissible. Others (369) were forwarded to Community or Regional parliamentary ombudsmen, to mediation bodies within the Civil service departments or even to the administrative authority which had taken the disputed decision (in the absence of any competent parliamentary or administrative ombudsmen). Lastly, a number of requests for information (1 140) were forwarded to the institutions concerned or to the information officer of the latter. With the exception of these files, the Office of the Federal Ombudsmen thus actually dealt with 3 201 complaints.

As explained in the Annual Report 2000 (pages 9 to 13), the cases that are not admissible or forwarded represent a considerable part of the workload of the Office of the Federal Ombudsmen. In fact, in a number of cases, the decision to declare a case inadmissible or to transmit it to another body cannot be taken until the elements have been examined in depth. The same applies to requests for information.

In addition, the Office also received approximately 1 500 requests for information by telephone. Although the individual handling of each one of these requests does not require much time and they are not therefore included in the graph, contrary to the 1 140 written requests for information which require much more work because of the content, they nevertheless represent together a workload that must not be underestimated.

The graph below gives an overview of the number of admissible cases. We have observed the following trend in the past two years, not taking into account requests for information counted since the introduction of the new computer program:

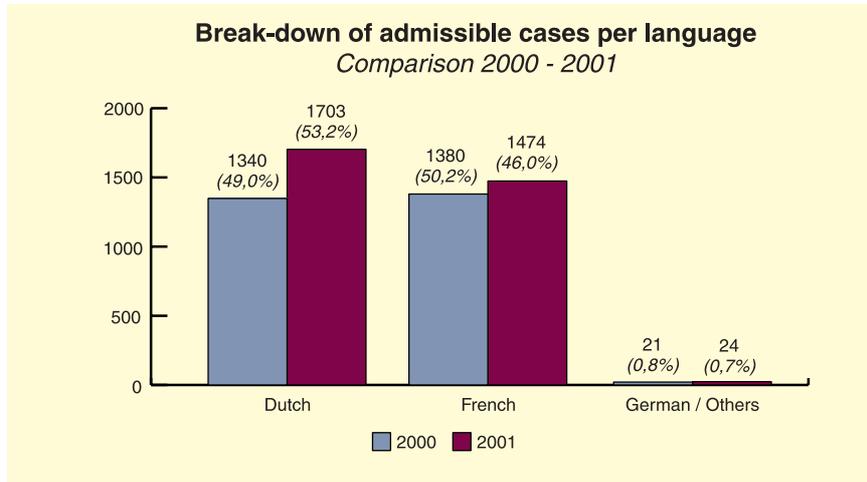
- 2000 (for 3 700 cases): 2 749 admissible cases (74.3%), 540 inadmissible cases (14.6%) and 411 cases forwarded (11.1%)
- 2001 (for 4 198 cases): 3 201 admissible cases (76.3%), 628 inadmissible cases (15.0%) and 369 cases forwarded (8.8%).



The complaints actually handled (*i.e.* the admissible files) are broken down according to the language in which they were made: French: 1 474, Dutch: 1 703, others (including German): 24.

The following graph shows the trend in admissible cases over the last two years. As we already mentioned above, we cannot avoid counting certain cases twice because each time we are basing our figures on the situation at 31 December. Nevertheless, these figures are pertinent as they reflect clearly the real workload which these cases represent for the Office each year.

In 2001, the 1 941 new admissible cases which the Office recorded can be broken down according to language as follows: French: 843 or 43.4%, Dutch: 1 085 or 55.9%, others (including German): 13 or 0.7%. In 2000, the same criterion for breaking down new admissible cases (1 828) produced the following results: French: 859 or 47.0%, Dutch: 960 or 52.5%, others (including German): 9 or 0.5%.



As highlighted in the following graph, the College of the Federal Ombudsmen forwarded files to the following Community or Regional parliamentary ombudsmen, mediation bodies within the Civil service departments or institutions:

Recipients of the forwarded complaints and requests for information	Number	%
House of Representatives	2	0,2%
Ombudsman (mediator) of the Flemish Community /Region (Vlaams ombudsman)	109	8,9%
Ombudsman (mediator) of the Walloon Region	20	1,6%
Supreme Council of Justice	8	0,7%
Police Supervisory Committee	7	0,6%
Mediation body for pension-related complaints	60	4,9%
Mediation services attached to independent public corporations	32	2,6%
Federal administrative authorities	732	59,5%
Authorities of Communities and Regions	64	5,2%
Mediators of local authorities	12	1,0%
Local authorities	31	2,5%
Mediation services in the private sector (banks, insurance companies, etc.)	26	2,1%
Others	127	10,3%
	1230	100,0%

The admissible cases that were definitively closed were assessed and classified in the evaluation categories. These categories are much more detailed than in the past (see OFO, *Annual Report 2000*, p. 16-17).

The “proper administration” assessment is applied when the Civil Service is operating perfectly well or when its error is redressed before the Office intervenes.

“Proper administration following intervention” means that an error was committed by the Civil Service, but was rectified after the Office intervened.

“Improper administration” is the assessment given when an error committed by the Civil Service has not been rectified despite the Office’s intervention.

“Application of equity”: this concerns all the quite exceptional cases in which, while a decision by the Civil Service may fully respect legality and the principles of proper administration, it runs counter to the natural feeling of human justice, thereby inducing the Office of the Federal Ombudsmen to invoke equity in order to ask the Civil Service to modify the decision in question.

“Consensus” indicates that a problem has been solved either by effective mediation or by the clearing up of a misunderstanding, without there being any real question of proper or improper administration.

The assessment “responsibility shared” is given when the responsibility for the malpractice is shared between the complainant and the administration.

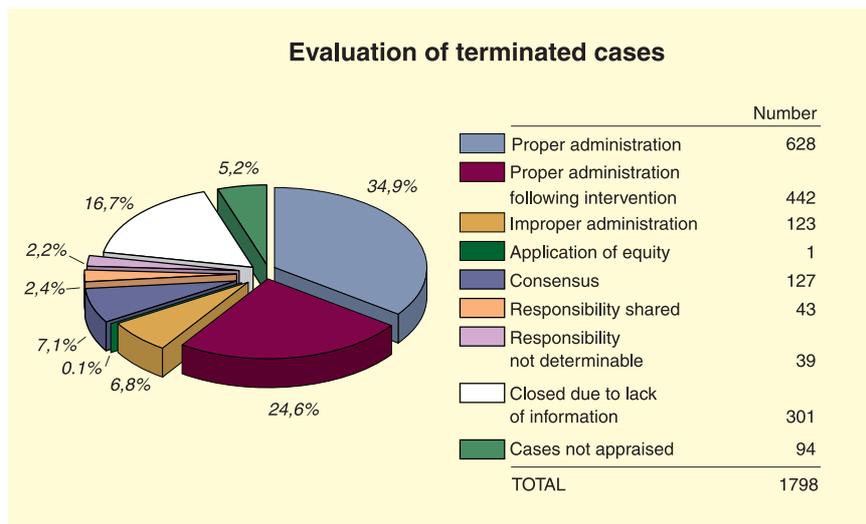
The comment “responsibility not determinable” is used when it is impossible to establish precisely the responsibility of the complainant or of the Civil Service.

