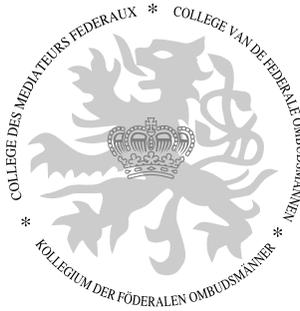


KINGDOM OF BELGIUM



# **ANNUAL REPORT**

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## INTRODUCTION

The Office of the Federal Ombudsmen is pleased to present its Annual Report 2003 to the House of Representatives, pursuant to the first paragraph of Article 15 of the Federal Ombudsman Act of 22 March 1995. The year 2003 was marked above all by the general elections, inducing the Office to establish once again relations with the Ministers and Secretaries of State of the new government, a process which is still under way at the moment.

While contacts with the administration were stepped up and proceeded for the best, this year also witnessed the development of relations with Regional and Community offices of Ombudsmen as well as with the mediation services of other institutions. These points are discussed in the first part, entitled “**I. General Considerations**”.

The second part, “**II. Statistical Analyses**”, contains general statistics on the number of complaints and requests for mediation and information received by the Office of the Federal Ombudsmen. As of this year, the term ministries will no longer be used, but rather Federal Public Services (FPS: *Services publics fédéraux // Federale Overheidsdiensten*) and/or Federal Public Planning Services (PPS: *Services publics fédéraux de programmation // Programmatorische overheidsdiensten*), in line with the new administrative structure.

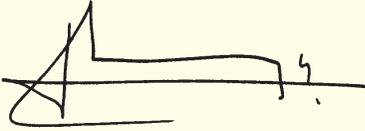
One of the main missions of the Office this year, as every year, has been to present general recommendations to Parliament, thus allowing the Members of Parliament to note the observations and denouncements made by the Office. The third part, “**III. Recommendations**”, focuses on this aspect, and also analyses the progress made regarding general recommendations from previous years which are still pending. Official recommendations made in this annual report are also set down in this section.

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\*                      \*

The Office of the Federal Ombudsmen as a whole, in other words ourselves and our staff members, would like to honour the memory of two colleagues, Paul Blontrock, who died in 2003, and Michel Matteredne, who passed away at the end of 2002. We reiterate our sincere gratitude to these two men of heart and conscience.

We would also like to thank each one of our staff members for their constant efforts in what was, this year, a particularly difficult institutional context. These efforts have ensured that the Office is an efficient institution, operating successfully within the framework of its competence.

The Office of the Federal Ombudsmen



Dr. H. Wuyts



P.-Y. Monette



*Photo : Inge Verelst*

# **I. General Considerations**





## I. GENERAL CONSIDERATIONS

### 1. The Office of the Federal Ombudsmen in 2003

#### *The Parliament*

The year 2003 may well turn out to be a turning-point in the working relations between the Parliament and the Office of the Federal Ombudsmen. After over six years of existence, the Office's conclusion, shared by the Petitions Committee (the body appointed in 1997 as the Office's counterpart within the House of Representatives), concerning the Parliament's lack of follow-up as regards the work of the Office, led to a widely-shared conviction: it would be better to radically reform the actual procedures for cooperation between the House of Representatives and the Office.

Thus in March 2003, the House's rules of procedures were amended on two counts:

- Art. 24.7: each one of the House's standing committees (Social Affairs, Finance & Budget, Home Affairs, General Affairs and Public Service, etc.) is to spend one session each quarter examining the work of the Office relating to matters within its competence which are forwarded to it by the Petitions Committee (examination of chapters in annual reports, interim and audit reports as well as the general and official recommendations made by the Office, hearings of the Federal Ombudsmen, the civil servants concerned and/or the competent Minister, discussion of bills containing the Office's recommendations, etc.);
- Art. 38: each one of the House's standing committees must appoint one of its members (who is also, if possible, a member of the Petitions Committee) as an *ombudspromoter* (promoter of matters relating to the Office) to ensure that the matters dealt with by the Office, which are within the competence of his or her standing committee, are followed up by the latter.

It was also pointed out that, pursuant to Article 26.3 of the House's rules of procedures, committees may hold joint meetings with the Petitions Committee to examine a specific issue handled by the Office. This can sometimes prove to be very useful.

Following the election of the new members of the Houses of Parliament, the Federal Ombudsmen systematically contacted the chairmen of each standing committee to put these regulatory

amendments into practice. They also began to approach the *ombudspromoters*. To date, the Committee on Finance and the Budget is the only committee which has taken note of the work described in the Office's Annual Report 2002, heard the Federal Ombudsmen and questioned the competent Minister on his position regarding the Office's general recommendations on tax. Similarly, the Office met the *ombudspromoter* of the Committee on Justice, and hopes to extend this cooperation to the other ten *ombudspromoters*.

It is too early to say, therefore, whether these new obligations and methods introduced for the House's standing committees will in future ensure that the Parliament really follows up the work of the Office. The answer will naturally depend on the dynamism of the various *ombudspromoters* and of the chairmen of the standing committees, as well as on the perseverance of the Federal Ombudsmen. Already, however, the Office rejoices in the fact that the House has adopted structural measures to achieve this, and it is very eager to cooperate with the *ombudspromoters*, the committee chairmen and the committees, in the same way that it has cooperated for over seven years with the Petitions Committee.

More specifically, a "Federal Ombudsmen" working group has simultaneously been set up by the House to analyse certain reforms relating to the Office of the Federal Ombudsmen and to discuss various bills extending general recommendations by the Office aimed at improving its own organic law (Act of 22 March 1995). Since this working group, which consists of eight members only and is not bound by quorum rules, has been unable to hear the Federal Ombudsmen, obtain the views of experts or question the competent members of the government, the analysis of these reforms and bills will be taken up, as now provided for in the House's rules of procedures, by the standing committees, which in fact are better equipped to do so.

Lastly, at the suggestion of the Petitions Committee, the Federal Ombudsmen contacted the leaders of each political group in the House to propose that their group organise a meeting with the Members of Parliament. The idea is to describe the Office's duties to the newly-elected members and, in line with what has been done for the past two years in the meetings organised by the Federal Ombudsmen in each province with elected deputies at all levels<sup>1</sup>, to put forward proposals concerning potential and desirable cooperation between the latter and the Office as regards citizens'

<sup>1</sup> OFO, *Annual Report 2001*, p.16

complaints and the structural follow-up to be given to administrative and/or regulatory malfunctioning that may have emerged when handling such complaints.

Only one political group has replied positively to this proposal so far. The Office therefore intends to contact the Petitions Committee, which is in favour of this idea, as well as the *ombudspromoters*, in order to give impetus to this initiative, which is also likely to strengthen the cooperation between the House and the Office.

### *The Government*

The organisation of the general elections in May 2003 induced the Office to renew contacts with members of the Government, both those who had already been entrusted with a ministerial portfolio during the previous legislature and those who had just been given one. The Office contacted all the Ministers and Secretaries of State, suggesting meetings. It is pleased to say that this approach has already culminated in most cases in an interview, very often with an actual member of the government, and sometimes with his or her immediate staff members. We trust that we will have an opportunity to meet the other members of the Government in the first few months of 2004.

We would like to inform the Parliament that a member of a ministerial staff refused to allow the Office of the Federal Ombudsmen to question him or his Minister in relation to an administrative file. The competent Minister hastened to apologise for his staff member's attitude. Fortunately this kind of reaction is exceptional, as most Ministers, Secretaries of State and their assistants have understood to what extent the Office's contribution can help them to put in place efficient administrative machinery.

### *The chairmen of the Board of Directors of the federal public services (FPS) and of the federal public planning services (PPS)*

One of the essential contacts established with "top managers" in the course of 2003 was with the Director of the Prime Minister's Chancellery, who is also the chairman of what was in the past the Office of Secretaries General. With the Federal public sector reforms in recent years, the position of Secretary General has been replaced with that of Chairman of the Board of Directors of a Federal Public Service (FPS) or of a Federal Public Planning Service (PPS). The result is that the Protocol Agreement concluded by the

Office in May 1997 with the Office of the Secretaries General must be updated not only in terms of the names of positions, but also in terms of more fundamental aspects such as the new philosophy of responsibility of Chairmen of the FPS and PPS and level N-1 managers (General Directors). In an initial contact, the Director of the Chancellery took the initiative and asked the Office of the Federal Ombudsmen to consult with the Chairmen of the Board of Directors on the changes to be made to this Protocol Agreement. An exchange of views will be held at the beginning of April 2004. This will be reported on next year and the amended Protocol Agreement will be presented in the meantime on the Office's website<sup>2</sup>.

### *Mediation*

While the mediation in August 2003 by the Office of the Federal Ombudsmen between the Afghans seeking political refugee status, who occupied the church of Sainte-Croix in Ixelles and held a hunger strike there, and the Deputy Prime Minister and Minister of Home Affairs, placed the Federal Ombudsman in the limelight, this delicate issue was, so to speak, simply the tip of the iceberg as far as the Office's mediation, in the strict meaning of the term, was concerned.

Since its inception in December 1996, in addition to handling complaints against the various Federal civil service departments, the Office has in fact regularly taken part in "pure" mediation in individual cases (for instance between a self-employed person and the ONSS // RSZ (national social security organisation), between an informer and the intelligence services, between an aeronautics company and the Department for Mobility & Transport, between an entire profession and the department competent for liberal professions and self-employed, between a social security contributor and his Family Allowance Fund, between an applicant bailiff and his District Court, between a taxpayer and the Finance FPS, between a senior civil servant and his department, etc.), as well as in collective cases such as the Afghan issue or the less publicised Kurd (September 2003) and Congolese (December 1998) cases.

<sup>2</sup> [www.federalombudsman.be](http://www.federalombudsman.be) // [www.mediateurfederal.be](http://www.mediateurfederal.be) // [www.federaalombudsman.be](http://www.federaalombudsman.be) // [www.foderalerombudsmann.be](http://www.foderalerombudsmann.be)

Less well-known to the general public and to institutional actors than the handling of complaints based on monitoring issues to check legality and adherence to the principles of proper administration and good governance as well as equity<sup>3</sup>, the Office's mediation work has its legal basis in Article 14.2 of the Federal Ombudsman Act of 22 March 1995: "*the ombudsmen shall endeavour to reconcile the views of the complainant and of the departments concerned*".

In addition to the Office's mediation work, the Federal Ombudsmen publish<sup>4</sup>, teach<sup>5</sup> and take part in conferences on the theme of mediation, all of which have, over time, enabled the Office to become increasingly identified with this alternative method of settling disputes, which usefully complements its traditional work of handling complaints.

All of this explains why, during the "*Justice Dialogues*" introduced by the Deputy Prime Minister and Minister of Justice, Ms L. Onkelinx, and chaired by Mr G. de Leval and Mr F. Erdman, the Federal Ombudsmen were invited to a meeting to analyse the handling of complaints regarding judicial matters and to strengthen judicial mediation (or *mediation during legal proceedings* as the Supreme Council for Justice prefers to call it). The Federal Ombudsmen were also approached and asked to take part during the previous legislature in the "*mediation working group*" established by the former Minister of Justice, Mr M. Verwilghen.

Members of the Government as well as private companies and business federations also regularly contact the Office of the Federal Ombudsmen to set up frontline mediation services.

Apart from the recognition for the work of the Office and of its staff members, this development is welcome since it indicates the growing place occupied by mediation as an alternative method of settling disputes in Belgian society, in the public arena (in disputes between citizens and the civil service administration), in the private sector (in civil and commercial matters, family issues, local problems, etc.), and also in relation to criminal matters<sup>6</sup>. Alongside such actors as the Supreme Council for Justice, several universities

<sup>3</sup> OFO, *Annual Report 2000*, pp. 18-25; OFO, *Annual Report 2002*, pp. 15-23.

<sup>4</sup> [www.mediateurfederal.be](http://www.mediateurfederal.be) // [www.federalombudsman.be](http://www.federalombudsman.be) // [www.foderalerombudsmann.be](http://www.foderalerombudsmann.be)

<sup>5</sup> Pierre-Yves Monette is also a lecturer of *Alternative Methods of Settling Disputes* at the College of Europe in Brugge.

