

PLENARY II : "Innovative ideas in the Ombudsworld"

- Topic** : "A New Post-Digital Society, A New Belgian Pensions Ombudsman!?"
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"A NEW POST-DIGITAL SOCIETY, A NEW BELGIAN PENSIONS OMBUDSMAN !?"

Synopsis

In its search and pursuit of excellence, and within the scope of the consequences of our post-digital society, the Belgian federal Pensions Ombudsman has considered it useful to obtain authorisation from the Commission for the protection of privacy, more specifically the Sector Committee of Social Security and the Sector Committee of the National Register, to access pension data (for consultation) held by the various pension services.

Today we are proud we can officially say that the Pensions Ombudsman has access to and can therefore consult not only the databases of three major Belgian pension sectors (employees, civil servants, the self-employed), for which it has jurisdiction, but also the pension services' software!

We are convinced that this important development is not the end of the transformation of our work. However, we have already been able to measure a positive impact, for example, in terms of processing times for records held by the Pensions Ombudsman and in terms of the drastic reduction in exchanges of letters and emails with pension services, which are limited more and more to critical questions. This constitutes the heart of our findings.

We are aware of certain dangers at this stage of our experience but still, this access is beneficial for all parties concerned and we believe it quadruples the WIN ... Here's why!

"A NEW POST-DIGITAL SOCIETY, A NEW BELGIAN PENSIONS OMBUDSMAN !?"

Introduction

According to Michel Serres, mathematician and epistemologist, member of the French Academy, the world has experienced a first "change-over" with the invention of writing (which dates back to several millennia before Christ according to the world regions).

For him, a "change-over" is the transition to a new era. With the discovery of writing, the world has changed completely. This upheaval has brought enormous implications, sometimes negative, such as the decrease or disappearance of the oral tradition, and the decline of the memory that this oral tradition requires.

But overall, throughout the history of humanity, these are only incidental phenomena. A characteristic of a change-over is that it reshuffles the cards and that it generates plenty of novelties, or even new paradigms.

A second change-over has occurred with the invention of printing, around 500 years ago in our old Europe.

Whereas, another example of an epiphenomenon, the copyist monks and their beautiful illuminations then disappeared, libraries have developed, and places have been created in which almost all of the knowledge on the state of our civilization could be collected in books in one place. It is not for nothing, for example, that European universities have strongly developed at that time, which all rivalled in particular by the extent of their library.

It was also at that time that in Europe a profound paradigm shift took place, a "Copernican" revolution, with heliocentrism ...

Thanks to printing, to mass reproduction, this new completely identical access for all to the content of books now obviously has especially contributed to the development of democracy.

For the author, in the early 1990s, a third "change-over" occurred: the advent of the digital age. Articles also actually appeared in the press to celebrate this quarter of the digital century...

Indeed, it was around this time that gradually the first personal computers (PC - Personal Computer) appeared which, over time, have only miniaturized and developed their technical capabilities.

For the author (see his "*Petite Poucette*", translated as "Thumbelina", (an essay published by the Frenchman Michel Serres in 2012 with Editions Le Pommier) who has the world within inches of reach on her smartphone), it is obvious that we are very much in the "post-digital" era which has already, and will even more in the future, affect our way of understanding the world.

This is the reading angle we wanted. And if you read or listen to the press through this lens, you will find that not a day goes by without a medium, an article causing a deep change due to the advent of the digital age.

And all the fields are affected: social, cultural, arts, sciences, medicine, astronomy, ... ALL! Including our institutional job of Ombudsman!

To deal as well as possible with all the changes, known or not yet known, that this "change-over" causes, to continue to manoeuvre our ship so that it goes in the right direction and to fulfil our mission, namely dealing with complaints in the broad sense, including the reporting and "reconciliation" of the citizen with the administration, we have been reflecting and have recently redeveloped a strategic vision that comes in 4 major areas:

- Increase our professionalism
- Develop the partnership with the pension services
- Promote our reputation
- Strengthen our moral authority

During this in-depth work, we have become aware, like you, that great changes were taking place because of this post-digital change-over, such as in the requirements of the citizen, in the evolutions of the authorities, and in our own Ombudsman Service, due to the computerization, or even in society in general.