A case is said to be “closed due to lack of information” when the complainant does not forward to the Office the information essential for handling it.

Lastly, the expression “case not appraised” is applied to a case when the problem was solved before the intervention of the Office but after the intervention of a third party, or after the intervention of the Office itself when it is clear that the latter did not contribute decisively to solving the problem. It may also happen that an individual case was solved without the intervention of the Office, but that the structural problems or regulatory provisions causing the dispute have not yet been solved or modified.

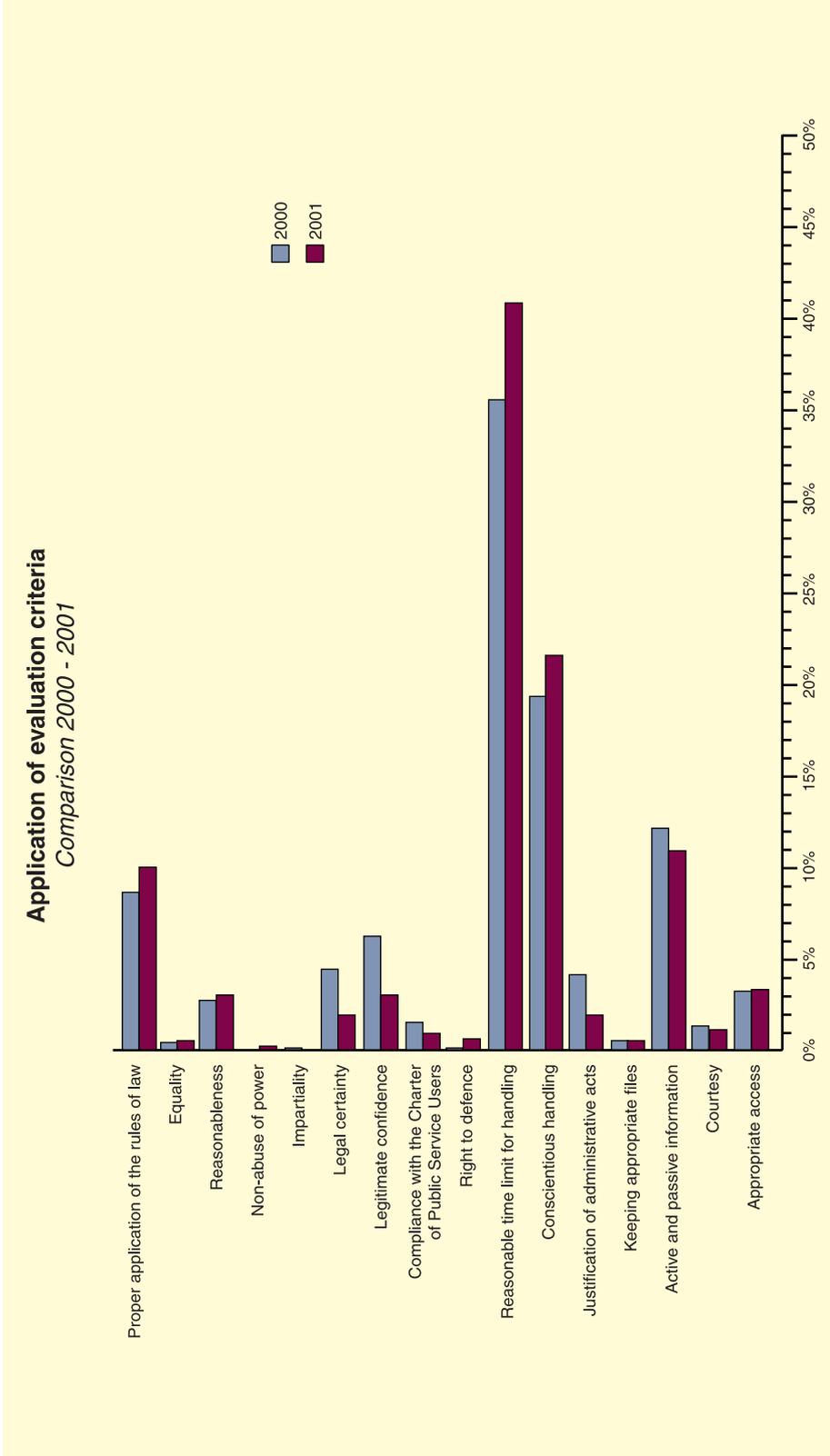
The following graph gives an overview of the 1 673 closed files, which were evaluated as follows: 628 “proper administration”, 442 “proper administration following intervention”, 123 “improper administration”, 1 “application of equity”, 127 “consensus”, 43 “responsibility shared”, 39 “responsibility not determinable”, 301 “closed due to lack of information”, and 94 “cases not appraised”. The existing difference between the number of evaluated files and

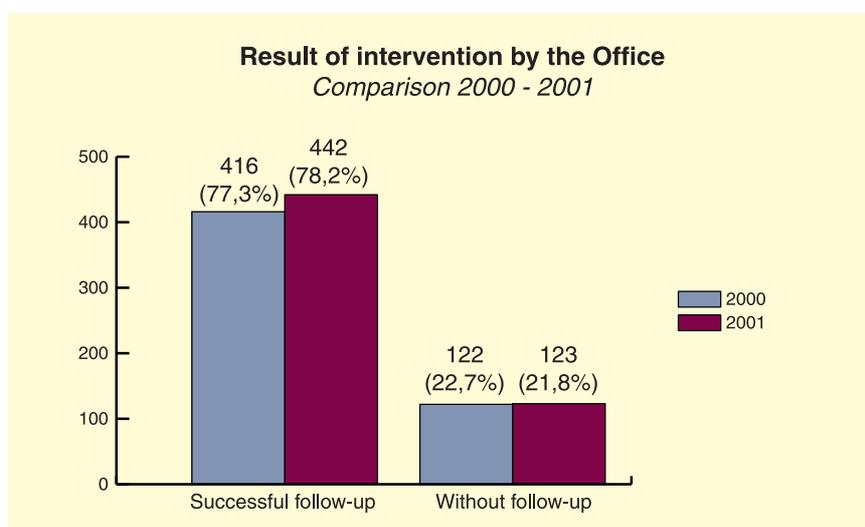
closed files lies in the fact that one complaint might concern several authorities, each of them being evaluated at the time the file is closed.



The following graph (page 38) gives an overview of the evaluation criteria applied for the 565 closed cases that were designated “improper administration”. Since more than one criterion may have been infringed by the administration in relation to a case, several criteria may be used to evaluate the same file. Therefore, the total amount of violations of these criteria (644) is higher than the number of files (565). Moreover, the average number of criteria of proper administration infringed in each case dropped in 2001 (1.14) compared with 2000 (1.4 or 753 out of 538 cases). The refinement of these proper administration criteria (the term “evaluation criteria” is used in the tables) has more than a little to do with this.

