

2

Belgium

STEFAN VOET

The New FPS Economy and its Mediation Task

After the 1999 elections, the Belgian federal government made the modernization of public administration one of its main priorities. A major reform of the various administrations, aimed at restoring citizens' confidence in the public institutions, was announced. This program is known as the Copernicus reform.¹ The core of it was that the citizen is not there for the administration, but that the administration and its civil servants must be at the service for the citizen. The latter, and not the administration, is at the centre.

One of the aims of the Copernicus reform was to restructure the federal administrations.² The ministries were replaced by Federal Public Services (FPSs) and Federal Public Planning Services (PPSs).³ The tasks entrusted to the former are the same as those given to the former ministries. The latter handle *ad hoc* matters associated with socially-based issues that require coordination between several FPSs, such as the policy on equal opportunity or sustainable development.

In 2002, and in this context, the Ministry of Economic Affairs was reformed to the FPS Economy, SMEs,⁴ Self-Employed and Energy.⁵ Its task is to create the conditions required for the competitive, sustainable and balanced operation of the goods and services market in Belgium. To achieve this aim, the FPS plays an active and effective part in controlling the overall standards framework of the country's economic and monetary union.

The Copernicus reform was extended to the Directorate-Generals of the Ministry. From then on, the Directorate-General responsible for enforcement was called the Directorate-General Enforcement and Mediation. In particular, the 'mediation part' was added. The reason for this is unclear. The content of the mediation task was totally left open, so the Directorate-General was given a free and broad discretion to interpret it.

¹ Copernicus proposed that the sun, and not the earth, is the centre of the solar system (the heliocentric system), and that the earth and other planets turn around the sun. See on the Belgian Copernicus reform: G Joris, C De Visscher & C Montuelle, 'Federal public administration reform in Belgium: new public management under deconstruction', www.congresafsp2009.fr/sectionsthematiques/st45/st45jorisdevisschermontuelle.pdf.

² Other aspects of the reform were the abolition of the ministerial cabinets (and the replacement by three new bodies: the strategic council, the management committee and the strategic cell), the reinforcement of the autonomy of the directorates of the FPSs and a new appointment procedure for managers.

³ An overview can be found on www.belgium.be/en/about_belgium/government/federal_authorities/federal_and_planning_public_services/.

⁴ Small, and Medium Enterprises.

⁵ <http://economie.fgov.be/en/>.

From the beginning, one thing was clear: besides ethical objections, the Directorate-General did not have the financial resources and infrastructure to intervene or mediate in individual (consumer) cases. In the beginning of the new century, markets were liberalized (eg the energy and telecommunication market). This gave cause for a lot of consumer complaints. The first thing the Directorate-General did, under the mediation umbrella, was sectorial mediation. They invited the market players (business and consumer associations) and tried to solve complaints on a sectorial basis.

Because the Directorate-General is convinced of the fact that creating a favourable environment for consumer A(O)DR leads to a better functioning of the goods and services market,⁶ it decided, still under the mediation umbrella, to promote A(O)DR. This led to the Belmed project.

Creation of Belmed

Belmed was created in three phases. First of all, a feasibility study was ordered on the introduction of an online mediation tool. The study was carried out in 2005–2006 by the Research Center on IT & Law of the University of Namur and the Brussels Management School.⁷ The research explored the legal, economical and technical (IT) possibilities of online mediation. One of the conclusions was to establish a private – public partnership to create an ODR tool.

In a second phase, and on the basis of this study, a stakeholder consultation was organized with business associations, consumer associations, ombuds services, etc. The enthusiasm was great, except for the financial aspect. None of the stakeholders wanted to support the project financially.

In a third and final phase, a European tender was launched at the end of 2009 to develop the software. Eight companies were interested, including IBM. In January 2010, the tender was assigned to IRIS Solutions & Experts, an IT company from Louvain-la-Neuve.

Belmed, which is an abbreviation for *Belgian Mediation*,⁸ was presented in April 2011. It is a digital portal (platform) on ADR and ODR, which it wants to promote and make more accessible. Belmed consists of two pillars: on the one hand offering information on ADR, and on the other hand providing ODR for consumers and enterprises.