<sup>6</sup> See P.-Y. Monette, "*De la médiation comme mode de résolution de conflits et de ses différentes applications*" (Mediation as a way of settling disputes, and its various applications), in *Administration publique* No 99/1, Brussels, 2000.

and deans, several bar associations, the Federation of Notaries and several judges, the Office of the Federal Ombudsmen intends to continue raising awareness among institutional actors of the importance of mediation as an alternative method of settling disputes and of the fact that it is eminently complementary with the traditional method of recourse to the courts.

In this respect, the Office of the Federal Ombudsmen and the Council of State, alternative partners in one method and traditional partners in the other in terms of settling administrative disputes, have on many occasions demonstrated their complementary nature, to the extent that, when questioned by the House's Petitions Committee, in which case they were, of course, speaking individually, members of the Council of State called for the amendment of Article 13.1 of the Federal Ombudsman Act of 22 March 1995 in order to allow the Office's mediation to continue even when the same case has been referred to the Council of State. This is impossible at the moment under the current law which states that, when a matter is referred to the supreme administrative court, this suspends the right of intervention of the Office of the Federal Ombudsmen. This change is very desirable, and was called for back in 1997 in the Office's General Recommendation GR 97/04, which was subsequently included in a bill<sup>7</sup>. However, no further progress has been made. In parallel with the work of the House's Committee on Justice on integrating civil and commercial mediation into the judicial code, the Office hopes that the Committee on Home Affairs will also have the courage to conduct similar in-depth work with respect to institutional mediation.

### *Decentralisation of the Office*

Initiated in 2001<sup>8</sup>, the decentralisation of the Office of the Federal Ombudsmen with respect to the provinces continued this year.

In the south of the country, following the province of Luxembourg (Arlon and Marche-en-Famenne), it was extended to the Hainaut province, where the Office is also accessible once a month in both Charleroi and Mons, thus covering two of the five Walloon provinces. In each case the Office received the unreserved support and cooperation of the provincial and municipal authorities, for instance in terms of availability of premises.

<sup>7</sup> *Parl. Doc.*, House of Representatives, 1999-2000 session (Chastel), No 0853/001.

<sup>8</sup> *OFO, Annual Report 2001*, pp. 15-16.

Moreover, a pilot project was launched in Marche-en-Famenne. Since October 2003, the Office of the Federal Ombudsmen, that of the Walloon Ombudsman and that of the brand new French-speaking Community Ombudsman have been organising a joint surgery, not just once but twice a month. Apart from the symbolic nature of this cooperation between all levels of power (including the local level, which not only hosts our meetings but also refers complainants to the surgery), it corresponds to the will asserted by the various parliamentary Ombudsmen, entrusted specifically with the mission of serving citizens, to overcome the administrative and institutional contingencies of the federal structure of the State in order to meet the needs of citizens in a practical and effective way. At the time of the “*one-stop-shop*”, this unity as regards surgery services heralded cooperation between Offices which we would like to strengthen even further.

In this respect, following this pilot phase in the Luxembourg province, a joint, two-monthly surgery will be held as of the spring of 2004 in the provinces of Hainaut (Mons and Charleroi), Namur (Namur) and Liège (Liège), three provinces in which the percentage of complaints made compared with the total number of complaints handled by the Federal Office is (considerably) lower than the percentage of their population compared with that of the country as a whole<sup>9</sup>, which explains why the Office wants to step up its decentralisation in the main cities of these provinces.

The provincial surgeries in the north of the country were also evaluated in 2003. In Western Flanders, the surgeries in Yper and Brugge were abolished because of the low number of complainants, despite the efforts made. The Kortrijk service is still operating, however. At the same time, new services were established in provinces where the Office of the Federal Ombudsmen did not yet have its own surgery, for instance surgeries lasting half a day per month were set up in the provinces of Antwerp (Turnhout), Flemish Brabant (Tienen) and Eastern Flanders (Aalst). The surgeries will be evaluated again at the end of 2004 to gauge the success of these new measures. In this connection, during the first few months of 2004, a representative of the Flemish Region/Community Ombudsman will be simultaneously present at these surgeries, and as of June, a single representative will receive all complaints addressed to the Federal Ombudsman and to the Flemish Regional/

<sup>9</sup> OFO, *Annual Report 2003*, p. 34.

Community Ombudsman. This practical cooperation will keep recourse to the ombudsman at an accessible level for complainants. This initiative will also be evaluated at the end of 2004.

### *The Belgian Community of Ombudsmen*

As underlined in its Annual Report 2001<sup>10</sup>, the Office of the Federal Ombudsmen is cooperating with the regional and local Ombudsmen and with sectoral mediation services, as well as with private sector mediation services, on the creation of an Internet portal, [www.ombudsman.be](http://www.ombudsman.be). Initially expected to be ready by the end of 2002, the website, intended to offer users global information and access to all Belgian Ombudsmen and mediation services, will come online in the next few months. The delay is due to the wish of the actors to involve an Internet website specialist to ensure that the portal is adapted to citizens as much as possible, in other words that it is geared to meeting their concerns.

A second project, complementing the above one, is being planned in the long term: offering the same type of information and access to the websites of all mediation actors, not simply the ombudsmen and institutional mediation services. This website, for which the name [www.médiations.be](http://www.médiations.be) has already been reserved by the Office of the Federal Ombudsmen, would involve an expansion of the first site and would thus cover all forms of mediation – family, debt, civil & commercial, etc.

Moreover, since cooperation between the Federal Ombudsmen and the other parliamentary, local and administrative Ombudsmen, as well as with the mediation services of independent public enterprises, has been stepped up in the past two years in the context of preparing this website, the Office of the Federal Ombudsmen joined the *Concertation Permanente des Médiateurs et Ombudsmans - CPMO // Permanente Overleg van Ombudslieden - POOL* (Permanent Consultation Body of Mediators and Ombudsmen) and signed its charter. It also has a seat on the steering committee.

An informal body for Ombudsmen and public Mediators from all over the country to meet and pool information, in association with some private sector mediation services, the *CPMO // POOL*, which does not claim to speak on behalf of its various members (which would run counter to their independence), pursues the objective of

<sup>10</sup> OFO, *Annual Report 2001*, p.18.

raising awareness of parliamentary and administrative mediation among the general public and of discussing problems encountered by Ombudsmen and institutional mediation services in the course of performing their duties.

Lastly, mention must be made of another initiative involving the Office of the Federal Ombudsmen, the public sector Ombudsmen and the academic world: the establishment of the *Centre de Recherche Interdisciplinaire sur l'Ombudsman* (Interdisciplinary Research Centre on the Ombudsman – *CRIO // Interdisciplinair Centrum voor Ombudsmanstudies - ICOM*). Established with the assistance of the King Baudouin Foundation, the *CRIO // ICOM* engages in some research and organises colloquia relating to institutional mediation, taking care to involve the various Ombudsmen partners. The *CRIO* is preparing the next colloquium, “Mediation and Taxation”, to be held in 2004, in conjunction with the highest echelons of the Finance FPS.

## 2. Access, residence, establishment and expulsion of foreigners

The question of access, residence, establishment and expulsion of foreigners constitutes, in quantitative terms, a major (and constantly growing) part of the cases referred to the Office of the Federal Ombudsmen each year: 16.9% in 2000, 14.5% in 2001, 17.5% in 2002 and 23% (!) in 2003.

Together with complaints concerning penitentiary establishments, these complaints (relating to the Immigration Office, the General Commission for Refugees and Stateless Persons and the Committee for Legalisation (of illegals) are, by their very nature, the ones in which the Office exerts control over ensuring respect for human rights. This situation is not specific to Belgium, but also applies, to take two close examples, to France – the Ombudsman of the Republic – and to the Netherlands – the *Nationale Ombudsman*.

Complaints concerning the application of legislation concerning foreigners (hereafter referred to as “cases relating to foreigners”) referred to the Office are not all admissible – far from it. However, the percentage of cases relating to foreigners declared by the Office to be admissible and well-founded (55.5% in 2002 and 61% (!) in 2003) is significantly higher than the percentage of cases handled by the Office in the other areas within its competence (tax, social affairs, etc.), where the percentage was 51% in 2002 and 49% in 2003. Moreover, as can be seen from these figures, the gap between these percentages is widening considerably.

Since 1999, the Office of the Federal Ombudsmen has been recurrently pointing to the slowness of the civil service in handling applications for authorisation of residence and/of extension of periods of residence. Since 2002, it has also been denouncing the delays in the asylum procedure and the perverse effects which the “last in – first out” system practised by the General Commission for Refugees and Stateless Persons has in terms of clogging up the services of the Immigration Office. It is not infrequent to see a file taking four, five or sometimes even six years to be dealt with fully. Apart from the fact that delays in handling “cases relating to foreigners” are much longer (47% of well-founded complaints) than those the Office discovers in other domains (29% of well-founded complaints), they are less acceptable because they create situations that are often impossible to resolve subsequently without undermining fundamental human rights and dignity.

The question of access, residence, establishment and expulsion of foreigners is indisputably one of the most acute problems facing the countries of western Europe, in particular, today. Moreover, it

goes well beyond the strictly national framework, which is why national mediators and ombudsmen from several European Union countries, plus other actors elsewhere, are calling for a concerted approach by the Fifteen Member States and, in a month's time, by the Twenty-Five Member States. Solutions must be adopted partly at national level, however. This is true in particular of the time taken to handle cases and, moreover, of the resources available to the civil service (and equally to the Council of State, which is also snowed under) to do this. The principles of good administration as well as respect for human rights dictate that delays in administrative and judicial procedures regarding "cases relating to foreigners" should not lead to extremely complicated human situations and should not create conditions propitious to acts of despair, an increasing number of which we have witnessed in recent times.

A neutral and independent body responsible for monitoring legality and proper administration, the Office of the Federal Ombudsmen, like its alter egos in the other EU countries, has no business interfering in the decisions taken to guide policy on foreigners in Belgium. These decisions are, in essence, based on political options or even arbitration, and are subject to the criterion of expediency exercised exclusively by Parliament. However, because of the mission entrusted to it by law, the Office is required to report to Parliament any administrative malfunctioning and, where appropriate, any resulting violations of human rights, irrespective of whether they arise from mismanagement, unsuitable regulations or inadequate resources.

In this context, confronted directly and for a long time with this problem because of the complaints it handles and because of the mediation it engages in, the Office of the Federal Ombudsmen issued General Recommendation GR 03/01<sup>11</sup>.

<sup>11</sup> GR 03/01, OFO, *Annual Report 2003*, pp. 47-48.

### 3. Information officers

It is evident from the figures set down and commented on after this first part that a large number of the cases lodged with the Office concern a straightforward request for information. In this respect, the Office is faithful to the missions entrusted to it by law and it respects the missions incumbent on civil servants in the Federal administration who are responsible for providing information. The general public is still not sufficiently aware of the existence of these information officers. Yet they are the ones who can answer questions or refer citizens to more specialised departments capable of providing an adequate answer. The Office considers it important that these information officers should make themselves known more. Therefore we call for the necessary resources to be made available, in terms of both finance and staff, so that these civil servants can fulfil their roles fully. As of 1999, the Office put forward a general recommendation in this respect (GR 99/05<sup>12</sup>). The Federal Ombudsmen recently had the opportunity to discuss this with the Minister responsible for the Public Service, and they trust that she will take steps in this direction in 2004.

<sup>12</sup> GR 99/05, OFO, *Annual Report 1999*, pp. 63-64.

#### 4. Amendments to the Federal Ombudsman Act<sup>13</sup>

As stated under point 1, a “*Federal Ombudsmen*” working group was set up within the House of Representatives in the context of renewing the mandate of the Federal Ombudsmen. This group distinguished between the decisions relating to the mandate of the Federal Ombudsmen and those relating to the functioning of the Office<sup>14</sup>.