Moreover, and this has appeared retroactively to us with much evidence, the theme of our presentation, the recurring theme, is none other than TRANSPARENCY.

This theme is omnipresent and is similar to a kind of evidence when considering what the internet allows us access to.

This theme is also the one around which a global initiative entitled OGP - OPEN GOVERNMENT PARTNERSHIP has developed, which advocates a transparent government paired to a higher citizen participation. The promotion of transparency in administrative terms is advocated, a particularly favourable vector for highlighting another concept, i.e. accountability, that is to say the idea of responsibility and responsabilization.

As this theme of transparency tells us, we are not that naive to think that it is a panacea, the ultimate goal. There are still areas to explore, which some philosophers demonstrate or challenge, and limits specified by example in terms of privacy.

With that said, and in a somewhat provocative way, could we not imagine a change one day, perhaps closer than we think, of the paradigm in this regard?

For example, imagine that tomorrow any complainant who files a complaint does so in full transparency... In full sight and known by all ... His complaint, his name or the action taken on his complaint would be made public ...

Or why, for example, don't we imagine that by virtue of the transparency, and increased research efficiency, the institutional Ombudsman has a consultative access to both software and databases of the services and administrations for which he is competent? Here is our field experience in this area in a few words.

Over a year ago, the Pensions Ombudsman, the institutional Belgian Federal sectorial Ombudsman, requested and was granted access, for consultation, to the databases and main software of the three major Belgian pension sectors, i.e. for employees, the self-employed and the civil servants.

In other words, this means access to data concerning over 2.5 million pensioners out of a total Belgian population of over 11 million.

Clearly, this means that when a (future) pensioner lodges a complaint, we will be able to access his pension file directly and without intermediaries!

In our opinion, this new approach is quadrupling the WIN!

Actually, the WIN is for the citizen, for the pension administrations, for the Ombudsman himself and for the wider society (political, legal, etc.).

However, we cannot be naive. The SWOT analysis (acronym for: Strengths, Weaknesses, Opportunities, Threats) of this advanced course reveals certain dangers we must be aware of ... We'll get back to this later.

Let us first examine how this has occurred and then how this WIN WIN WIN WIN takes shape.

Prerequisites and conditions for access to databases and software of the various pension services

In the 90s, Belgium has created an institution called "Crossroads Bank for Social Security" and has allocated every citizen and/or each socially insured person a reference number.

The Belgian Crossroads Bank for Social Security is an instance which does not hold any data itself, it only opens and closes electronic doors. Any approved instance (in this case public institutions of social security in the broadest sense of the term) may request the Commission for the protection of privacy, to open a door or doors to access the known data relating to a particular citizen or a group of citizens, and for one or more areas of social security (unemployment, sickness, disability, pensions, ...).

Note: The law concerning the organisation of the Crossroads Bank for Social Security even foresaw that for social security institutions the "only once" principle is applied. According to this principle, as from the moment when information is available via the Crossroads Bank, the citizen/ insured person himself cannot be asked to provide this information again. In itself, this is a revolution for the Belgian social security institutions ...

Under the quasi-parliamentary investigative powers held by the Belgian Federal Pensions Ombudsman, our service has received official authorisation from the Commission for the protection of privacy necessary for that purpose.

We were also able to convince the pension services of the potential benefits connected to the obtained authorisation of allowing access to these data via their own software. As a result, the cooperation agreements between the Pensions Ombudsman and the pension services concerning the exchange of data relating to complaints are adapted and in operation.

It must be said that in parallel, in the meantime, the Belgian pension services have also fully entered the digital twenty-first century by developing new powerful tools.

Not only have they created an electronic pension file, by means of the website www.mypension.be, they have created the opportunity for each citizen to have secure access to their e-pension file (career data, correspondence, payments, first and second pillar, etc.). This website will soon become a real "pension engine", a transparent, integrative and interactive tool, which, in the near future, can be used as a pension calculator and will enable citizens to simulate the effects of career choices on their pension.