The following graph (page 39) shows the results of the intervention by the Office of the Federal Ombudsmen in the cases closed under “improper administration”. Intervention should be understood as all the information and investigation procedures, mediation processes, proposals and official recommendations by the Office.

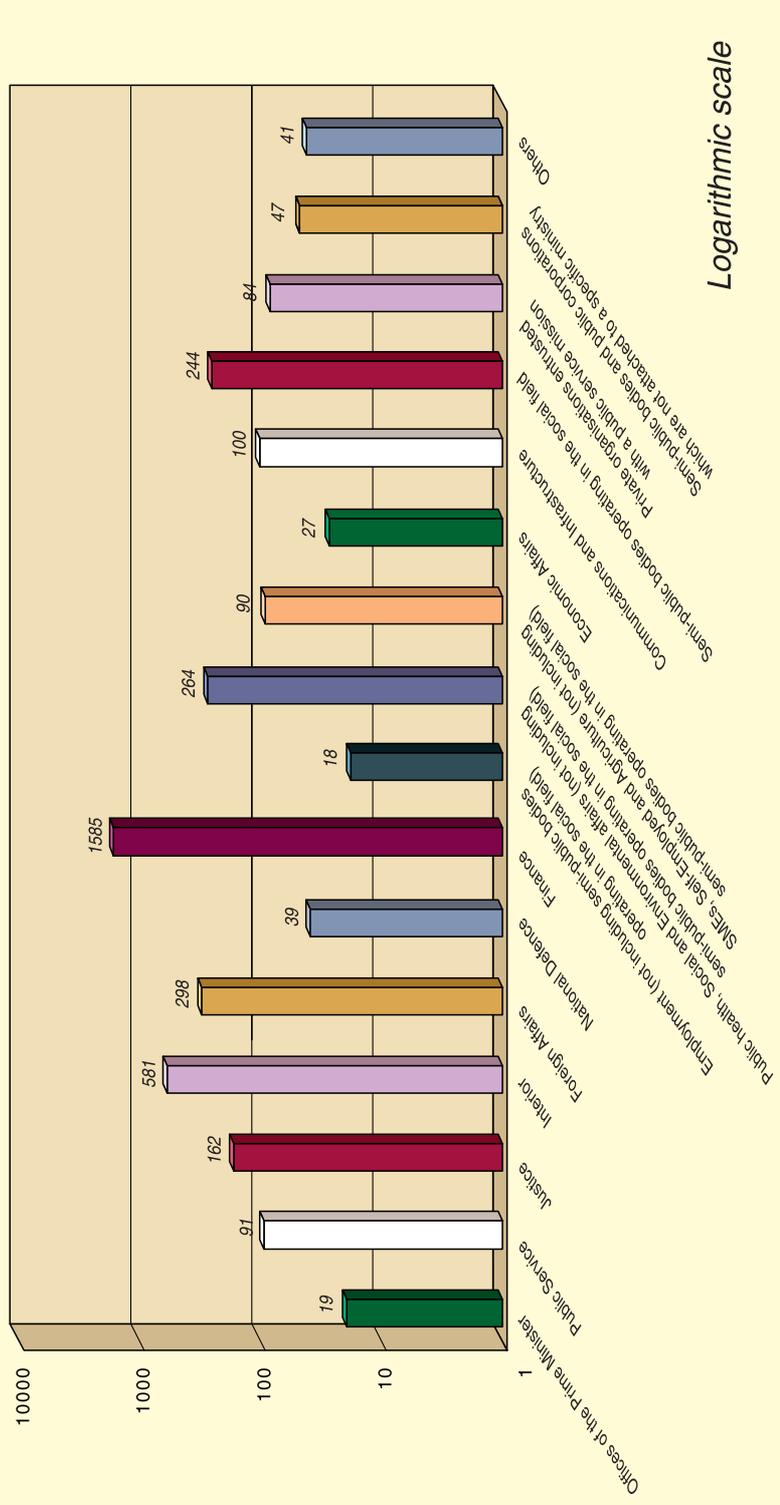




Break-down by Civil Service department of the various complaints handled by the Office of the Federal Ombudsmen is as follows:

Federal Civil Service Departments	2001		2000	
	Count	Percentage	Count	Percentage
Offices of the Prime Minister	19	0,5%	12	0,4%
Public Service	91	2,5%	49	1,7%
Justice	162	4,4%	101	3,5%
Interior	581	15,7%	555	19,0%
Foreign Affairs	298	8,1%	162	5,6%
National Defense	39	1,1%	16	0,5%
Finance	1585	43,0%	1278	43,8%
Employment (not including semi-public bodies operating in the social field)	18	0,5%	36	1,2%
Public health, Social and Environmental affairs (not including semi-public bodies operating in the social field)	264	7,2%	168	5,8%
SMEs, Self-Employed and Agriculture (not including semi-public bodies operating in the social field)	90	2,4%	49	1,7%
Economic Affairs	27	0,7%	14	0,5%
Communications and Infrastructure	100	2,7%	105	3,6%
Semi-public bodies operating in the social field	244	6,6%	209	7,2%
Private organisations entrusted with a public service mission	84	2,3%	83	2,8%
Semi-public bodies and public corporations which are not attached to a specific ministry	47	1,3%	12	0,4%
Others	41	1,1%	69	2,4%
	3690	100,0%	2918	100,0%

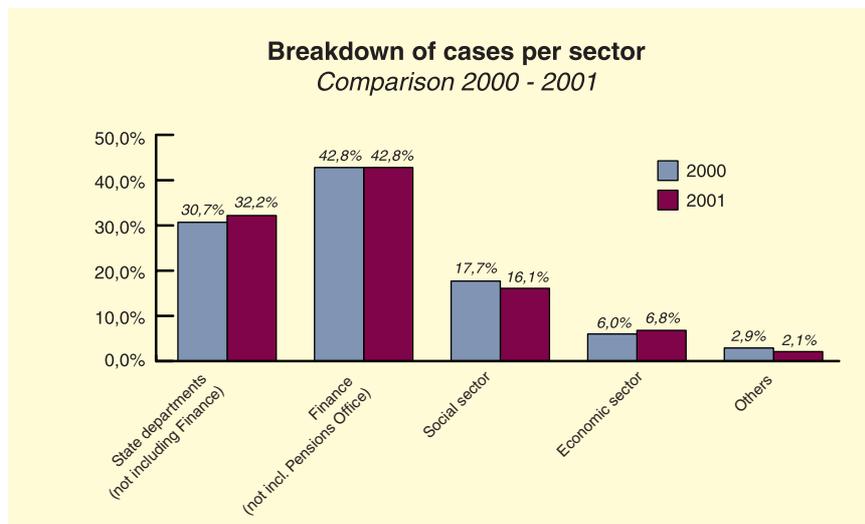
Break-down of the admissible complaints by Civil Service department (n=3 690)



Logarithmic scale

The number of complaints per department (3 690) is higher than the one of admissible complaints (3 201) as more than one administrative authority may be concerned by one file. Furthermore, the number of complaints by civil servants is shown separately (and complementarily) for each Civil Service department.