The part concerning the mandate of the Federal Ombudsmen was adopted by the House of Representatives and by the Senate. It covers two aspects: first, the mandate of the Federal Ombudsmen can only in future be exercised twice by the same person, as is the case in Wallonia and Flanders, and second, this time contrary to the Walloon and Flemish Ombudsmen, there will be no evaluation, but examinations will be held after each mandate in which the outgoing Federal Ombudsmen may take part.

It should be noted that the mandate of the Federal Ombudsmen, which expired on 18 December 2002, has been extended in the meantime on three occasions before being subjected with retrospective effect to these future legislative amendments.

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<sup>13</sup> Act of 22 March 1995, *Moniteur Belge/Belgisch Staatsblad* (Belgian official gazette), 7 April 1995.

<sup>14</sup> OFO, *Annual Report 2003*, p.24.

## 5. International contacts

Foreign delegations received at the House of Representatives regularly wish to visit the Federal Ombudsmen also. The Office has always been willing to accede to these requests, which is proof of its openness to the world. In 2003, a Rwandan delegation was received in January, a Moldavian delegation in October and a Vietnamese delegation in December.

Moreover, Pierre-Yves Monette's missions abroad either formed part of his involvement in two international ombudsmen associations of which the Office is a member (the *International Ombudsman Institute (IOI)*, and the *Association des Ombudsmans et Médiateurs francophones (AOMF)* – association of Ombudsmen and Mediators of the international organisation of French-speaking countries), or were related to his capacity as expert in institutional mediation.

The Council of Europe and the OIF (*Organisation internationale de la Francophonie* – international organisation of French-speaking countries) contacted him in the context of their respective programmes on democratic governance and the promotion of human rights. Thus in Paris<sup>15</sup> in January, he met the Council of Europe Human Rights Commissioner, Mr A. Gil Robles, to help him prepare the two-yearly colloquium of mediators and ombudsmen organised at his initiative in Oslo last November, for which the Commissioner asked him to chair one of the workshops. Also with a view to preparing this colloquium, Pierre-Yves Monette took part in a symposium at the Council of Europe in Strasbourg in October. The OIF invited him to act as an expert in Brazzaville at a conference in April concerning government human rights structures. At its colloquium in March on human rights institutions, held at the French Senate, the *IDEF (Institut International de Droit d'Expression Française* – international institute of freedom of expression in French) asked him to present the work of the ombudsman as regards strengthening human rights. Similarly, in cooperation with the *IDEF*, the Egyptian organisation of lawyers and legal experts invited him to Cairo to present the institution of the ombudsman as an instrument to protect and promote human rights. Egypt does not have a national ombudsman, but this association, headed by the Egyptian Speaker of Parliament, is examining the possibility of proposing the establishment of such a structure. In the course of the debate on a bill aimed at setting up a national ombudsman in

<sup>15</sup> The underlining indicates missions which were not financed from the budget of the Office of the Federal Ombudsmen.

the Grand-Duchy of Luxembourg (the act was passed in July 2003), he was invited in April by the Petitions Committee of the House of Representatives in Luxembourg to describe the Office of the Federal Ombudsmen and to answer questions by the committee members concerning the independence, functioning and missions of the Office. Lastly, the national advisory committee on human rights in Algeria invited him to present the role of the ombudsmen in defending and promoting human rights during the celebrations commemorating the signing of the Universal Declaration of Human Rights, held in Algiers on 10 December. Algeria is in fact also considering the idea of setting up a new national mediation institution.

As a member of the IOI, Pierre-Yves Monette took part in April in the biennial colloquium organised in Athens by the European Ombudsman, in cooperation with the Greek Ombudsman, and also in the Management Board meeting in Quebec at the beginning of October. As a member of the AOMF, he took part in the work of the Board of Management and of the General Assembly held in Tunisia in October. He was accompanied by three members of staff who took part in the training seminar which the AOMF organises every two years. He also attended the symposium organised by the Mali Republic in Bamako in February, where he gave a workshop on the role of the ombudsman in improving the functioning of the administration.

Dr H. Wuyts met the Council of Europe's Human Rights Commissioner, Mr A. Gil Robles, in January 2003, to help him prepare the biennial colloquium in Oslo.

In October, in his capacity as Regional Vice-President for Europe of the IOI, Dr H. Wuyts organised an international symposium in Cyprus in cooperation with the Cypriot Ombudsman, Ms E. Nicolaou, on "The changing nature of the ombudsman institution in Europe", on the occasion of the annual meeting of the European members of the IOI.

In this same capacity, he also took part in the meetings of the Board of Management of the *Special Fund for Ombudsmen and National Human Rights Institutions in Latin America and the Caribbean*, held in Copenhagen in June and December.

As a member of the IOI Management Board, he also took part in the annual meeting held in Copenhagen at the beginning of October. The international four-year conference of the IOI will also be held in Quebec in 2004.

Contacts with European colleagues continued in Athens in April with the international conference organised on a concerted basis by the European and Greek Ombudsmen on the theme “Ombudsmen and the protection of rights in the European Union”, and with the 8<sup>th</sup> Round Table of European Ombudsmen organised jointly in Oslo in November by the Council of Europe’s Human Rights Commissioner and the Norwegian Ombudsman.

Dr H. Wuyts also took part in the annual conference of the European Group of Public Administration held in Oeiras (Portugal) in September.

The Director of the Office, Philippe Vande Castele, presented alternative conflict settlement procedures at the European Institute of Public Administration in Maastricht, September, at its training session on “Making the internal market work”. He also headed a work session during the seminar “Minority Ombudsperson Project” organised by the European Centre for Minority Studies (ECMI) in Berlin, in October. He also took part in several meetings of the think tank on strengthening the human rights protection mechanism organised by the Council of Europe in Strasbourg. He contributed in December to the programme for the meeting of European Ombudsman liaison officers held in Strasbourg, which focused on “Information, Advice and Justice in Europe for All”.

Lastly, in the context of the contacts which the Office maintains with its foreign alter egos and thanks to the budget it assigns to the training of staff members in southern ombudsmen offices, a member of staff from the Mali office spent a week training at the Federal Office. A member of the Haitian Ombudsman’s Office will also follow a similar training course. This has been postponed until the spring of 2004 because of a visa-related question.

## 6. Management of the Office

From an organisational point of view, the Office of the Federal Ombudsmen has made serious efforts, involving each staff member, to simplify internal structures and procedures in order to further enhance its efficiency and effectiveness.

With respect to human resources management (HRM), the emphasis was on the management of skills and of operational and logistical duties. The Office makes constant efforts to ensure that its staff members are offered, in the context of their specific duties, the possibility of deepening and perfecting their skills and abilities in constantly-changing subjects such as tax law, the law on foreigners, social and economic law, etc. as well as the opportunity of developing expertise in HRM, accounting, building management and IT. In this respect, a very special effort was made in 2003 to bolster the IT skills of two staff members responsible for computer management at the Office.

Several staff members-case managers were also given the opportunity during the year of supplementing their expertise and refining their reflections on the method of functioning of institutional mediation by means of short training schemes abroad, such as one-week courses for two staff members organised by the Ombudsman of the French Republic, and participation in courses and international congresses on the function of the ombudsman, relating to administrative control, monitoring of respect for human rights, relations between the ombudsman and the authorities, etc. Their experience was shared with all the staff members through the disseminating of reports on the Office's intranet.

With respect to in-house training, the Office regularly invites experts to examine a specific subject relating to the issues handled by the various sections of the Office in direct interaction with the staff members concerned. In this respect the Office is very grateful to these experts in the academic and judicial worlds in particular who played an active part in this continuing training conducted for the benefit of the Office's staff.

## 6.1 Staff management

The table below shows the staff at 1 January 2004.

Grade	Language		Sex		Status		Total staff	Total staff framework
	Dutch-speaking	French-speaking	M	F	Statutory	On contract		
A (*)	12	11	12	11	18	5	23	24
B (**)	6	6	3	9	10	2	12	12
C (***)	2	2	3	1	0	4	4	2 + (2)
D (****)	1	1	0	2	0	2	2	(2)
<b>Total</b>	<b>21</b>	<b>20</b>	<b>18</b>	<b>23</b>	<b>28</b>	<b>13</b>	<b>41</b>	<b>38 + (4)</b>

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

(\*\*) one staff member on a contract replaced a permanent staff member on training leave

(\*\*\*) including 2 telephone operators-receptionists-typists, grade C, Article 4 of the staff framework (urgently required on a temporary basis)

(\*\*\*\*) cleaning staff, similar to grade D, Article 4 of the staff framework.

There was an increase of two units in the staff compared with the situation at 1 January 2003. The number of staff members on contracts rose from nine to thirteen. Once the question of requirements regarding language skills of the staff of the Office of the Federal Ombudsmen clarified, recruitment competitions may be organised to fill permanent grade A and B posts. The “Federal Ombudsmen” working group set up by the House of Representatives<sup>16</sup> has confirmed that the current situation is well-founded (bilingual staff members) and has proposed that it should be legally enshrined by having recourse to the provisions in the law on the use of languages in administration which is applied to the diplomatic services.

Apart from the four staff members on contracts (two cleaners and two drivers-ushers), whose posts may, according to the staff framework, be filled by people on contracts because of the special nature of the posts, IT management is still the responsibility of a staff member on contract who is a university graduate. The plan to establish a specific permanent post as senior/junior official (*attaché/auditeur*) responsible for IT services is being examined by Parliament. The Office in fact referred this matter to the House at the end of 2002 and is waiting for a reply in this respect.

Two junior officials were recruited to fill two vacant case management posts.

<sup>16</sup> OFO, *Annual Report 2003*, pp. 8 and 19.

Furthermore, pursuant to Article 4 of the staff framework, the Office temporarily recruited (from July 2003 to June 2004) two full-time staff members on contracts at grade C to meet an urgent and temporary need in terms of operating personnel. Given the positive evaluation of this temporary plan, the Office will propose to the House of Representatives in 2004 that the number of operational staff be increased in the long term (two full-time jobs).

Lastly, the fourth post of senior official – coordinator has not yet been filled because no successful candidate emerged from an internal procedure organised in 2003. Further internal recruitments tests are in progress, in cooperation with SELOR as usual.

## 6.2 Financial and budget management

With respect to the accounting, 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, limited cases in which it requires technical assistance (special entries, closing of the financial year, adoption of new measures, etc.).

The adjusted 2003 budget amounted to EUR 3,248,020.00, and the 2004 budget has been set at EUR 3,330,340.00. The increase (+ 2.53%) compared with the adjusted appropriations for 2003 is mainly due to the fact that salaries are index-linked as well as to normal career development, the increase in holiday bonus payments, the annual index-linking of building charges (maintenance contacts and rent) and the increase in the number of surgeries established in the provinces. The rise in salary charges is in line with the Office's multi-annual estimate approved by the House in 1998.

The 2002 accounts show a positive balance of EUR 371,482.53 (budget of EUR 3,114,411.00 – EUR 2,760,276.22, expenditure + EUR 17,347.75 net financial result). This allowed the House of Representatives to set the allotted funding for 2004 at EUR 3.019 million<sup>17</sup>.

<sup>17</sup> Report by Mr Pierre LANO on behalf of the Accounts Commission, 9 December 2003, *Parl. Doc.*, House of Representatives, ordinary session 2003-2004, No 0552/001, pp. 31 and after

### 6.3 *IT and equipment management*

The conversion of the ministries into Federal Public Services and Federal Public Planning Services required, in terms of IT management in 2003, a series of adaptations of internal applications relating to case monitoring, with a view to establishing, for instance, the statistics for this report.

The computer training courses mentioned above were intended to meet two specific needs. First, to supplement the skills of a staff member in terms of exploiting and managing internal applications. Second, to maintain and even reinforce the actual expertise acquired in developing and improving IT tools, thus permitting the preparation of the projects planned for 2004.

The emphasis in relation to IT was also on ensuring that efficient and user-friendly working methods were adopted to deal with case management. A working meeting was held with the Dutch Ombudsman services in this connection. These exchanges will enable interesting developments to be put into practice very soon.

In addition, certain logistical and support tasks were centralised at the beginning of 2003: library and documentation, building management, coordination of the central secretariat and everyday management of the maintenance team. This has enabled the Office to adopt a more structured, professional and efficient approach to the logistical aspect of its operations, and to apply a whole series of improvements – sometimes required by law – as regards safety and material working conditions.