This E-PENSIONS mega-project will inevitably have an impact that we are now not yet aware of. What is certain is that all stakeholders/users and their mutual relations, will be "impacted".

Findings relating to the impact of this post-digital era on the different actors

Before examining in detail the impact of this access to the data and software of the pension services, here are some findings on notable changes which have already proven that this post-digital era has triggered a large part of our target audience ...

It goes without saying that the trends observed here on the part of the stakeholders all entail consequences for the work and the mode of operation of all the other stakeholders ... There is a clear interdependence ... the stakeholders are more and more closely "related" ...

On the part of the citizen

- **REACTIVITY:** The "connected" citizen is particularly REACTIVE. He surfs, he glances through the FAQs, he seeks to understand, he is critical ... He poses questions and expects a precise and complete answer that answers his question in detail to be returned immediately by SMS or email. It's not impatience, it is a need for immediacy, considered almost legitimate. He assumes that his question is well-reasoned. If necessary, he amplifies the echo of his request via forums or other platforms, by means of a blog or by launching a referendum or petition.
- **ACCESSIBILITY:** His responsiveness is interdependent of his access to information. However, the Internet provides permanent access to an almost infinite amount of information. And, if necessary, the Internet allows the citizen himself to add information (Wikipedia, forums, etc.). Plus, do not forget the access (usually free) to all the Youtube videos and other podcast emissions (radio and TV, television news, ...). For Michel Serres, and the generations before "Thumbelina", the memory has been "outsourced".

Accessibility to all this information causes a notable refinement of questions up to a search of the ratio legis of the measures taken.

Moreover, with a minimum of talent and knowledge, citizens can easily find access to media that may relay their problem, even in a participatory manner, with the possibility of a more direct involvement of politics.

And what if tomorrow there is a flood of complaints from a group of citizens faced with the same problem? Haven't class actions, typical of the common law, recently "landed" with us also after crossing the Channel?

Secondarily, the question arises what in such a scenario the role of politics and the legislature is, which are also likely to evolve.

Concerning the accessibility, there is always the aspect of access to one's personal file. Indeed, it has almost become obvious that it is a new paradigm ... Which was not the case a short time ago...

My file, whether it is my tax file (Tax-on-web), unemployment record, service vouchers, etc. is computerized and wholly or partly available. Some of our Belgian ombudsmen colleagues also offer this possibility already and allow the complainant to follow the progress of the treatment of their complaint, in all transparency. This access the person in question has to their own file will also help to pose more precise questions, and at the same time to force the instance to take responsibility (accountability) in relation to its action and/or inaction.

At the same time, this transparency will also help to responsabilize citizens whose cases remain blocked because they have not provided specific information.

It is highly likely that access to this information will cause more awareness on the part of the citizen who will feel even more responsabilized themselves also, and will return with even more questions, especially on assumptions and their consequences on the needs of estimates in various scenarios in order to better manage their situation.

There will certainly be a growing role of information and advice to take on the part of administrations, which will take new forms we are not yet aware of today. We'll get back to this later.

- SINGULARITY: The citizen needs to be recognized in his singularity. The citizen wants his personal file to be processed considering all its specificities. No doubt, this need for the recognition of his singularity will be better met through interpersonal and visual contact. In this regard, technology is widely used, such as in the private sector where it is already largely integrated, and allows video conferences, virtual meetings and why not, to discuss a pension file of a mixed career with the 3 managers of one's files without having to pay these managers a visit on the spot!

On this last point, as Michel Serres writes, the Thumbelina generation, those who use their thumbs at a breakneck speed, i.e. young people up to +/- 35 years, are "in" the digital.

While for people of older generations, there is an access to the digital world in an "outsourced" way, your young children or grandchildren skype with their friends and find it obvious. Why is it not yet the case for us? For our citizens? We think that this visual contact will never replace direct contact, but is it not likely to strengthen the uniqueness of citizens by strengthening the individualization of the relationship with the administration?