To conclude this overall picture, the following graph shows a breakdown per sector of the cases covered by the above tables and graphs.



III. RECOMMENDATIONS



III. RECOMMENDATIONS

The recommendations by the Office of the Federal Ombudsmen are either “general” or “official”. Pursuant to Article 15.1 of the Federal Ombudsmen Act, the former are sent to the Legislative Authority (more particularly, the House of Representatives, but they are also of interest to the Senate when they concern legislative improvements). Furthermore, the Executive might also find it interesting to take them into consideration. The latter recommendations, in line with Article 14.3 of the said act, are sent to the Executive Authority (the Civil Service and the Government).

General recommendations concern either improvements of a legislative nature, in relation to which the Parliament may take the initiative, or administrative malfunctioning of a regulatory, cyclical or structural nature, for which the Parliament may exercise its power of control over the Executive.

In *official recommendations*, the Civil Service is requested to modify a decision brought before the Office, for which the latter has concluded that there had been a violation of legality or non-compliance with the principles of proper administration, or for which it has invoked equity ⁹. In *official recommendations* the Civil Service or minister responsible may be asked to solve an administrative malfunctioning of a regulatory, cyclical or structural nature on the basis, where appropriate, of the specific solutions proposed by the Office.

1. General recommendations (GR)

1.1 *General recommendations – 2001*

GR 01/01: greater transparency and greater legal certainty in the application by the Office of Foreigners of the Act of 15 December 1980 and of its implementing decree.

The application by the Office of Foreigners of the Act of 15 December 1980 and of its implementing decree must be based directly on the provisions of this Act and of this decree. Where necessary, application may be specified in circulars. Pursuant to the principles of administrative transparency and legal certainty, the Office re-

⁹ See “The Office of the Federal Ombudsmen and the supervision of the Civil Service’s work and functioning”, Annual Report 2000, part I.3.

commends that circulars of a general nature must be published in the *Moniteur belge/Belgisch Staatsblad* (Belgian Official Gazette).

In this respect, circulars must describe the procedures for implementing the provisions in question but, under the principle of separation of powers, they cannot, under any circumstance, contain new conditions that are not featured in the act or in its implementing decree. Moreover, in keeping with the principles of administrative transparency and legal certainty, these circulars must be regularly updated whenever new implementing arrangements are laid down or if administrative practice changes.

The Office also recommends that the criteria used generally (but not explicitly) by the Office of Foreigners when applying the Act of 15 December 1980 and its implementing decree should be incorporated into the Act of 15 December 1980 or into its implementing decree.

GR 01/02: the extension of the scope of Article 143, 2° of CIR92.

The financial allowances paid out of the Public Treasury to the disabled are not taken into account when calculating the net amount of means of existence, since these persons can be classified as being dependent, for tax purposes, on other taxpayers. When they reach the legal pension age, the disabled may receive “guaranteed income for the elderly” (GRAPA) instead of their disabled persons’ allowances. Unlike other allowances, the GRAPA is not included under Article 143,2° of CIR92 which lists types of income not forming part of the declaration of means of existence, therefore it is regarded as taxable income, even though the family situation and medical costs of the persons concerned have not changed at pension age. Granting the GRAPA can therefore lead to a considerable reduction in available net income. To redress this situation, the Office of the Federal Ombudsmen recommends that the scope of the provisions of Article 143,2° CIR92 should be extended to the guaranteed income for the elderly granted to the disabled.

GR 01/03: the neutralisation of the perverse effect of the aggregation of certain social benefits or, even, the introduction of progressiveness in the aggregation of social benefits.

Certain increases in a social security allowance system can sometimes in the final analysis result in a loss when combined with allowances payable under another social security regime. For instance, with regard to either unemployment benefits or pensions, even a slight rise in one allowance received by one of the two members of a household can cost the other member his or her position as head of household, the result being a reduction in the household’s total net income. In other words, rather than benefi-

ting a person eligible for social benefits, an allowance may in some cases go against him or her or the household. The Office of the Federal Ombudsmen therefore recommend the introduction of a system that would either neutralise this perverse effect of certain aggregations of social allowances or would introduce progressiveness in aggregations of social allowances.

1.2 Follow-up during the year 2001 of the general recommendations made in 2000, 1999, 1998 and 1997

GR 00/1: the declaration of marriage.

This general recommendation aims to introduce in the marriage declaration procedure, as set down under Articles 63 and after of the Civil Code, the system of replacement of an authentic copy of the birth certificate by a succession of other documents. The matter was raised in an oral question put to the Minister of Justice in May 2001. The latter stated that the system of replacement of an authentic copy by a succession of other documents, as proposed by the Office, was being examined. In November 2001, and then in March 2002, the Office asked the Minister about his intentions. Apart from this, however, no further progress was made regarding this general recommendation.

GR 00/2: the procedure for changing surnames and first names.

This recommendation aims to amend Article 335.3 of the Civil Code to take account of a ruling by the Court of Arbitration whereby the requirement that a spouse must consent to the change of name of a child born to the other spouse out of wedlock was abolished. No legislative initiative has been taken in this respect, and no further progress was made regarding this recommendation.

GR 00/3: training in communication and reception for all tax administration officials

Encompassing GR 1999/10, this recommendation underlines the need for training to be given to tax collection officials in communicating with and receiving taxpayers. The National College of Taxation and Finance published a syllabus on the principles of proper administration in December 2001. However, no further progress was made regarding this recommendation.

GR 00/4: payment of road traffic tax by automatic debit

The road traffic tax must be paid by taxpayers of their own accord, regardless of whether or not they receive an invitation to pay, which leads to a number of omissions and fines. The Office therefore recommended that it be possible in future to make this pay-

ment by means of a direct debit. The authorities recognised the usefulness of this innovation, without however granting any special priority to it. No further progress was made, therefore, regarding this recommendation.

GR 00/5: the abolition of the taking into account of the income of the person with whom a disabled person had been living following the separation of the persons concerned.

This general recommendation was the subject of two parliamentary questions addressed to the Minister of Social Affairs. Following the amendment in 2001 of the Act of 27 February 1987 on allowances for the disabled, which further restricts consideration of the income of the spouse or of the person with whom the disabled person is living, in the case of disabled persons receiving category III and IV allowances, fewer disabled people will lose the right to allowances owing to marriage or co-habitation, hence fewer will risk finding themselves without income in the event of a separation. No further progress was made regarding this recommendation for those who are still likely to lose their right to allowances through marriage or co-habitation.

GR99/1: increasing the resources of the Office of the Federal Ombudsmen as an instrument for promoting and protecting human rights.

The seminar in September 2001 on *Ombudsmen against discrimination* organised by the Office of the Federal Ombudsmen and the European, Walloon and Flemish Ombudsmen on the occasion of the Belgian Presidency of the European Union provided an opportunity for the national and regional ombudsmen of the fifteen EU countries to emphasise, in line with Recommendation 85/13 of the Committee of Ministers of the Council of Europe, the essential role played by ombudsmen in protecting and promoting human rights and fundamental freedoms. In legislative terms, however, no further progress was made regarding this recommendation.