# 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 by Civil Service department and per sector (finance, social or economic sector, a.o.), 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 2003. Following on from the 2002 Annual Report (1 January 2002 - 31 December 2002), the period covered by this 2003 Annual Report is twelve months (1 January 2003 - 31 December 2003). Moreover, the trend in the general figures for 2002 and 2003 is compared whenever the elements are available or comparable. As the figures taken into account in this respect are set on 31 December, a few files opened before 1 January 2003 might be listed in the data related to both the years 2002 and 2003. Nonetheless, these figures are relevant as they reflect the real workload of the Office.

It is useful to bear in mind the following explanations when analysing the various Federal Civil Service departments<sup>18</sup>.

- 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 FPS from an organisational point of view, we will analyse semi-public bodies together with their supervisory FPS, although we are quite aware that these institutions do not form part of the department properly speaking.
- Pursuant to Article 14 of the Coordinated Laws on the Council of State, a Minister or a Secretary of State is also a Federal administrative authority. The Office of the Federal Ombudsmen is therefore also competent to evaluate her or his (purely administrative) action in the course of handling a complaint or a mediation request.

<sup>18</sup> See OFO, *Annual report 2003*, p. 3.

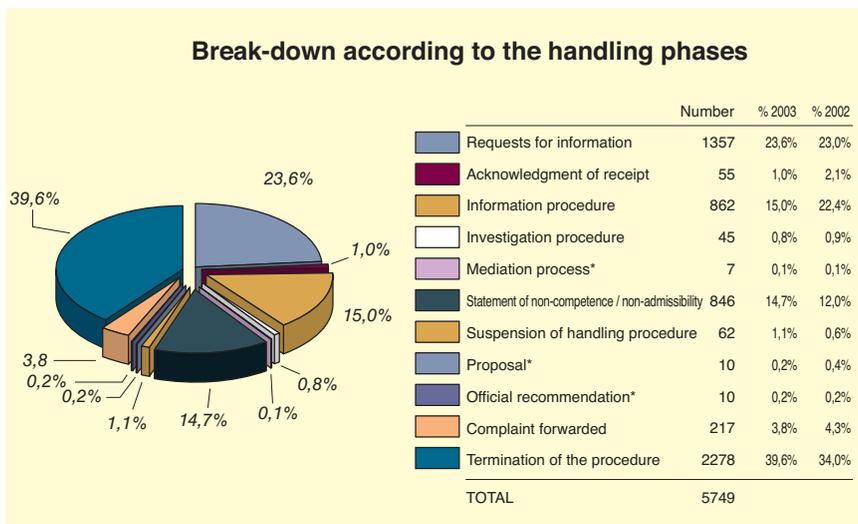
## 2. Some figures

A total of 5 749 cases was handled in 2003. Of these, five cases had been initiated in 1998, 18 in 1999, 51 in 2000, 434 in 2001, 1 144 in 2002 and 4 097 in 2003; the latter figure includes 1 357 requests for information. The period of time referred to is the respective calendar year.

From few years back, the Office of the Federal Ombudsmen adopted the rule of closing an individual case at the latest after two years, with some exceptions. It then monitors the matter, where necessary, at a more general level on the basis of a “Master file”. The Office therefore regularly 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. Most of the above-mentioned files opened in the period 1997-2001 and still dealt with at the beginning of 2003 have therefore been closed in the meantime. Amongst the 508 cases filed with the Office in the period 1998-2001 and mentioned in the tables below, only 60 are thus still open. Such long time of handling was caused by the complexity of the matter dealt with concerning various departments, possibly depending on different levels of competence, or by the slowness of the authority concerned in responding to the Office.

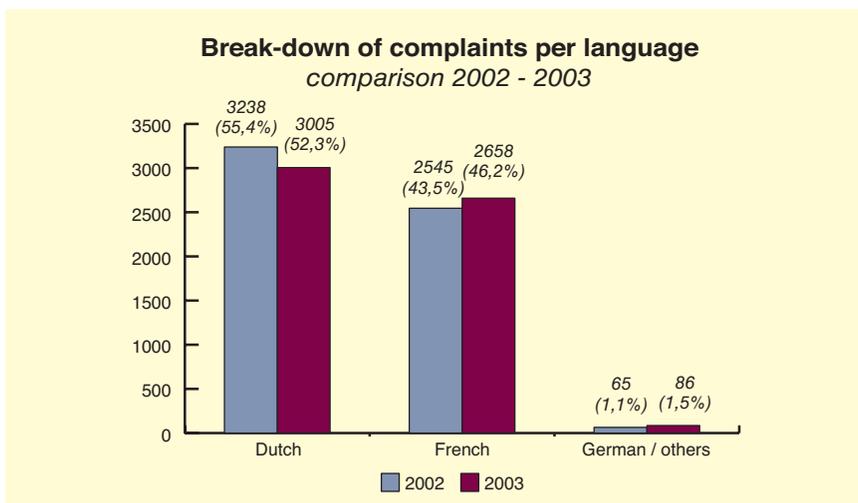
The cases are broken down in accordance with the ten phases of handling listed under Article 12 of the Rules of Procedure of the Office of the Federal Ombudsmen<sup>19</sup>: acknowledgement of receipt, information procedure, investigation, mediation process, statement of non-competence / non-admissibility, suspension of handling procedure, proposal, official recommendation, complaint forwarded and termination of the procedure.

<sup>19</sup> See *Moniteur belge/Belgisch Staatsblad* -Belgian official gazette-, 27 January 1999, pp. 2339- 2345, see also OFO, *Annual Report 1997*, pp. 43-45.



(\* ) There were 9 mediation processes, 29 proposals and 13 official recommendations in the past year. The figures shown in the graph reflect the situation at 31 December 2002, since the phases of a case are by definition progressive.

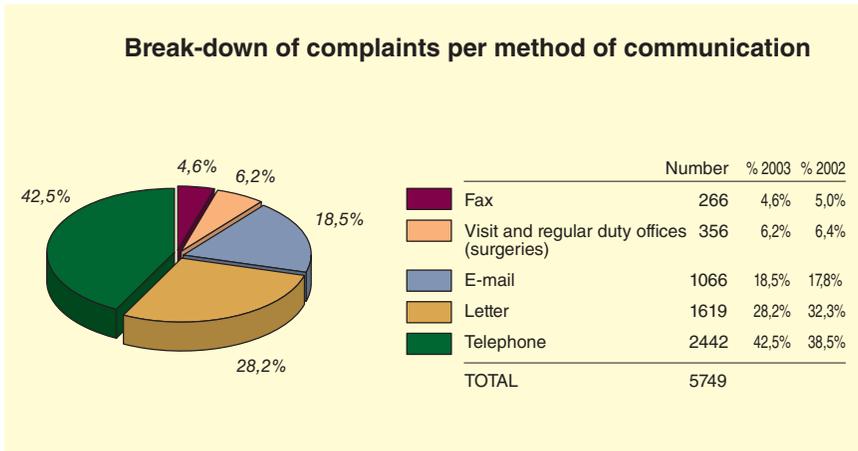
The complaints handled in 2003 are also broken down according to the language in which they were filed: Dutch: 3 005, French: 2 658, others (including German): 86. The following graph shows the evolution in the number of cases lodged in 2002 and 2003 according to such breakdown.



If we break down, still according to the language criterion, the 4 097 new files opened in 2003, we get the following figures: Dutch: 2 127 or 51.9 %, French: 1 913 or 46.7 %, others (including German): 57 or 1.4 %. When classified according to whether they are new complaints, requests for mediation or requests for information, we obtain the following results:

- new complaints or requests for mediation (2 740): Dutch: 1 403 or 51.2 %, French: 1 300 or 47.4 %, others (including German): 37 or 1.4 %.
- new requests for information (1 357): Dutch: 724 or 53.3 %, French: 613 or 45.2 %, others (including German): 20 or 1.5 %.

The graph below breaks down cases according to the method of communication used to file the above referred complaints and requests with the Office of the Federal Ombudsmen in 2003. These figures are also compared to those of 2002. In descending order, we recorded 2 442 cases opened pursuant to telephone conversation, 1 619 new cases opened following receipt of a letter sent by post, 1 066 opened following receipt of an e-mail, 266 opened as a result of a fax and, lastly, 231 and 125 respectively opened following a visit to the Office or to the regular duty offices (surgeries) in several provinces.

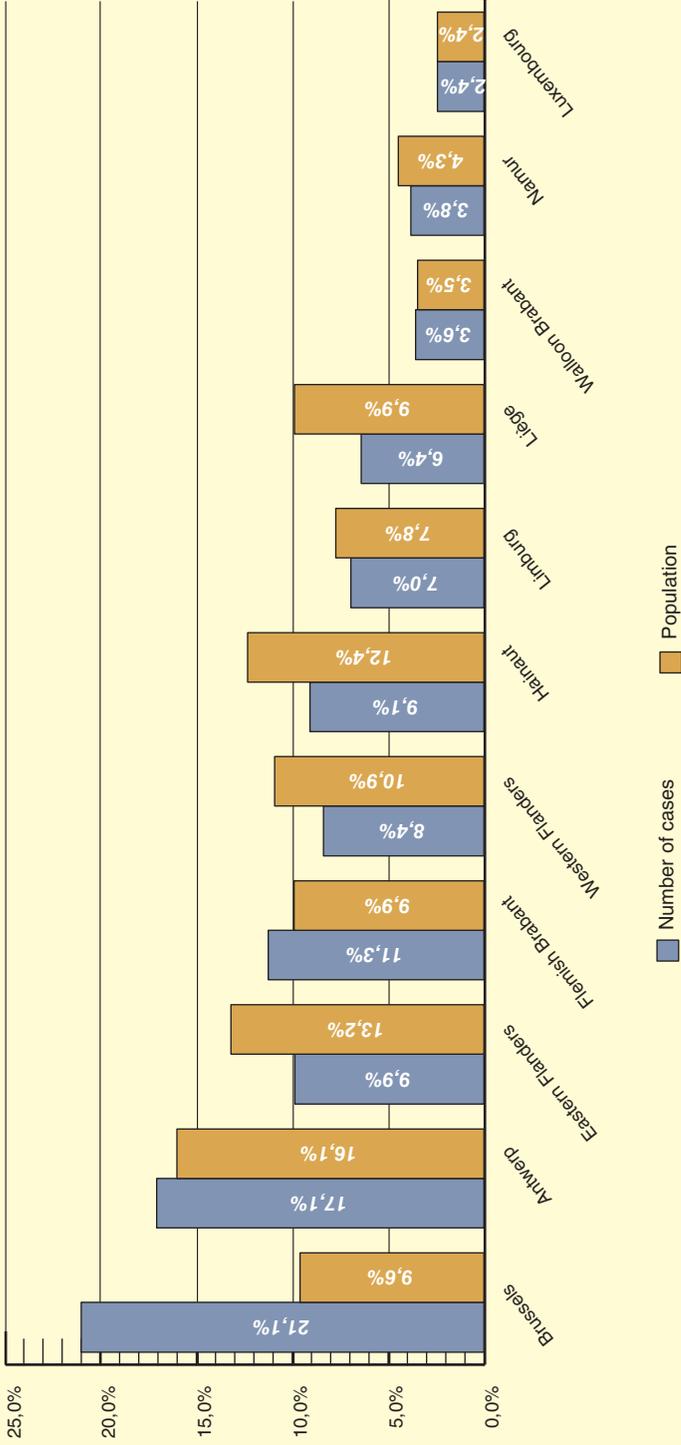


The following graph provides an overview<sup>20</sup> of the geographic breakdown between the ten provinces and Brussels as regards the number of cases (5 064 files). Of course these figures take account only of cases for which the residence of the complainant is known (this is not always true in the 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 203 cases came from people resident abroad. A comparison between the number of complainants of the ten provinces and Brussels and the global population is not made any more due to the very small and thus, insignificant, difference on a percentage basis between the number of complainants and the number of files.