To this we add that technology allows to record everything, increasing the quality required and augmenting responsibility.

- CONTINUITY: The citizen who increasingly travels the world wants access to his record "24/7" ... At the Pensions Ombudsman Service, we find that more than one out of five complaints now comes from abroad! Tomorrow the citizen will wish to make an appointment through Skype (or any other Internet program) with his file manager and consider it evident. We bet that in the near future language itself will no longer be an obstacle thanks to the various translation software.

On the part of the Administration

- INFORMATION: The post-digital era goes not without messing up the pension services. However, the future is taking shape. Already in terms of information, enormous progress has been made. This is logical, as the tools are growing and public pressure is great. Some websites go very far, and seem very proactive. To anticipate the questions, but thereby creating new questions just as fast, some websites make information as well as drafts of law texts available as soon as they can and indicate, as far as possible, the direction that they are given. Never, in our view, has there been such anticipation and proactivity.

Citizens require more and more or find it more and more legitimate to have a maximum of transparency. Of course, they expect the pension service to make information on pensions (laws, regulations, examples, calculations) available but also links to anything that might help them understand their situation. This also includes texts of the preparatory work that could help grasp the "ratio legis". Citizens also expect that the administration does not hesitate to inform them on its own *modus operandi*; for example, on how the combination of pension and work is being controlled. They can expect a detailed explanation of how their case will be handled. This way, they can be assured of a proper follow-up and this increases the sense of responsabilization even more.

On the part of the Pensions Ombudsman

Without evading the question of the lowest threshold of accessibility, and more specifically that of the digital division especially for our older target audience, this is how our work has evolved in recent years:

- Increase in complaints filed through the Internet: Complaints via Internet increase, especially from the "young" pensioners. They can obviously and firstly rely on the tool. However, we note that, in general, there is a latent concern from pensioners wondering if they will be able to keep up with the next technological innovation ...
- The nature of the complaint changes: As for complaints relating to the pension matter itself, the number of precisely formulated, substantiated and generally relevant complaints increase day by day. Also more and more lawyers holding a proxy contact us. Moreover, the figures both from the litigation of pension services themselves and statistics of the competent courts show a substantial reduction in the judicial litigations (courts) on pensions. **Quadrupling of the WIN you said?**

Having marked the backdrop of our work, here is what the access to the data and the software of the pension services has already improved!

WIN with regard to the complainant!?

Access to the database containing the identification details of socially insured complainants and to the pension services' software (pension calculators, e-pension file) offers multiple benefits to the complainant.

First, this is a huge time saver because, due to a limited formalism, the person is directly and correctly identified, and so we have access to his complete file as it is. The fact that there is no folder is also information which in itself is particularly useful.

This immediacy of access to the file as it is, allows us to have a panoptic view (especially useful in cases of mixed careers, which count for approximately 40% of all pensioners, and over 65% of our cases of complaints).

Where applicable, direct access to the pension file(s) allows a precise understanding of the complaint, or to rephrase it for the person himself. Sometimes only simply consulting the file suffices to provide a solution. As it happens, a complainant might not have fulfilled an obligation, for example because he has not responded to a question from the pension service, etc. Pointing this out to him suffices to solve the problem.

As the Pensions Ombudsman can reformulate the complaint better due to being able to consult the pension file, its treatment improves in equal measure. The complaint is directed to the competent service better and faster. If necessary, this transmission to the pension services can be immediately accompanied by proposals for action and a solution. The necessary questions asked by the Ombudsman to the pension service(s) are therefore fewer and more pertinent.

Finally, it is also possible, when the pension service has responded to the complaint, to retroactively examine this follow-up and check the quality. The explanations provided and/or measures adopted by the administration must be appropriate and effective for the complainant. The quality of the monitoring of the complaint by the pension service virtually becomes an obligation of result ... as it is 100% traceable. Isn't that a great guarantee for the citizen?

If necessary, in all transparency and where possible, the complainant himself may even join in the search for a possible solution to his problem.