GR 99/2: The establishment of an *ad hoc* commission entrusted with monitoring the implementation of the law on formal justification of administrative acts.

The Petitions Committee granted a hearing to the Federal Ombudsmen in May 2001 concerning this general recommendation in order to refine its information on this matter. No further progress was made, however.

In the light of the assessment of *improper administration* with lack of justification applied by the Office to many cases handled by the Committee relating to exemption from social contributions, the Department responsible for the social regulations governing the Self-

employed (Ministry of Self-Employed and Agriculture) presented proposals to its supervisory minister at the beginning of 2001 aimed at adapting the standard decisions of this Committee to include adequate justification. These proposals are still being examined by the Minister responsible for the self-employed.

Given the crosscutting nature of this general recommendation, which concerns the entire Federal Civil Service, the Minister of the Public Service is obviously the most appropriate authority for implementing it.

GR 99/3: External control of administrative acts and of the functioning of administrative jurisdictions.

No progress has been recorded regarding this general recommendation. While there is now external control of administrative acts and the functioning of judicial jurisdictions since the establishment of the Supreme Council for Justice in August 2000, the same does not apply to administrative acts and the functioning of administrative jurisdictions.

GR 99/4: The evaluation of additional staffing needs of certain Civil Service departments.

The Petitions Committee held a hearing for the Federal Ombudsmen in May 2001 concerning this general recommendation in order to refine its information on this matter. No further progress was made, however. More pertinent now than ever as regards some sections of the Federal Civil Service (many of the Tax Revenue offices, national social security, war victims department, etc.), this general recommendation calls for attention to be focused, through the analysis of needs, on the requests by some departments to be granted additional staff. The Office has in fact identified a real lack of staff in some departments which is very seriously undermining the quality and speed of the services provided, in particular when the statutory workforce is not complete. It would therefore be advisable for the Ministry of the Civil Service (the Federal civil service department "Personnel & Organisation") to proceed with a more thorough examination of these needs. While some needs can be satisfied only by allocating additional staff, an adequate response could in other cases consist of computer equipment and programs, more suitable management tools, etc. At a time when Circular No 506 by the Ministry of the Civil Service is introducing cut-backs in all departments in terms of recruitment of permanent staff, and when the Ministry responsible for the Budget intends to halt the recruitment even of new temporary officers to replace permanent staff on long-term leave, the Office would draw attention to the fact that the situation has gone beyond the critical stage in some departments.

GR 99/5: The adoption of measures to ensure that the general public is more aware of the existence and missions of information officers.

The Petitions Committee held a hearing for the Federal Ombudsmen in May 2001 concerning this general recommendation in order to refine its information on this matter. No further progress was made, however. Given the crosscutting nature of this general recommendation, which concerns the entire Federal Civil Service, the Ministry of the Public Service is obviously the most appropriate authority for implementing it. It would, to this end, benefit by being included in the Copernic reform plan for the Federal Civil Service.

GR 99/6: The obligation for citizens to produce documents, whereas the Civil Service may have or could easily have the means of obtaining them itself.

The Petitions Committee held a hearing for the Federal Ombudsmen in May 2001 concerning this general recommendation in order to refine its information on this matter. Included in the past in the Commissioner's plan on administrative simplification, no further progress was made. It should be noted that, in the social security field, the Banque Carrefour is already playing a valuable role in this respect.

Given the crosscutting nature of this general recommendation, which concern the entire Federal Civil Service, the Ministry of the Public Service is obviously the most appropriate authority to implement it.

GR 99/7: International adoption.

The bill reforming the adoption system (*Doc. Parl.*, 2000-2001 Ordinary Session, No 1366/1 and No 1366/2) satisfies the content of the recommendation explicitly and in detail. On 17 July 2001, the bill, aimed at reforming Belgian adoption legislation as a whole, was submitted to the House. The Justice Committee began examining it together with several other proposals to amend the adoption system on 5 December 2001.

GR 99/8: Problems arising when a property is evaluated by the tax authorities.

Even now the Office of the Federal Ombudsmen regularly receives complaints concerning the lack of information and justification when properties are evaluated by the tax authorities, a problem which did not improve during the past year. With regard to setting the "normal" value of new buildings (VAT), a meeting between the Office and the authorities resulted in some progress since in future citizens will be informed pro-actively and will be able to obtain a

detailed explanation of their case. The Office welcomes this undeniable progress which, however, constitutes only a partial response to its general recommendation.

GR 99/9: The extension of the possibilities of tax relief at decentralised level by rectifying (the data of) the initial tax assessment.

This general recommendation is aimed at extending the possibilities for allowing tax officials to have recourse to tax relief as a way of settling less complex disputes. While the Act of 19 July 2000 concerning the procedure to cope with disputes generated by the system of taxation of allowances paid pursuant to the law on occupational accidents and illnesses is a good example of the ad hoc extension of this tax mechanism, the demand set down in this general recommendation for it to be included structurally in CIR92 has still not been granted.

GR 99/11: Recurrent blocking of teachers' pension files.

In April 2001 the Petitions Committee took up this recommendation and considered that the attention of the competent minister should be drawn to this problem (*Doc. Parl.*, House of Representatives, 2000-2001 Ordinary Session, No 1186/001, p. 17 and No 1420/001, p. 13). No further progress was made, however.

GR 99/12: The consideration of military service when calculating pensions relating to colonial or overseas service.

In April 2001 the Petitions Committee took up this recommendation and decided to forward it to the Social Affairs Committee (*Doc. Parl.*, House of Representatives, 2000-2001 Ordinary Session, No 1186/001, p. 17 and No 1420/001, p. 13). No further progress was made, however.

GR 99/13: The lack of transparency of the Medical Association.

In April 2001 the Petitions Committee took up this recommendation and decided to forward it to the Public Health Committee (*Doc. Parl.*, House of Representatives, 1999-2000 Ordinary Session, No 0570/001, p. 36), where it has not yet been discussed. At the same time it was included in a bill in 2001 (*Doc. Parl.*, House of Representatives, 2000-2001, No 1427/001, Descheemaeker, Gilkinet, Wauters), which has not yet been discussed by the Public Health Committee.

GR 99/14: The in-depth examination of the regulation on the exchange of foreign driving licences.

It is now less important to implement this general recommendation since the regulation on driving licences has clarified this matter further.

GR 99/15: The legal protection of the term “ombudsman”.

This matter was discussed at the colloquium on *Public Mediation* organised by the Presidency of the House and the Petitions Committee on 15 January 2001. It should be compared with GR 97/3, since the legal protection of the term “ombudsman” is in fact closely tied to the connection between primary and secondary level mediation. It is also related to the question of confusion between the terms “mediator” and “ombudsman”, used indiscriminately in the French and Dutch versions of the Act of 22 March 1995. No further progress was made on this general recommendation, but the proceedings of the above-mentioned colloquium, to be published soon, will enable further action to be taken where appropriate.

