



OCA – internal regulations

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Ombudsman Service for Consumer Disputes relating to the Legal Profession (*Ombudsdienst Consumentengeschillen Advocatuur* – OCA)

1. The Flemish Bar Council has established an ‘Ombudsman Service for Consumer Disputes relating to the Legal Profession’ within its organisation, abbreviated in Dutch as the OCA.
2. The OCA operates totally independently and impartially.

Neither the OCA nor the natural persons who are responsible for resolving disputes take instructions for hearing individual cases from one of the parties, the bars, the members of their boards, the Flemish Bar Council, its employees or directors.

3. The OCA has its own budget allocated by the Flemish Bar Council that is adequate for the performance of its duties.

The OCA sends the Flemish Bar Council’s management board a detailed budget request for the next calendar year by 15 November of each year. It reports to the management board on the expenditure of the previous calendar year by 15 May.

The budgets and financial statements are approved and granted in accordance with the Flemish Bar Council’s general procedures.

4. The Flemish Bar Council’s management board appoints the natural person(s) within the OCA (referred to below as ‘the ombudsman’).

The ombudsman is appointed for a term of three years. His/her mandate cannot be terminated other than for valid reasons. The ombudsman’s mandate is renewable, each time for a three-year period.



5. The ombudsman must comply with the following conditions:

5.1. The ombudsman must have a general knowledge of the applicable law. He/she must possess the necessary dispute resolution skills and regularly attend further training in that area. The ombudsman must be qualified as a mediator.

5.2. The ombudsman must be a lawyer registered with at least one of the Flemish bars and must have been on the lawyers' roll at the time of his/her appointment for at least ten uninterrupted years.

5.3. The position of ombudsman is incompatible with that of chairman, member of the board of the Bar Council, the general meeting or the management board of the Flemish Bar Council. The ombudsman cannot preside over a disciplinary tribunal.

6. The ombudsman's remuneration is fixed by the Flemish Bar Council's management board. This remuneration must at least enable the ombudsman to duly perform his/her duties.

The ombudsman's remuneration is not based on the outcome of the extrajudicial dispute resolution.

7. Consumer dispute resolution

7.1. Consumer disputes are always resolved by one person.

7.2. The OCA receives a list of at least three lawyers from each bar who are eligible to hear consumer disputes; these lawyers must also be qualified mediators. The list is updated every three years. The mandate of the lawyers included on the list is renewable.

7.3. The OCA checks whether the lawyers included on the list comply with the provisions of Book XVI of the Belgian Economic Law Code, specifically as regards the requirements of expertise, independence and impartiality.

If a lawyer fails to comply with the above requirements, the OCA will remove that lawyer from the list without having to account for its decision to do so.

7.4. Having regard to all the known circumstances of the dispute, the ombudsman designates the lawyer who will hear the dispute locally in accordance with the procedural regulations and issue a report. He/she will preferably choose the lawyer from the list of lawyers for the judicial district where the dispute would be heard in accordance with the ethical rules. However, the ombudsman may vary from this without having to account for his/her decision whenever he/she deems that appropriate for the resolution of the consumer dispute, or immediately at the consumer's request.



8. Two deputies for the ombudsman are nominated from the list referred to in Article 7 of these regulations. These deputies assume the duties of the ombudsman whenever he/she is unable to act or if a consumer requests this in relation to a consumer dispute. The deputies are remunerated as such for the performance of their duties.

The ombudsman introduces these deputies to the Flemish Bar Council's management board, which ratifies the nominations.

The deputies are appointed for a term of three years. Their mandate is renewable, each time for a three-year period.

9. The ombudsman and his/her deputies are independent and impartial with regard to the parties. The ombudsman and his/her deputies must give notice of every circumstance that could affect their independence and impartiality or give rise to a conflict of interest with one of the parties, without delay to the parties involved, and, where appropriate, to the OCA.
10. The ombudsman and their deputies must treat all information that they receive as strictly confidential. Unless acting in accordance with a statutory obligation or pursuant to these regulations, they may not disclose information to third parties at any time regarding the subject-matter or content of the disputes brought before them or release the identity of the parties to third parties.
11. The OCA has its own updated website that includes at least the details listed in Article 3 of the Royal Decree of 16 February 2015, which clarifies the conditions with which the qualified entity referred to in Book XVI of the Belgian Economic Law Code must comply. The costs of that website are included in the aforementioned budget.
12. The OCA draws up a report of its activities in each calendar year, on or before 31 March of the next calendar year, including at least the details listed in Article 8 of the Royal Decree of 16 February 2015, which clarifies the conditions with which the qualified entity referred to in Book XVI of the Belgian Economic Law Code must comply.