If structural problems arise, the complainant must know that steps will be taken to avoid this pitfall from now on, or that the Ombudsman will make a recommendation if necessary. To the benefit of the complainant, this recommendation will be better targeted as it will take into account the actual situation as it presents itself to the pension services.

Finally and ideally, the answer given by the administration to the issue raised by the complainant should be such that it permits reconciliation with the administration and restores the complainant's confidence. Moreover, a contentious appeal via the courts will turn out to be unnecessary.

WIN for the pension service?

The Pensions Ombudsman being able to access the databases of socially insured complainants and the software of the pension services offers multiple benefits to the pension services. Obviously, they are the counterpart of the benefits mentioned for the complainants.

First, saving time and reducing the workload for the administration is important because the need to inform the Ombudsman about the identity and condition of the complainant's file is eliminated. No need either to send any paper documents or having to confirm available information in the electronic file of the pensioner.

What is more, it happens regularly that in the review of the computerized file by the independent, neutral and impartial eye of the Ombudsman errors are detected ... and this can lead to improving the information, moreover, it can lead to the pension services improving pension calculators.

Via a protocol of collaboration with the pension services, the formalism of exchange is minimized and facilitates exchanges with the Ombudsman even more.

As the questions are more targeted, responses are faster and more relevant. The response times are much shorter. In addition, a joint construction is possible in the search for a solution.

The fact that the Ombudsman has access to all files regularly allows to draw the pension services' attention on the status of the file in another pension sector and/or the possible consequences in other pension sectors, especially in mixed career records. Mixed career records are thus better treated; transversal analysis of the file becomes a reflex. The file is also investigated as a whole.

In hindsight, once the complaint has been handled, the Ombudsman indicates the standards that have not been met in order to allow the administration to know how to improve its services.

Finally, the fact that an external and independent eye, able to verify the nature and follow-up of corrections, is watching increases the alertness of the administration and obliges it to ensure exemplary treatment of each case, including increasing internal quality control and monitoring.

WIN for the Ombudsman?

Access to databases containing the identification details of socially insured complainants and to the pension services' software (pension calculators, e-pension files, ...) offers multiple benefits to the Ombudsman. As already mentioned, obviously, these are not very different from those discussed for the previous stakeholders.

Firstly, we note that as the role of the Ombudsman is, historically, to speak on behalf of others, this implies that he is able to put himself as accurately as possible in the place of the complaining pensioner.

In this post-digital era, the Ombudsman's access to computerized pension data allows him to see on the screen almost the same as what the complaining pensioner sees on his computer screen!

Furthermore, processing time is drastically reduced and some delays even disappear. Identification of the complaining pensioner, for example, happens immediately... Because of the direct access to the complainant's file(s) and any formalisms reduced to a bare minimum, the efficiency and relevance of our interventions are increasing. The quality of control increases proportionally.

Furthermore, the Ombudsman therefore has a panoptic view of pension cases. His analysis is therefore necessarily transversal. The consequences of changing a folder are controlled and therefore better anticipated.

From his observation post he has a "helicopter's view" allowing him all the better to identify the (risks of) discrimination, as well as any bugs or flaws in applications.

In addition, and although it's actually a challenge, the evolution of the pension services' software requires that the Ombudsman and its experts be trained permanently. In this way, in particular, relations with pension services are constantly maintained and strengthen the collaboration and synergies with these services.

Finally, this evolution towards an all increasingly digital way of working is not a brake, on the contrary, but a possibility to telework! This is not without benefits either.

WIN for other stakeholders?

Access to the databases of insured persons who lodge complaints and to the software of the pension services offers multiple benefits to our other stakeholders.

And as has already been mentioned, the decrease in legal disputes relating to pensions, thanks to the increased quality and speed, significantly releases the courts from a heavy workload.

Furthermore, analyses of other official bodies (among other things the Court of Audit) responsible for certain controls are enriched and are being reinforced by increasingly precisely formulated comments and recommendations of the Ombudsman.

In case of complaints of which certain aspects relate to areas covered by Belgian colleagues, for example in other areas of social security, or by foreign colleagues, access to Belgian pension records as they are is undoubtedly a great advantage and a powerful accelerator.