GR 99/17: The discrimination between pension systems as regards the waiving of recovery of amounts not due.

In April 2001 the Petitions Committee took up this general recommendation ((*Doc. Parl.*, House of Representatives, 2000-2001 Ordinary Session, No 1186/001, p. 17 and No 1420/001, p. 13). At the same time, the recommendation was included in a bill (*Proposal to amend Article 59 of the Act of 24 December 1976 concerning 1976-1977 budget proposals* (Chastel and Bacquelaine), (*Doc. Parl.*, House of Representatives, 2000-2001 Ordinary Session, 23 August 2001, No 1397/001), which has not yet been discussed by the competent standing committee.

GR 98/1: The administration’s use, in the context of Article 9.3 of the Act of 15 September 1980, of confidential criteria, contrary to the principle of administrative transparency and to the principles of legal certainty and legitimate confidence.

With regard to the “foreigners” aspect of this general recommendation, the Act of 22 December 1999 concerning the legalisation of status (*regularisation*) for certain categories of foreigners resident on the territory of the Kingdom of Belgium satisfied the demand for transparency by laying down clear and explicit criteria. Recourse by the Office of Foreigners to secret criteria and lack of transparency is still a problem, however, and is the subject of a new general recommendation (GR 01/01 – see above).

The tax implications of this recommendation are connected with GR 99/8 (see above).

GR 98/2: The issuing, in one form or another, of an acknowledgement of receipt establishing the submission of documents to a Civil Service department.

The Petitions Committee held a hearing for the Federal Ombudsmen in May 2001 concerning this general recommendation in order to refine its information on this matter. No further progress was

made, however. At the same time, this recommendation was the subject of a bill (*Proposal to complete the Act of 29 July 1991 concerning formal justification for administrative acts with a view to obliging the Civil Service to issue an acknowledgement of receipt* (Van den Broeck, Bouteca, Bultinck, De Man and Goyvaerts), *Doc. Parl.*, House of Representatives, 1999-2000 Ordinary Session, 26 April 2000, 0598/001).

Given the crosscutting nature of this general recommendation, which concerns the entire Federal Civil Service, the Minister of the Public Service is obviously the most appropriate authority for implementing it.

GR 97/2: Constitutional recognition of the Office of the Federal Ombudsmen.

Article 28 of the Constitution, to be revised, permits the constitutional recognition of the right of citizens to have recourse to a parliamentary ombudsman and the recognition of the granting of a constitutional basis to the Office of the Federal Ombudsmen as an institution guaranteeing this right. Two proposals to amend the above Article to this effect were tabled during 2001, one in the House (*Doc. Parl.*, House of Representatives, 2000-2001 Ordinary Session, 8 May 2001, No 1244/001 – Chastel and Decroly), and the other one in the Senate (*Doc. Parl.*, Senate, 2000-2001 Ordinary Session, 29 November 2001, No 972/001 – Dallemagne and Thissen). They have not yet been entered on the agenda of the competent standing committees.

GR 97/3: The establishment of the Office of the Federal Ombudsmen as a second level of mediation, after the primary bodies (such as the sectorial mediation services and complaint services).

This matter was discussed at the colloquium on *Public Mediation* organised by the Presidency of the House and the Petitions Committee on 15 January 2001. No further progress was made regarding this general recommendation, but the proceedings of the above-mentioned colloquium, to be published soon, will enable further action to be taken where appropriate.

GR 97/4: The suspension of deadlines for judicial appeal while the matter is before the ombudsman.

The Petitions Committee held a number of hearings (Ministries of the Interior and of Justice, the Council of State, university professors and lawyers) relating to this general recommendation, but has not yet communicated the outcome of its work to the competent standing committee. No further progress has therefore been made regarding this general recommendation, although it was also the subject of a bill (*Doc. Parl.*, House of Representatives, 1999-2000

Session, No 0853/001 – O. Chastel). However this has not yet been discussed by the competent standing committee.

GR 97/5: The possibility for the Office of the Federal Ombudsmen to ask the Court of Arbitration for a preliminary ruling.

The Petitions Committee held several hearings (Ministries of Justice and of the Interior) relating to this general recommendation, but has not yet communicated the outcome of its work to the competent standing committee. No further progress has therefore been made regarding this general recommendation. Given the increasingly frequent interpretations of the law by certain Civil Service departments that are, in the view of the Office, infringing Articles 10 and 11 of the Constitution, the Ombudsmen see the preliminary ruling mechanism as a valuable tool in the context of institutional mediation, as it has in fact been for a long time in other European Union countries.

GR 97/11: Dispute between two Civil Service departments regarding which of the two has to pay costs due to a citizen, who consequently becomes the victim of their disagreement.

The Petitions Committee forwarded this general recommendation to the Committees on Internal Affairs, General Affairs and the Public Service. However no further progress was made.

Given the crosscutting nature of this general recommendation, which concerns the entire Federal Civil Service, the Minister of the Public Service is obviously the most appropriate authority for implementing it.

GR 97/12: Making the parliamentary ombudsman's recourse to the principle of equity explicit in the Federal Ombudsmen Act of 22 March 1995.

Provided for in the preparatory work to the Federal Ombudsmen Act of 22 March 1995, it would be advisable to ensure that recourse to the principle of equity by the parliamentary ombudsman is explicitly included in this Act, as is the case in French law and, at regional level, in a Walloon decree. A bill was tabled to this effect (*Doc. Parl.*, House of Representatives, 1999-2000 Session, No 889 – O. Chastel and O. Maingain), with respect to which the Speaker of the House asked the opinion of the Council of State. Following the latter's negative opinion, the Government Commissioner attached to the Minister of Finance decided to set up a working group comprising judges, law professors, the authors of the bill and the Federal Ombudsmen, the aim being to examine the legal conditions for introducing recourse to the principle of equity by the parliamentary ombudsman under Belgian positive law.

GR 97/13: The long period for handling files by the Closed Companies Compensation Fund.

The legislation section of the Council of State issued an opinion on 21 August 2001 on the preliminary bill concerning company closures, which contains in particular the rules of procedure on payments by the Fund. The Ministry of Employment and Labour has included the comments made by the Council of State in the text of the bill, but this bill has not yet embarked on its legislative route.

GR 97/16: Backlog of work at the War Victims Office.

Partially covered by the Act of 18 May 1998 amending the legislation on War pensions and allowances and the Ministerial Decree of 19 October of the same year, the problem of the delay in handling files at the War Victims Office has arisen again in a serious way with the extension of the deadlines laid down in the Act of 26 January 1999. The Act of 10 June 2001 amending the procedure for granting national recognition status did not deal with this matter adequately.

GR 97/17: The establishment of an ombudsman at local and provincial levels.

Since the "St Polycarpe" agreements, this matter is no longer the responsibility of the Federal authorities.

GR 97/20: The possibility for the Office of forwarding a complaint to the Standing Committee for Language Supervision.

When the Office receives complaints that are within the remit of the Standing Committee for Language Supervision, it requests the complainants to lodge these cases with this Committee themselves since the Office is not competent to do so.