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<sup>20</sup> 2003, FPS of Economy, SME and self-employed & Energy.

**Comparison between the number of cases and the population  
per provinces and Brussels**

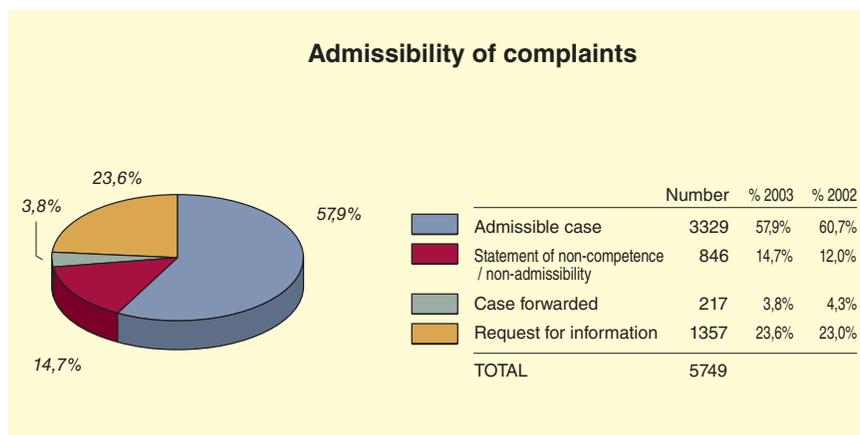


Some of these complaints (a total of 846) were in fact inadmissible. Others (217) were forwarded to Community or Regional parliamentary ombudsmen, to mediation bodies within the Civil Service or even to the administrative authority which had taken the disputed decision (in the absence of any competent parliamentary or administrative ombudsmen). Lastly, numerous requests for information amongst the 1 357 received could be forwarded to the administrations 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 3 329 complaints.

As explained in the Annual Report 2000<sup>21</sup>, the cases that are not admissible or forwarded represent a significant 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 pass it on to another body cannot be taken until the elements have been examined in depth. The same applies to requests for information.

As for 2002, in addition, the Office also received approximately 1 750 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 1 357 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 in 2003, as compared to those for 2002.



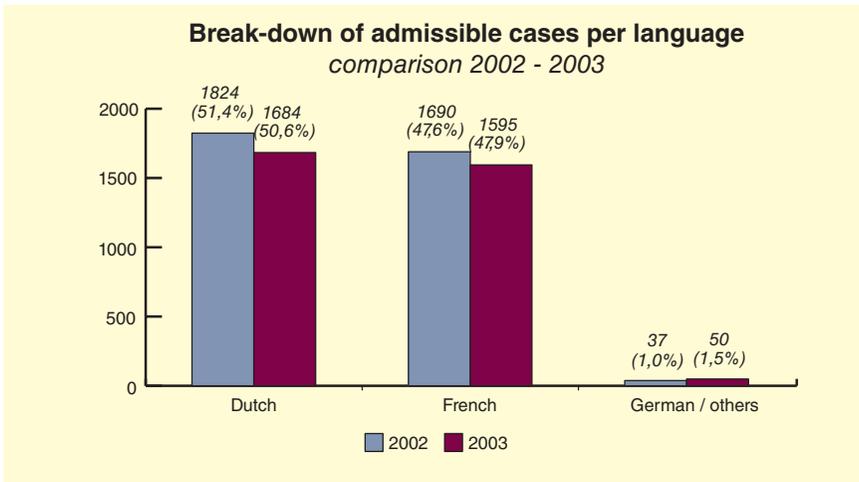
<sup>21</sup> see OFO, *Annual Report 2000*, pp. 9-13.

We have observed the following trend in the past two years, not taking into account requests for information:

- 2002 (for 4 505 cases): 3 551 admissible cases (78.8 %), 701 inadmissible cases (15.6 %) and 253 cases forwarded (5.6 %)
- 2003 (for 4 392 cases): 3 329 admissible cases (75.8%), 846 inadmissible cases (19.2 %) and 217 cases forwarded (5.0 %).

The complaints actually handled (*i.e.* the 3 329 admissible files) are broken down according to the language in which they were made: Dutch: 1 684 (50.6 %), French: 1 595 (47.9 %), others (including German): 50 (1.5 %).

The following graph shows the trend in admissible cases over the last two years.



In 2003, the 1 803 new admissible cases which the Office recorded can be broken down according to language as follows: Dutch: 901 or 50.0 %, French: 876 or 48.6 %, others (including German): 26 or 1.4 %. In 2002, the same criterion for breaking down new admissible cases (2 060) produced the following results: Dutch: 1 122 or 54.5 %, French: 915 or 44.4 %, others (including German): 23 or 1.1 %.

As highlighted in the graph below, the Office of the Federal Ombudsmen forwarded files to the following Community or Regional parliamentary ombudsmen, mediation bodies within the Civil Service and institutions:

Recipients of the forwarded complaints and requests for information	Number	%
House of Representatives	3	0,3%
Senate	1	0,1%
Court of Audit	1	0,1%
Supervisory Standing Committee for the Federal Police ("P" Committee)	1	0,1%
Ombudsman of the Walloon Region	12	1,0%
Ombudsman of the Flemish Community / Region	41	3,4%
Supreme Council of Justice	20	1,7%
Mediation body for pension-related complaints	27	2,3%
Mediation bodies attached to independent public corporations	16	1,3%
Other bodies for mediation and claims within the public sector	9	0,8%
Federal Civil Service	870	73,1%
Authorities of Communities and Regions	51	4,3%
Mediators of local authorities	2	0,2%
Local authorities	37	3,1%
Private organisations entrusted with a public service mission	77	6,5%
Mediation services in the private sector (banks, insurance companies, etc.)	13	1,1%
Others	9	0,8%
	<b>1190</b>	<b>100,0%</b>

The admissible cases that were definitively closed were assessed and classified in the following evaluation categories<sup>22</sup>:

The "proper administration" assessment is applied when the Civil Service operated perfectly well or when its error was redressed before the Office intervened.

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

The assessment "Improper administration" is given when an error committed by the Civil Service has not been rectified despite the Office's intervention.

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

<sup>22</sup> see OFO, *Annual Report 2000*, pp. 16-17.

“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.

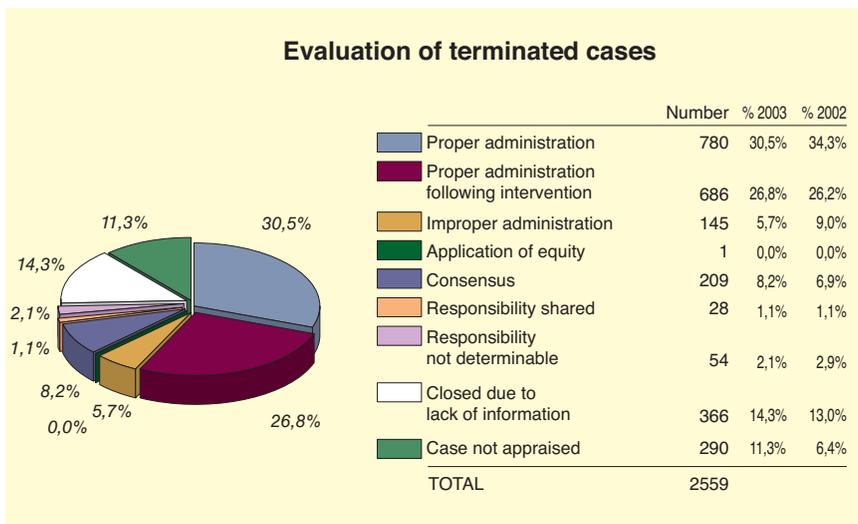
“Responsibility shared” is used when the responsibility for the malpractice is shared between the complainant and the administration.

The assessment “responsibility not determinable” is given 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.

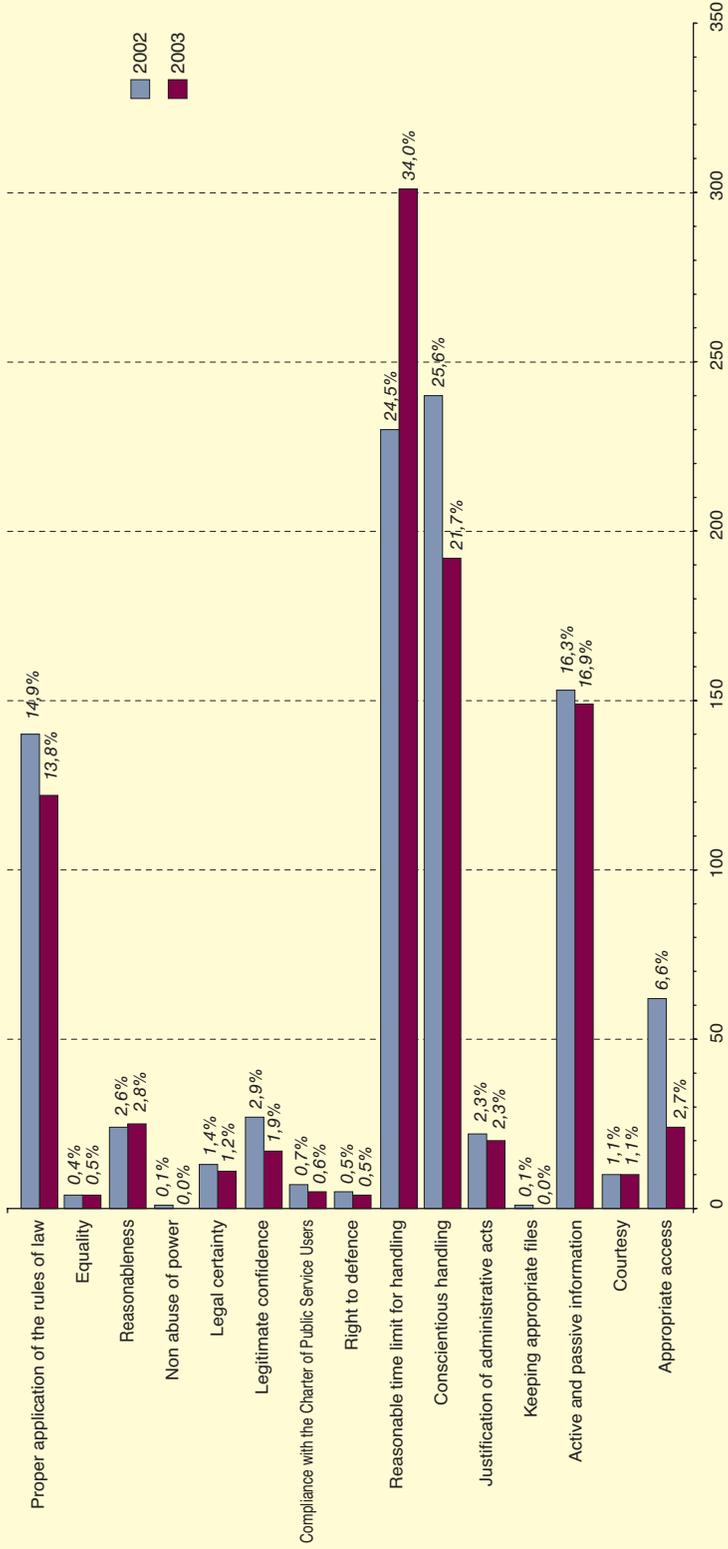
Lastly, the expression “case not appraised” is applied to a case when the problem was solved before the intervention of the Office but after the intervention of a third party, or after the intervention of the Office when it is not clear whether the latter did or not contribute decisively to solving the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

The following graph gives an overview of the 2 278 files closed in 2003, which were evaluated as follows: 780 “proper administration”, 686 “proper administration following intervention”, 145 “improper administration”, 1 “application of equity”, 209 “consensus”, 28 “responsibility shared”, 54 “responsibility not determinable”, 366 “closed due to lack of information”, and 290 “cases not appraised”. The existing difference between the number of evaluations (2 559) and closed files (2 278) lies in the fact that one complaint might concern several authorities, each of them being evaluated at the time the file is closed. Said graph also compares these figures with those for 2002.