The political world itself indirectly benefits from this speed and this increased quality. On the one hand, by not hesitating to refer complaints to the Ombudsman in which he becomes a real partner, and, on the other hand, by including the findings of the Ombudsman in memoranda and by relaying the findings through parliamentary questions and other inquiries.

In general, the accessibility threshold is lowered to the benefit of transparency.

Dangers? Threats?

Yes, we should evidently be aware of some dangers ...

In our analysis, among the greatest dangers, there is of course the danger of a "Big Brother" and of any threat which may affect the "privacy". The safeguards put in place by the Commission for the protection of privacy provide the necessary guarantees in this regard.

Another risk is that of being reproached by the administration for being both judge and defendant. And in fact, since the Ombudsman has access to all the data, he becomes somehow "co-responsible" for errors that he would detect, or even for those he would not detect. "You have seen it and you have not said anything!", or even "It was so obvious and you have not seen it!"... Can the Ombudsman be held liable in this case? The constant search for excellence in his work and his authority should help to minimize this risk.

Among the other dangers, it could be that the administration starts a sort of ping-pong match with the Ombudsman, because he could investigate every detail in the file and the pension services could decide to systematically discuss his findings ...

A similar danger exists with regard to bringing the non-referral of an admissible complaint to the pensions service up for discussion if the pension service notices that no previous steps have been taken.

It can also happen that the Ombudsman is the victim of a sort of Stockholm syndrome ... and that by attending in such a close way the (software and data of) pension services, he tends to stand up for the administration rather than for the citizens.

It may simply happen that a failure or a virus blocks any consultation.

If these dangers are present in the context of our problem, it must be noted that most of them also exist outside of it. So it is worth paying these threats just the same attention and to look for the best solutions.

Conclusions

The main tasks of our service are maintained: curative role, preventative role, educational role, control, ... Our other tasks such as offering a personal reception, showing empathy and listening not only continue to exist, but have become more important than ever in a digital age in which more and more things become automated and proceed without human intervention. Taking our time for personal contact with the complainants, more specifically with those having difficulty with the digital evolution, has become a more important point of concern than it has ever been.

This does not prevent the Ombudsman from still having to react immediately as well as having the ability to identify discrimination or sense a societal evolution. Our service is also committed to move with the times ... and to continuously adapt to the digital environment.

We are also expected to be creative in finding solutions (involving the complainant if necessary) and to not hesitate to open doors that, without doubt, a judge would be reluctant to open, especially if it is a matter of public order under Belgian law.

Also, recently, the question of a kind of "ruling" in terms of social security was addressed, which would, like the tax ruling, unlock situations with flexibility and openness.

People also expect that the Pensions Ombudsman networks, either in Belgium or abroad, and that he deploys his network to facilitate the resolution of a case, as much as for inspiration concerning good foreign practices.

For “Thumbelina”, the world is her garden ... That is also the case for the Pensions Ombudsman and the pension services which, through the Internet, are in potential contact with more than 4 billion interconnected and interconnectable individuals.

The Ombudsman is also expected to react to anything that could circulate via the Internet, which implies correcting false statements or intervening on forums stating that the information is available or that the situation has already been resolved.

If the challenges launched, in the words of Michel Serres, by the digital revolution are important and numerous, we find that the Belgian pension services have clearly started to ride the wave of this new post-digital age.

Last but not least, as transparency is highly promoted, the Ombudsman is expected to be able to deliver proof thereof and to act accordingly.

The projects are big and the hopes are high. We have no doubt that eventually the tools will be able and continue to meet the actual and new expectations of pensioners.

Having opened the door of access to the data and the software of the pension services and witnessing such advantages makes taking any step backwards or being willing or able to close that door hard to imagine!

During a captivating presentation at the IOI's European congress in September 2014, Professor Wolfgang Drechsler has used a beautiful idiom to which we would like to refer: “The Ombudsman is the Firewall of Democracy”.

In this age of digital evolution we would like to contribute to this!