2. Official recommendations (OR) ¹⁰

2.1. Official recommendations – 2001

- OR 01/1 Selor, 2001 Annual Report
- OR 01/2 Justice, 2001 Annual Report
- OR 01/3 Finance, 2001 Annual Report
- OR 01/4 Finance, 2001 Annual Report
- OR 01/5 Finance, 2001 Annual Report
- OR 01/6 Finance, 2001 Annual Report
- OR 01/7 Finance, 2001 Annual Report
- OR 01/8 Finance, 2001 Annual Report
- OR 01/9 Finance, 2001 Annual Report
- OR 01/10 Finance, 2001 Annual Report
- OR 01/11 Finance, 2001 Annual Report
- OR 01/12 Finance, 2001 Annual Report
- OR 01/13 Finance, 2001 Annual Report
- OR 01/14 Finance, 2001 Annual Report

2.2. Official recommendations – 2000

- OR 00/1 Finance, 2000 Annual Report
- OR 00/2 Justice and Foreign affairs, 2000 Annual Report
- OR 00/3 Finance, 2000 Annual Report
- OR 00/4 National Employment Office, 2000 Annual Report
- OR 00/5 Minister of Employment, 2000 Annual Report
- OR 00/6 Finance, 2000 Annual Report
- OR 00/7 Social Affairs, 2000 Annual Report
- OR 00/8 Finance, 2000 Annual Report
- OR 00/9 Social Affairs, 2000 Annual Report
- OR 00/10 Pensions, 2000 Annual Report
- OR 00/11 Finance, 2000 Annual Report
- OR 00/12 Finance, 2000 Annual Report
- OR 00/13 Minister of Social integration, 2000 Annual Report
- OR 00/14 Finance, 2000 Annual Report

¹⁰ Official Recommendations are sent to the government and the Civil Service. They are made out on the basis of Article 14.3 of the Federal Ombudsmen Act of 22 March 1995.

2.3. *Official recommendations – 1999*

- OR 99/1 Finance, 1999 Annual Report
- OR 99/2 Psychologists' Commission, 1999 Annual Report
- OR 99/3 Treasury Administration, 1999 Annual Report
- OR 99/4 Pensions Ministry, 1999 Annual Report

2.4. *Official recommendations – 1998*

- OR 98/1 National Employment Office, 1998 Annual Report
- OR 98/2 Interior, 1998 Annual Report
- OR 98/3 Foreign Residents' Office, 1998 Annual Report
- OR 98/4 Belgian National Railway Company (SNCB),
1999 Annual Report
- OR 98/5 Foreign Residents' Office, 1998 Annual Report
- OR 98/6 National Employment Office, 1998 Annual Report
- OR 98/7 Finance, 1998 Annual Report
- OR 98/8 National Employment Office, 1998 Annual Report
- OR 98/9 Finance, 1998 Annual Report
- OR 98/10 Foreign Residents' Office, 1998 Annual Report
- OR 98/11 National Employment Office, 1998 Annual Report
- OR 98/12 Foreign Residents' Office, 1998 Annual Report
- OR 98/13 Social Affairs, 1998 Annual Report
- OR 98/14 Foreign Residents' Office, 1998 Annual Report
- OR 98/15 Foreign Residents' Office, 1998 Annual Report
- OR 98/16 Industrial Accidents Fund, 1998 Annual Report
- OR 98/17 Finance, 1998 Annual Report
- OR 98/18 Foreign Residents' Office, 1998 Annual Report

2.5. *Official recommendations – 1997*

- OR 97/1 Communications and Infrastructure, 1997 Annual
Report
- OR 97/2 Foreign Residents' Office, 1998 Annual Report
- OR 97/3 Social Affairs, 1997 Annual Report
- OR 97/4 Social Affairs, 1997 Annual Report.

The Federal Ombudsmen Act of 22 March 1995

(free translation)

CHAPTER 1. - The Federal Ombudsmen

Article 1. There are two Federal Ombudsmen, one French-speaking, the other Dutch-speaking, whose mission it is:

1. to examine the claims relating to the operation of the federal administrative authorities;
2. at the request of the House of Representatives, to lead any investigation on the functioning of the federal administrative services that it designates;
3. to make recommendations and submit a report on the operation of the administrative authorities, in compliance with Article 14, paragraph 3, and Article 15, paragraph 1, based on the observations made while implementing the duties referred to in 1 and 2, above.

The Ombudsmen carry out their duties with regard to the federal administrative authorities referred to in Article 14 of the coordinated laws on the Council of State, except for those administrative authorities endowed with their own ombudsman by a specific legal provision.

When the ombudsman's office is assumed by a woman, it is designated by the term "*médiatrice*" (in French) or "*ombudsvrouw*" (in Dutch).

The Ombudsmen act collectively.

Article 2. The Ombudsmen and the staff who assist them are subject to the provisions of the laws on the language use in administrative matters, coordinated on 18 July 1966. They are regarded as services which are extended to the entire country.

Article 3. The Ombudsmen are appointed by the House of Representatives for a renewable six-year period. To be appointed ombudsman, it is necessary:

1. to be Belgian;
2. to be of irreproachable conduct and to enjoy the civil and political rights;
3. to hold a degree, giving access to the functions of level 1 of the Civil Service departments of the State;
4. to demonstrate sufficient knowledge of the other national languages, according to the standards laid down by the House of Representatives;
5. to have had relevant professional experience of at least five years, either in the legal, administrative or social spheres, or in another field relevant to carrying out this function.

Article 4. Before taking up duty, the Ombudsmen take the following oath before the President of the House of Representatives: "I swear fidelity to the King, obedience to the Constitution and to the laws of the Belgian people".

Article 5. During their period in office, the Ombudsmen may not carry out the following duties or hold any of the following positions or offices:

1. magistrate, notary public or bailiff;
2. lawyer;
3. minister of a recognised religion or delegate of an organisation recognised by the law which gives moral assistance according to a non-religious philosophy;
4. a public office conferred by election;
5. employment remunerated in the public services referred to in Article 1, paragraph 2.

The Ombudsmen cannot hold an office, public or otherwise, which could compromise the dignity or the performance of their duties.

For the application of this article, the following are treated as a public office conferred by election: a position as mayor appointed separately from the communal council; director of a public interest organisation and a position as a Government commissioner, including that of governor, deputy governor or vice-governor.

The holder of a public office conferred by election who accepts a nomination as Ombudsman is legally excluded from his elective mandate.

Articles 1, 6, 7, 10, 11 and 12 of the Act of 18 September 1986 instituting political leave for the members of staff of the public service are applicable to the Ombudsmen, if leave is due, and necessary adaptations are made.

Article 6. The House of Representatives can end the Ombudsmen's functions:

1. at their request;
2. when they reach the age of 65;
3. when their health seriously compromises the exercise of their duties.

The House of Representatives can remove the Ombudsmen from office:

1. if they carry out the duties or hold one of the positions or offices referred to in Article 5, paragraph 1 and paragraph 3;
2. for serious reasons.

Article 7. Within the limits of their mission, the Ombudsmen do not receive instructions from any authority.