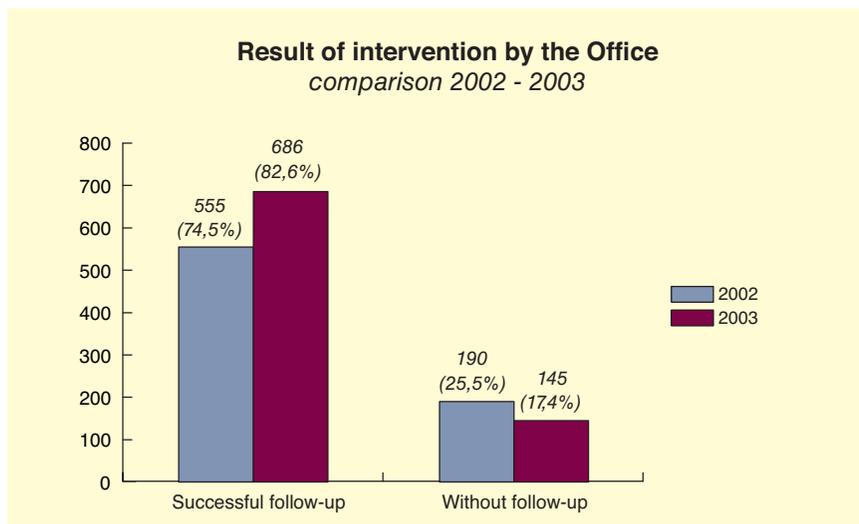


The graph below shows the evaluation criteria as applied in the 831 cases closed in 2003 that were designated “improper administration” or “proper administration following intervention”. It also provides a comparison with the data relating to 2002 (with no double counting). Since more than one criterion may have been infringed by the administration in relation to a sole case, several criteria may be used to evaluate the same file. Therefore, the total amount of violations of these criteria (884) is higher than the number of files.

### Application of evaluation criteria comparison 2002 - 2003



The following graph highlights the results of the intervention by the Office of the Federal Ombudsmen in 2002 and 2003 in the cases where the Office denounced a dysfunction by the Civil Service. Intervention should be understood as all the information and investigation procedures, mediation processes, proposals and official recommendations by the Office.



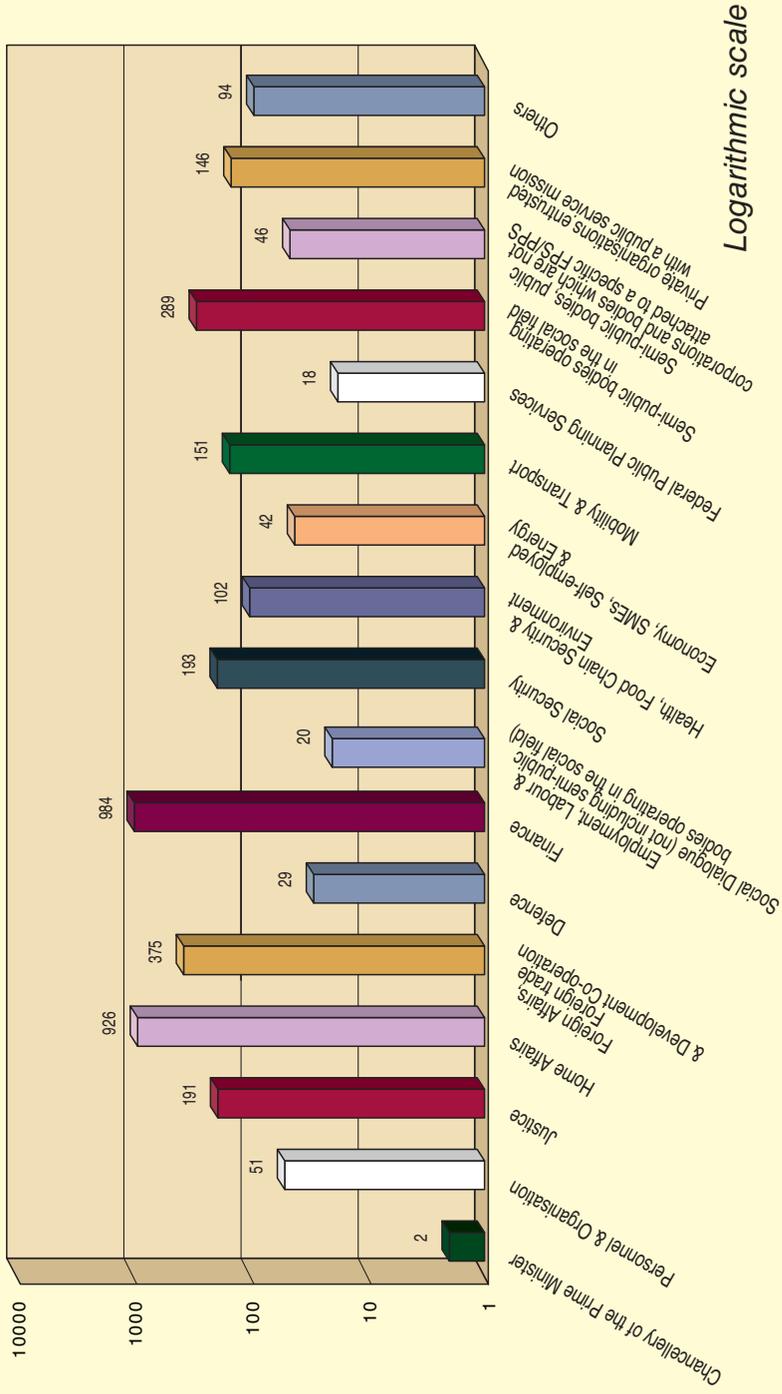
Break-down by department of the various complaints handled by the Office of the Federal Ombudsmen is as follows:

Federal Civil Service	2003	
Chancellery of the Prime Minister	2	0,1%
Personnel & Organisation	51	1,4%
Justice	191	5,2%
Home Affairs	926	25,3%
Foreign Affairs, Foreign trade & Development Co-operation	375	10,2%
Defense	29	0,8%
Finance	984	26,9%
Employment, Labour & Social Dialogue (not including semi-public bodies operating in the social field)	20	0,5%
Social Security	193	5,3%
Health, Food Chain Security & Environment	102	2,8%
Economy, SMEs, Self-employed & Energy	42	1,1%
Mobility & Transport	151	4,1%
Federal Public Planning Services	18	0,5%
Semi-public bodies operating in the social field	289	7,9%
Semi-public bodies, public corporations and bodies which are not attached to a specific FPS/PPS	46	1,3%
Private organisations entrusted with a public service mission	146	4,0%
Others	94	2,6%
	<b>3659</b>	<b>100,0%</b>
Amongst which, complaints filed by Civil servants)	<b>181</b>	

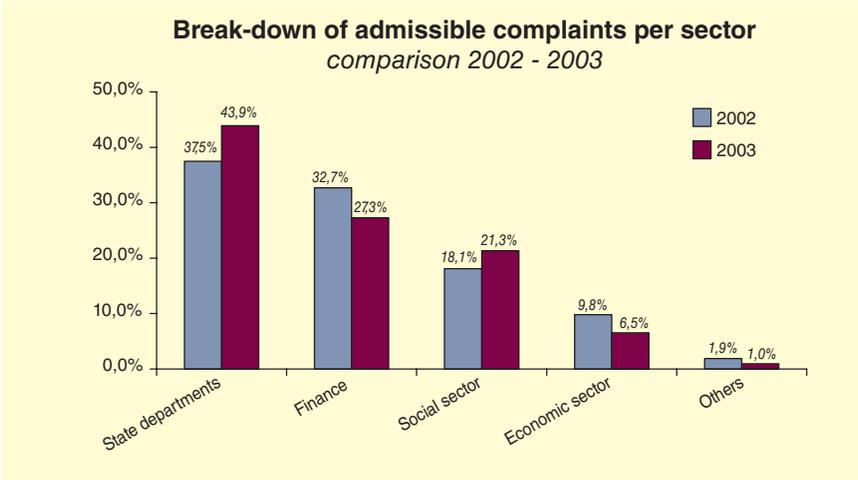
No statistical comparison has been made between the data relating to the years 2002 and 2003 further to the recent in-depth reform of the Federal Civil Service.

The number of complaints and requests for mediation per department (3 659) is higher than the one of admissible complaints (3 329) as more than one administrative authority may be concerned by one file.

## Break-down of admissible complaints per departement (n=3659)



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 *General recommendations* are sent to the Legislative Authority (more particularly, the House of Representatives, but they are also of interest to the Senate). These 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 House may exercise its power of control over the Executive. Furthermore, the Executive might also find it interesting to take them into consideration.

The *official recommendations*, in line with Article 14.3 of the said act, are sent to the Executive Authority (the Minister and/or the Civil Service). In these 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 a non-compliance with the principles of proper administration and/or of good governance, or for which it has invoked equity. In such recommendations the Civil Service or Minister responsible may also be asked to solve an administrative dysfunction of a regulatory, cyclical or structural nature on the basis, where appropriate, of the specific solutions proposed by the Office.

#### 1. General recommendations

##### 1.1 *General recommendations – 2003*

#### **GR 03/01: The period for handling cases lodged on Belgian territory and submitted to the Immigration Office**

Several departments in the Immigration Office have to cope with a considerable backlog. The Immigration Office has a backlog of approximately 6 000 cases lodged under Article 9.3 of the Act of 15 December 1980 for humanitarian reasons. At the same time, between 900 and 1 000 new cases were submitted each month even though the department concerned has a monthly management capacity of only 1 000 to 1 200 cases. At the rate of 300 cases per month, the backlog will not therefore be absorbed – all things being equal – before 2005. The department at the Immigration Office

responsible for applications for reviews pursuant to Article 64 of the Act of 15 December 1980 has a backlog of 400 cases waiting to be submitted to a hearing of the Advisory Commission on Foreigners, which deals on average with twelve applications per month. On this basis, this backlog will be cleared only around 2007.

There is also a considerable delay in handling applications for a change of status and applications to renew residence permits granted for a specific period (for instance in the case of studies, work permits or lasting relationships). While foreigners are required to lodge applications for the renewal of their residence permits within a certain deadline, the Immigration Office is not bound by any deadline when it comes to deciding on them. Yet if residence permits are not renewed before they expire, the foreigner concerned cannot move freely and it is difficult for him or her to exercise certain rights which are subject to the production of a valid residence permit.

The Office of the Federal Ombudsmen therefore recommends that all possible steps be taken to handle all the cases lodged on Belgian territory and submitted to the Immigration Office in line with the principle of a reasonable deadline, to prevent lengthy procedures from resulting in extremely complicated human situations.

Moreover, as regard the handling of applications for a change of status and of renewal of residence permits for foreigners legally resident in Belgium, the Office recommends that the deadline be set on a precise and binding basis<sup>23</sup>.

### **GR 03/02: Dysfunctions at the Directorate General for Benefits for the Disabled**

Since its inception at the end of 1996, the Office of the Federal Ombudsmen has been faced with a growing number of complaints from the disabled concerning the Directorate General for Benefits for the Disabled. The complaints concern mainly the periods for handling applications as well as the chronic and widespread inaccessibility of the services and the lack of information for the disabled. The administration blames the lack of staff, an increase in applications and technical problems, aggravated by the introduction of a major reform of the applicable regulations. A Business Process Re-engineering procedure (BPR) known as "Coperhan", carried out in 2003, concluded that there was a need for more staff and for the establishment of a call-centre during the phase of catching-up with the handling of cases. However, the request for addi-

<sup>23</sup> OFO, *Annual Report 2003*, pp. 15-17

tional resources from the Social Security FPS has been only partially granted, therefore this BPR can only be partly implemented. This situation not only undermines the image of the administration, but also and above all affects social security contributors who are by definition fragile.

The Office of the Federal Ombudsmen therefore recommends that all possible measures be taken to improve rapidly and substantially the operation of this civil service department so that it can comply with the standards of proper administration.

### **GR 03/03: Appeals concerning taxation**

#### *1. Deadline*

The reform of the tax procedure adopted in 1999 has reduced the period for appealing against taxation to three months from the date of sending of the statement from the tax assessment register. It has emerged in practice that this period is obviously too short and the Office of the Federal Ombudsmen therefore recommends that it be substantially increased. It recommends in this respect a fair balance between this deadline and the taxation deadlines which tax legislation grants to the tax authorities.

#### *2. Sure date*

Article 371 of the 1992 Code on Income Tax amended by the Act of 15 March 1999 states that “*Reasons must be given for complaints and, to be valid, they must be introduced within a period of three months from the date of forwarding the statement from the tax assessment register mentioning the period for submitting complaints, or from the date of the notice of contribution or of that of the collection of taxes collected other than by assessment*”. To allow taxpayers to have some control over the lodging of their complaints and to prevent any confusion regarding the concepts of lodging and admissibility of complaints, the Office of the Federal Ombudsmen recommends that the criterion of admissibility of a complaint should not be the date on which the competent director receives it, but rather the date of sending or of lodging of the complaint. A new legal provision should therefore be adopted to allow taxpayers to make a complaint by registered letter (the date of the postmark being conclusive in this respect), by fax (the date of the fax machine receipt being conclusive) or by e-mail (the date of sending the e-mail being conclusive), or by handing it in at the headquarters of the competent regional directorate in return for an acknowledgement of receipt.

#### *3. Computing of deadlines*

Furthermore, the Office recommends the introduction in the 1992 Code on Income Tax of provisions relating to the computing of

deadlines so that when the first or last day of the period falls on a Saturday, Sunday or public holiday, the start of the period or the deadline is postponed until the next working day.

#### 4. *Acknowledgement of receipt*

Article 370 of the 1992 Code on Income Tax states that “*Receipt is acknowledged to the complainant, mentioning the date of receipt of the complaint*”. The Office of the Federal Ombudsmen has been notified of a number of cases in which taxpayers are kept in ignorance for many weeks of the receipt of their complaints by the tax authorities. The Office therefore recommends that this provision be amended so that it becomes imperative for taxpayers to be informed within ten working days of receipt of their complaints and of the details of the department responsible for examining them.

#### 5. *Internal referral*

Complaints made by taxpayers are sometimes sent to a tax authority other than the one mentioned in Article 366 of the 1992 Code on Income Tax (the Regional Director of Direct Taxation in whose jurisdiction the taxation, increase and fine have been established). Informed often too late of an error, taxpayers then have an extinctive time-limit applied to them as regards re-submitting their complaints, this time to the competent authority. The Office of the Federal Ombudsmen therefore recommends that legislation be approved on the question of lodging complaints to a tax authority other than the competent regional director, making it compulsory for tax authorities within the Finance FPS to refer complaints to one another.

#### 6. *Concepts of writing and signatures*

Under Article 366 of the 1992 Code on Income Tax, taxpayers may complain only in writing. At the moment, the concept of *writing* is interpreted very restrictively by the regional directorates, with modern methods of writing being excluded, in particular faxes. Moreover, in line with the jurisprudence of the Court of Cassation, regional directorates of the tax authorities consider that signatures on faxes are not valid as they do not constitute signatures on the original of a document. The Office of the Federal Ombudsmen therefore recommends that the 1992 Code on Income Tax be amended to broaden the concepts of *writing* and *signatures*.

#### **GR 03/04: Collective settlement of debts**

The Office of the Federal Ombudsmen recommends that a legislative measure be adopted to enable tax officials to exempt the capital of a tax debt in the context of the amicable phase of the procedure for the collective settlement of debts.

While this procedure, which the legislator in fact wanted to introduce in 1998, authorises in a general way, including for tax debts, the possibility of the remission of debts as far as the capital is concerned, the tax authorities forbid tax officials from such an exemption in the context of the amicable phase of the procedure for the collective settlement of debts, basing its argument on the provisions in Article 172.2 of the Constitution and on the system of personal financial responsibility of public accounting officials.

### *1.2 Follow-up during the past year of the general recommendations in previous years*

#### **GR 02/01: The status of cohabiting partners under the law on foreigners**

In response to an oral question<sup>24</sup>, the Minister of Home Affairs said that he had asked his department to simplify the regulation in question and to adapt it to the developments regarding the concept of legal co-habitation. In this connection, the administration hoped to review this matter completely and to insert it into the Royal Decree of 8 October 1981 on access to the territory, residence, establishment and expulsion of foreigners. However, there has been no amendment of the Royal Decree in question to date.

The Petitions Committee also discussed this general recommendation on 30 January 2004. The Committee decided that “*its members would lodge a bill in order to lay down in law the conditions to be fulfilled to obtain the status of cohabiting partner*”<sup>25</sup>.

#### **GR 02/02: Adoption of a legal basis in the fields of authentication and of confidential lawyers**

In reply to an oral question<sup>26</sup>, the Minister of Foreign Affairs said that his civil service department was preparing a bill covering the various aspects of authentication.

A bill incorporating the Code on international private law was lodged at the Senate on 7 July 2003<sup>27</sup> dealing with the question of authentication in Article 30. This bill includes the text of a bill

<sup>24</sup> Oral question put by Mr O. Chastel, then Chairman of the Petitions Committee, *Complete Minutes (Compte rendu intégral/Integraal verslag)*, House of Representatives, ordinary session 2002-2003, oral question No B268 of 19 March 2003.

<sup>25</sup> *Parl. Doc.*, House of Representatives, ordinary session 2003-2004, No 0757 / 001, pp. 3-4.

<sup>26</sup> *Complete Minute (Compte rendu intégral/Integraal verslag)*, House of Representatives, ordinary session 2002-2003 (Chastel), oral question No B267 of 26 March 2003.

<sup>27</sup> *Parl. Doc.*, Senate, extraordinary session 2003, No 3-27/1.

lodged at the Senate during the previous legislature<sup>28</sup> based on a preliminary bill of governmental origin. The Justice Committee has been discussing this bill since October 2003.

This general recommendation was also discussed by the Petitions Committee on 30 January 2004<sup>29</sup>. The Committee decided that the “*existing bills would be examined. Adaptations would be proposed, where appropriate. In this case, members would also lodge a joint bill*”.

#### **GR 02/03: The tax trap in unemployment**

This official recommendation was discussed by the Petitions Committee on 3 April 2003 and, during the new legislature, on 30 January 2004. The Committee will decide whether it is enough to submit a bill amending Article 146 of the 1992 Code on Income Tax, or whether legislative measures should also be taken in relation to social security and employment. The Committee will follow up this recommendation<sup>30</sup>.

The Federal Ombudsmen were also granted a hearing on 12 November 2003 by the Committee on Finance and the Budget concerning their general recommendations on tax<sup>31</sup>. The Chairman of the Committee wrote on behalf of his Committee to the Minister of Finance to find out his position on this general recommendation. The same approach was adopted by the Committee on Finance for all the other general recommendations on tax made since 1997.

The Office is waiting for news from the Committee on Finance following this move.

#### **GR 02/04: Limited seizures from bank accounts**

A bill<sup>32</sup> comprising the general recommendation was lodged on 24 March 2003. It lapsed at the end of the previous Parliamentary session and was reactivated under the new legislature.

<sup>28</sup> *Parl. Doc.*, Senate, extraordinary session 2001-2002, No 2-1225/1.

<sup>29</sup> *Parl. Doc.*, House of Representatives, ordinary session 2003-2004, No 0757/001, pp. 3-4.

<sup>30</sup> *Report produced on behalf of the Petitions Committee*, House of Representatives, ordinary session 2003-2004, 30 January 2004 (Declerq) – “*Annual Report by the Office of the Federal Ombudsmen*”, DOC 51 0757 / 001.

<sup>31</sup> OFO, *Annual Report 2003*, p. 8.

<sup>32</sup> *Bill concerning legal protection for amounts provided for in Articles 1409, 1409bis and 1410 of the Judicial Code when these amounts are paid into a bank account* (Mahoux and Poty), *Parl. Doc.*, Senate, ordinary session 2002-2003, 24 March 2003, 2-786.

This official recommendation was also discussed by the Petitions Committee on 3 April 2003 and, during the new legislature, on 30 January 2004. The Committee will check whether the bill is in fact being examined<sup>33</sup>.

**GR 02/05: The application of the Social Insurance Contributors' Charter to certain social security institutions**

This recommendation resulted in a parliamentary question to the Minister of Social Affairs and Pensions<sup>34</sup>. The previous Minister of Social Affairs and Pensions had recognised that the applicability of the Social Insurance Contributors' Charter to certain social security institutions should be clarified, and had charged the working group responsible for monitoring application of the Charter, which consists of representatives of various social security institutions, to look into this matter. The Office has questioned the current Minister of Social Affairs and Public Health on the follow-up to this issue and is waiting for his reply.

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

This general recommendation is still valid and is completed by general recommendation 02/01 aimed at having the status of co-habiting partners introduced into the Act of 15 December 1980 and its implementing decree. The problems raised by the delays at the Immigration Office in handling certain issues are the subject of a new general recommendation GR 03/01.

GR 01/01 was tackled during the six-monthly meetings between the Federal Ombudsmen and the Director General of the Immigration Office, who expressed interest in the Ombudsmen's contribution to improving the transparency of his department. It was decided that the Office's comments on this matter should be followed up specifically and an initial note listing the areas in the Act of 15 December 1980 for which the Office has noticed a lack of transparency in the practices of the Immigration Office was submitted to the Director General in November 2003, and will be discussed again in May 2004.

<sup>33</sup> Report produced on behalf of the Petitions Committee, House of Representatives, ordinary session 2003-2004, 30 January 2004 (Declercq) – “Annual Report by the Office of the Federal Ombudsmen”, DOC 51 0757 / 001.

<sup>34</sup> Q.R./Vr. en Antw. (Questions & Answers), House of Representatives, ordinary session 2002-2003 (Chastel), No B269.

**GR 01/02: The extension of the scope of Article 143 (2) of the 1992 Code on Income Tax**

No further progress has been made regarding this recommendation<sup>35</sup>.

**GR 00/01: The declaration of marriage**

No further progress has been made regarding this general recommendation. It was raised during the meeting between the Office and the Deputy Head of the Minister of Justice's Cabinet at the end of 2003.

**GR 00/02: The procedure for changing surnames and first names**

No further progress has been made regarding this general recommendation. It was raised during the meeting between the Office and the Deputy Head of the Minister of Justice's Cabinet at the end of 2003.

**GR 00/03: Training in communication and reception skills for all tax administration officials**

No further progress has been made regarding this general recommendation<sup>36</sup>.

**GR 00/04: Payment of road traffic tax by automatic debit**

On 7 January 2003, the Minister of Finance had assured the House of Representatives that "*the planning of electronic methods of collecting road traffic tax provides for the introduction of automatic debits in the course of 2003*"<sup>37</sup>. No further progress has been made regarding this undertaking or the general recommendation<sup>38</sup>.

**GR 00/05: The abolition of the requirement to take account of the income of the person with whom a disabled person had been living following the separation of the persons concerned**

In the past and for fiscal purposes, separation of disabled persons from the persons with whom they were cohabiting took effect only after one year, and their respective revenues therefore continued to be added during this period. The reform of the regulation on allowances for the disabled remedied this situation denounced by the Federal Ombudsman. In future, a change in the family situation will be taken into account immediately, and the income of the cohabiting partner (or of the de facto separated partner) will no

<sup>35</sup> See GR 02/03; OFO, *Annual Report 2003*, p. 52.

<sup>36</sup> See GR 02/03; OFO, *Annual Report 2003*, p. 52.

<sup>37</sup> QR/Vr. en Antw. (Questions & Answers), House of Representatives, ordinary session 2002-2003, question No 259 of 8 March 2000 (Leterme) – "*Payment of road traffic tax*", 50 151, 13 January 2003, p. 19263.

<sup>38</sup> See GR 02/03; OFO, *Annual Report 2003*, p.152.

longer be taken into consideration after separation. The reform was originally to come into force on 1 July 2003, but under the law-programme of 22 December 2003, some provisions have been postponed until 1 July 2004.

**GR99/01: Increasing the resources of the Office of the Federal Ombudsmen as an instrument for promoting and protecting human rights**

No further progress has been made regarding this general recommendation.