They cannot be relieved of their duties due to activities conducted within the framework of their functions.

CHAPTER II. Complaints

Article 8. Any interested person can file a complaint with the Ombudsmen, in writing or verbally, regarding the activities or functioning of the administrative authorities.

As a preliminary matter, the interested party must contact these authorities in order to obtain satisfaction.

Article 9. The Ombudsmen can refuse to investigate a complaint when:

1. the complainant's identity is unknown;
2. the complaint refers to facts which occurred more than one year before the lodgement of the complaint.

The Ombudsmen will refuse to investigate a complaint when:

1. the complaint is obviously unfounded;
2. the complainant obviously took no steps to approach the administrative authority concerned to obtain satisfaction;
3. the complaint is primarily the same as a complaint dismissed by the Ombudsmen, if it does not contain new facts.

When the complaint refers to an administrative federal, regional, community or other authority which has its own ombudsman by virtue of legal regulation, the Ombudsmen will pass it on to the latter without delay.

Article 10. The Ombudsmen will inform the complainant without delay of their decision of whether or not the complaint will be handled, or whether it will be passed on to another ombudsman. Any refusal to handle a complaint will be substantiated.

The Ombudsmen will inform the administrative authority of their intention to investigate a complaint.

Article 11. The Ombudsmen can impose binding deadlines for answering on the civil servants or services to which they address questions in the course of their duties.

They can similarly make any observation, acquire all the documents and information that they consider necessary and hear all persons concerned on the spot.

Persons who are entrusted with privileged information by virtue of their status or profession, are relieved of their obligation to maintain confidentiality within the framework of the enquiry carried out by the Ombudsmen.

The Ombudsmen may be assisted by experts.

Article 12. If, in the performance of their duties, the Ombudsmen note a fact which could constitute a crime or an offence, under Article 29 of the Code of Criminal Procedure, they must inform the Public Prosecutor. If, in the performance of their duties, they note a fact which could constitute a disciplinary offence, they must inform the competent administrative authority.

Article 13. The examination of a complaint is suspended when the facts are the subject of judicial appeal or of organised administrative appeal. The administrative authority will inform the Ombudsmen of such legal proceedings.

In this event, the Ombudsmen will inform the complainant of the suspension of the examination of his or her complaint without delay.

The lodgement and the examination of a complaint neither suspend nor stop time limits for judicial appeal, or time limits for organised administrative appeal.

Article 14. The complainant is kept periodically informed of the progress of his or her complaint.

The Ombudsmen will endeavour to reconcile the complainant's point of view and those of the services concerned.

They can send any recommendation to the administrative authority that they consider useful. In this case, they will inform the minister responsible.

CHAPTER III. Reports by the Ombudsmen

Article 15. Every year, on 31 March at the latest, the Ombudsmen address a report on their activities to the House of Representatives. They can, in addition, submit intermediate quarterly reports if they consider it useful. These reports contain the recommendations that the Ombudsmen consider useful and expose possible difficulties that they encounter in the performance of their duties.

The identity of the complainants and of members of staff in the administrative authorities may not be divulged there.

Reports are made public by the House of Representatives.

The Ombudsmen may be heard by the House at any time, either at their request, or at the request of the House.

CHAPTER IV. Various provisions

Article 16. Article 458 of the Criminal Code applies to the Ombudsmen and their staff.

Article 17. The Ombudsmen adopt house rules determining the methods of handling of the complaints. The latter rules are approved by the House of Representatives and published in the *Moniteur belge/Belgisch Staatsblad* (Belgian Official Gazette).

Article 18. The appropriations necessary for the operation of the Ombudsmen's Office are entered into the budget for allocations. Correspondence sent as part of the Ombudsmen's office is sent postage paid.

Article 19. Without prejudice to the assignments agreed upon by collegial decision, the Ombudsmen will nominate, dismiss and direct the members of staff who will assist them in the performance of their duties.

The staffing and the organisational framework are decided by the House of Representatives at the suggestion of the Ombudsmen.

Article 20. The Ombudsmen enjoy a status identical to that of the counsellors of the Board of Audit. The rules governing the financial status of the counsellors of the Court of Auditors, in the Act of 21 March 1964 on the salaries of the members of the Board of Audit as amended by the acts of 14 March 1975 and 5 August 1992, are applicable to the Ombudsmen.

The Ombudsmen's pension on retirement is calculated on the basis of the average salary for the last five years, determined in accordance with the applicable arrangement for retirement pensions to be paid by the State, at a rate of one thirtieth per year of service as an ombudsman, providing he or she has carried out his or her functions in the aforementioned capacity for at least twelve years.

Services by the Ombudsmen which are not governed by the previous paragraph and which are acceptable for the calculation of a pension on retirement to be paid by the State, are calculated according to the laws fixing retirement pensions pertaining to these services.

If an ombudsman is not considered fit to carry out his or her functions due to illness or infirmity, but has not reached the age of 65, he or she may draw a pension irrespective of age.

The Ombudsmen's pension on retirement shall not be higher than nine tenths of the average salary for the last five years.

* *
*

TABLE OF CONTENTS

A WORD OF INTRODUCTION	3
I. GENERAL CONSIDERATIONS	9
1. Towards a better use of the Office's observations and recommendations	11
2. Continuing to raise awareness of the Office and its tasks	15
3. International contacts	19
4. Logistical management	22
4.1. Staff management	22
4.2. Financial and budget management	23
4.3. Logistical management	23
II. STATISTICAL ANALYSES	25
1. Introduction	27
2. Some figures	28
III. RECOMMENDATIONS	43
1. General recommendations (GR)	45
1.1 General recommendations – 2001	45
1.2 Follow-up during the year 2001 of the general recommendations made in 2000, 1999, 1998 and 1997	47
2. Official recommendations (OR)	56
2.1. Official recommendations – 2001	56
2.2. Official recommendations – 2000	56
2.3. Official recommendations – 1999	57
2.4. Official recommendations – 1998	57
2.5. Official recommendations – 1997	57
ANNEX	59
The Federal Ombudsmen Act of 22 March 1995	59

TABLE OF CONTENTS

A WORD OF INTRODUCTION	3
I. GENERAL CONSIDERATIONS	9
1. Towards a better use of the Office's observations and recommendations	11
2. Continuing to raise awareness of the Office and its tasks	15
3. International contacts	19
4. Logistical management	22
4.1. Staff management	22
4.2. Financial and budget management	23
4.3. Logistical management	23
II. STATISTICAL ANALYSES	25
1. Introduction	27
2. Some figures	28
III. RECOMMENDATIONS	43
1. General recommendations (GR)	45
1.1 General recommendations – 2001	45
1.2 Follow-up during the year 2001 of the general recommendations made in 2000, 1999, 1998 and 1997	47
2. Official recommendations (OR)	56
2.1. Official recommendations – 2001	56
2.2. Official recommendations – 2000	56
2.3. Official recommendations – 1999	57
2.4. Official recommendations – 1998	57
2.5. Official recommendations – 1997	57