**GR 99/02: The establishment of an *ad hoc* commission entrusted with monitoring the implementation of the law on formal justification of administrative acts**

The Petitions Committee held a hearing of the Federal Ombudsmen in May 2001 concerning this general recommendation in order to refine its information on this matter.

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 security contributions, the department responsible for the social contributions of the self-employed, under the aegis of the Ministry of the Self-Employed and Agriculture<sup>39</sup>, presented proposals to its supervisory Minister at the beginning of 2001 aimed at adapting the standard forms used in the decision-making process by this Committee to include adequate justification. The Minister responsible for the self-employed approved these proposals. The competent authorities recently informed the Office that internal budget resources had been set aside. These proposals were effectively implemented in the course of 2003.

Given the crosscutting nature of this general recommendation, which concerns the entire Federal Civil Service, the Minister of the Public Service was obviously the most appropriate authority for implementing it in the entire administration. The Office therefore met the Minister of the Public Service, Social Integration, Policy on Large Towns and Equal Opportunities to draw her attention to this matter.

However, under the *Copernic* reform, the Personnel and Organisation FPS is no longer allowed to monitor this matter, or any other, on a crosscutting basis in all the Federal public service departments. This development poses a real problem.

<sup>39</sup> This department is now under the Federal Public Service Social Security.

### **GR 99/04: The evaluation of additional staffing needs of certain Civil Service departments**

The Petitions Committee held a hearing of the Federal Ombudsmen in May 2001 concerning this general recommendation. More pertinent now than ever as regards several sections of the Federal Civil Service (many of the Tax Revenue offices, national social security, Directorate General for the Disabled, 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. Following the *Copernic* reform, the Federal public services henceforth have increased powers as regards management of their own staff. It is premature at this juncture to draw conclusions regarding the way in which staff needs will be met by these public services. However, known needs concern not only additional staff but also equipment, computer programs and more suitable management tools.

Furthermore, the Office noted that the “anchor principle”<sup>40</sup>, abolished at 1 January 2004, was beginning to cause serious problems in some Federal Civil Service departments in terms of operation.

Lastly, this general recommendation was echoed in the new GR 03/01 and 03/02 concerning, respectively, the functioning of the Immigration Office and of the Directorate General of Allowances for the Disabled.

### **GR 99/05: 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 of the Federal Ombudsmen in May 2001 concerning this general recommendation. 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 reform plan for the Federal Civil Service.

At a meeting, the Office drew the attention of the Minister of the Public Service, Social Integration, Policy on Large Towns and Equal Opportunities to this matter. She replied that she would conduct a review of the work of information officers in order thereafter to look into the measures to be taken to publicise their role<sup>41</sup>.

<sup>40</sup> The budgetary principle whereby the cumulated rate of use of authorised allocations for a given year X+1 cannot exceed per month the rate of use during the year X.

<sup>41</sup> OFO, *Annual Report 2003*, p. 18.

**GR 99/06: The obligation for citizens to produce documents, whereas the Civil Service may or should have the means of obtaining these itself**

The Petitions Committee held a hearing of the Federal Ombudsmen in May 2001 concerning this general recommendation. Included in the past in the Government officer's plan on administrative simplification, no further progress has been made. It should be noted that, in the social security field, the *Banque-Carrefour de la Sécurité sociale/Kruispuntbank voor de Sociale Zekerheid* is already playing a valuable role in this respect, and that the *Banque-Carrefour des Entreprises/Kruispuntbank van Ondernemingen* (a data bank containing information on companies and self-employed) set up by the Act of 16 January 2003 *establishing a Banque-Carrefour des Entreprises/Kruispuntbank van Ondernemingen, modernising the trade register, setting up approved business assistance services and implementing various provisions*<sup>42</sup> is called upon to do the same in the economic field once the problems relating to its launch have been solved. In line with this recommendation, a bill provides that the authorities should not ask citizens to produce data unless no other authority already has these data<sup>43</sup>. This bill, which has lapsed, has been included in the bill *aimed at improving the relationship between citizens and the Civil Service*<sup>44</sup>.

The Federal Ombudsmen held a meeting with the Secretariat of State responsible for administrative simplification, for which this matter is a priority<sup>45</sup>. Its objective is to implement a system by 1 January 2005 for the single collection of data concerning citizens. The Federal Civil Service departments will then no longer require from citizens data or certificates relating to them that are already recorded in the National Register of Natural Persons, or which are already available at their municipal authorities. By the same token, a single company number and the *Banque-Carrefour des Entreprises/Kruispuntbank van Ondernemingen* were set up by the above-mentioned Act of 16 January 2003. The civil service departments con-

<sup>42</sup> *Moniteur belge/Belgisch Staatsblad* -Belgian official gazette-, 5 February 2003.

<sup>43</sup> Bill *to improve the relationship between citizens and the civil service* (Cornil and Nagy), Art. 12, *Parl. Doc.*, Senate, ordinary session 2001-2002, 6 June 2002, 2-1194/001.

<sup>44</sup> *Parl. Doc.*, Senate, extra ordinary session 2003 (Cornil), Art. 12, 11 July 2003, 3-67/1.

<sup>45</sup> See the *General Policy Note concerning administrative simplification* of 26 November 2003 (Van Quickenborne) which can be consulted on the website [www.simplification.be](http://www.simplification.be); see also the web site [www.sav.fgov.be](http://www.sav.fgov.be).

cerned will consult this data base so that they no longer have to ask a company or retailer for information which they have already communicated to the *Banque-Carrefour des Entreprises/Kruispuntbank van Ondernemingen*.

**GR 99/07: International adoption**

The Act of 24 April 2003 reforming the adoption system was published in the *Moniteur belge/Belgisch Staatsblad* of 16 May 2003. It will come into force once a cooperation agreement has been concluded between the Federal State and the Communities, royal implementing decrees have been adopted and a central Federal authority has been set up within the Justice FPS. In reply to a written question<sup>46</sup>, the Minister of Justice said that implementing measures were currently being drafted and that the Act could reasonably be expected to come into force during the second half of 2004.

**GR 99/08: Problems arising when a property is evaluated by the tax authorities**

There has been no further progress regarding this general recommendation<sup>47</sup>.

**GR 99/09: The extension of the possibilities of tax relief at decentralised level by rectifying (the data of) the initial tax assessment**

Without introducing new legal measures, the tax authorities have introduced an accelerated procedure to handle negative contributions to rectify material errors or indisputable anomalies in the initial tax assessment. This procedure forms part of the Finance FPS's wish to achieve rapid results and to improve services to citizens as well as the management of tax disputes.

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

There has been no further progress in the Office's recommendation to have Royal Decree No 79 of 10 November 1967 relating to the Medical Association amended. The Act of 22 August 2002 concerning patients' rights considerably improved the legal position of patients, but did not make any change regarding their situation when they lodge complaints against the Medical Association. Thus

<sup>46</sup> Q.R./Vr. en Antw. (Questions & Answers), House of Representatives, ordinary session 2003-2004, question No 90 of 10 November 2003 (Taelman) – "Act reforming the adoption system – entry into force", 51 012, 15 December 2003, p. 1561.

<sup>47</sup> See GR 02/03; OFO, *Annual Report 2003*, p. 52.

they are still not entitled to be informed of the outcome of the disciplinary procedure. Several bills dealing with this matter are still pending at both the House of Representatives and the Senate<sup>48</sup>.

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

There has been no further progress regarding this general recommendation.

**GR 98/02: 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.

This recommendation became the subject of a bill, which lapsed<sup>49</sup>. Following the same line as this recommendation, another bill<sup>50</sup> states in addition that citizens should receive proof of the handing in of documents to the civil service under conditions to be determined by the King. This bill, which in turn lapsed, was included in the bill *to improve the relationship between citizens and the administration*<sup>51</sup>.

Along the same lines as this recommendation, the bill provides in particular that the administration should state immediately the date of receipt on the document used to submit the request and should send an acknowledgement of receipt without delay to the applicant mentioning the said date<sup>52</sup>.

<sup>48</sup> Bill establishing the *Medical Association, the Disciplinary College for Health and the Supreme Council on Health Care Ethics and Morality* (Gerkens), *Parl. Doc.*, extraordinary session 2003, 2 July 2003, 45 001. Bill establishing a *Supreme Council of Health Care Ethics and Morality* (De Meyer, Peeters, Detiège), *Parl. Doc.*, Senate, extraordinary session 2003, 2 September 2003, 51 0187. Bill amending Royal Decree n° 79 on the *Medical Association* (Bacquelaine), *Parl. Doc.*, extraordinary session, 2003, 5 September 2003, 51 0191. Bill establishing a *Medical Association* (Vandeurzen), *Parl. Doc.*, ordinary session 2003-2004, 10 November 2003, 51 0424. Bill establishing a *Medical Association*, (Vankrunkelsven), *Parl. Doc.*, Senate, ordinary session 2003-2004, 3 December 2003, 3-373 / 1. Bill establishing the *Medical Association* (De Schamphelaere), *Parl. Doc.*, Senate, ordinary session 2003-2004, 11 December 2003, 3-413 / 1.

<sup>49</sup> Bill supplementing the Act of 29 July 1991 concerning the formal justification of administrative acts with a view to laying down the obligation for the administration to issue an acknowledgement of receipt (Van den Broeck, Bouteca, Bultinck, De Man and Goyvaerts), *Parl. Doc.*, House of Representatives, ordinary session 1999-2000, 26 April 2000, 0598/001.

<sup>50</sup> Bill to improve the relationship between citizens and the administration (Cornil and Nagy), Art. 16, *Parl. Doc.*, Senate, ordinary session 2001-2002, 6 June 2002, 2-1194 / 001.

<sup>51</sup> *Parl. Doc.*, Senate, extraordinary session 2003 (Cornil), art. 4 & 16, 11 July 2003, 3-67/1.

<sup>52</sup> *General bill on administration* (Leterme and Vandeurzen), Article 3.4.3, *Parl. Doc.*, House of Representatives, ordinary session 2003-2004, 0496/001.

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. The Federal Ombudsmen met the Minister of the Public Service, Social Integration, Policy on Large Towns and Equal Opportunities to draw her attention to this matter, with respect to which she indicated that she would make a response.

**GR 97/02: Constitutional Recognition of the Office of the Federal Ombudsmen**

No further progress has been made regarding this recommendation. The relevant articles of the Constitution were declared open for revision during this legislature.

**GR 97/03: The establishment of the Office of the Federal Ombudsmen as a second level of mediation, after the primary bodies (such as the sectoral mediation services and complaint services)**

No further progress has been made regarding this recommendation.

**GR 97/04: The suspension of deadlines for judicial appeal while the matter is before the ombudsman**

No further progress has been made regarding this recommendation.

**GR 97/05: The possibility of the Office of the Federal Ombudsmen asking the Court of Arbitration for a preliminary ruling**

No further progress has been made regarding this recommendation.

**GR 97/11: Dispute between two Civil Service departments regarding which of the two has to pay costs indisputably due to a citizen, which have not been paid**

The Petitions Committee forwarded this general recommendation to the Committees on Home Affairs, General Affairs and the Public Service. However no further progress has been 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 in the entire administration. The Minister stated during a meeting with the Federal Ombudsmen that she intended to look into this matter.

**GR 97/12: Explanation of the principle of the parliamentary ombudsman's recourse to equity in the Federal Ombudsman Act of 22 March 1995**

No further progress has been made regarding this recommendation.

**GR 97/16: Clearing of backlog of files handled by the War Victims Office**

At the beginning of 2004, the War Victims Office confirmed to the Office that all the applications submitted pursuant to the Act of 5 April 1995 had been dealt with at first instance. The appeal committees still had five cases to examine. As for applications made on the basis of the Act of 26 January 1999, 78 cases were still being examined. In 2003, a small number of complaints concerning delays in the handling of applications to obtain the status of national recognition were referred to the Office.

**2. Overview of official recommendations***Official recommendations – 2003*

OR 03/1 Finance, *2003 Annual Report*

OR 03/2 Finance, *2003 Annual Report*

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