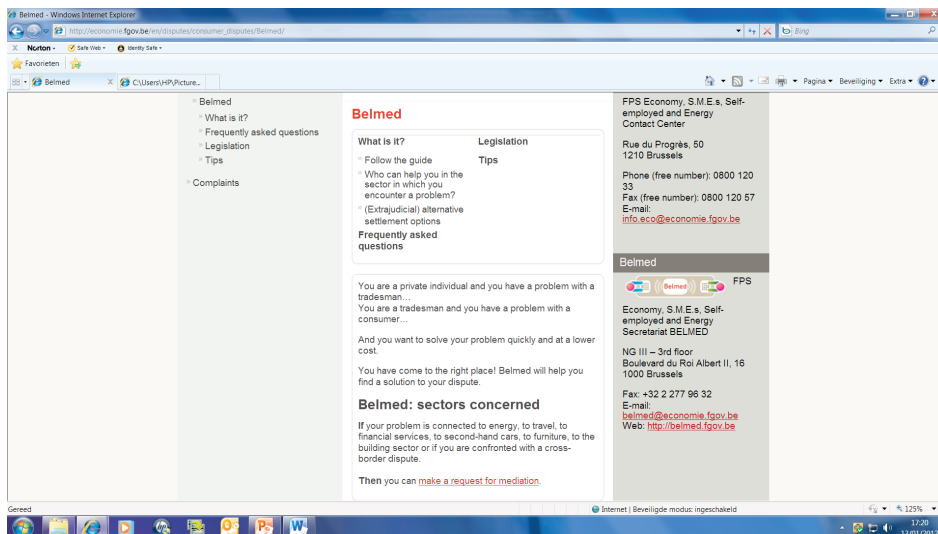
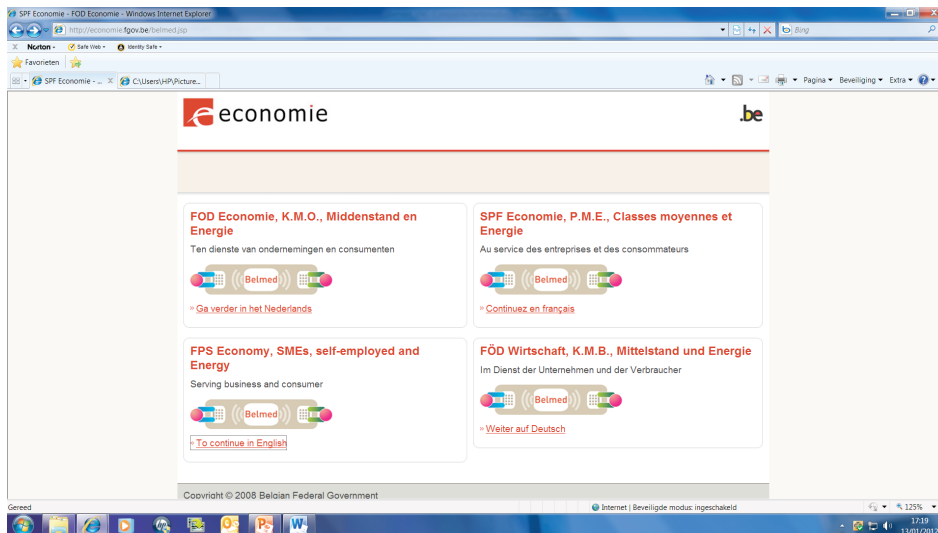
Belmed only applies to consumer disputes (non-commercial disputes are excluded) and disputes between a consumer residing in one of the 27 EU member states, and an enterprise that is registered in the Belgian Register for Companies, or *vice versa* (disputes between consumers and disputes between enterprises are excluded).

The website of Belmed is www.belmed.fgov.be, and is available in Dutch, French, German and English:

⁶ At the launch of Belmed, the Belgian Economy Minister underlined that Belmed is a facilitating instrument for economic life, and not a control instrument.

⁷ C Lazaro, J Gérard & Y Poulet (CRID) & I Choquet & A Ejzyn (ICHEC), 'Etude relative au marché et à la faisabilité quant à la mise en oeuvre d'un système alternatif de résolution en ligne des litiges (SPF Economie)', April 2006, 270 p. (the study can be consulted (in French) on www.crid.be/pdf/public/5593.pdf).

⁸ The name 'Belmed' is protected in the Benelux, France, Germany, Italy, and Spain.



Information

On the one hand, the information part contains a guide on how to settle a dispute in an amicable way.⁹ It not only explains what a formal notice,¹⁰ a consumer dispute,¹¹ a third

⁹ http://economie.fgov.be/en/disputes/consumer_disputes/Belmed/what/guide/.

¹⁰ 'It is an official letter inviting the person it is addressed to (the debtor) to carry out within a fixed deadline an obligation that is his responsibility (solving a problem, paying a sum, respecting a contractual obligation, etc). This should preferably be sent by recorded delivery with an acknowledgement receipt, which makes it possible to prove that the formal notice has reached the person it was addressed to.'

party,¹² and alternative dispute resolution¹³ are, but also offers concrete examples of eg a formal notice:

Place and date
Name and address of the sender
Name and address of the addressee

Dear Sir or Madam,

Re: purchase of (description) – invoice/order form reference – ... (date)

I have bought the above-mentioned ... from you on ... (date).

The contract (or order form) mentions a precise deadline (or date) for the delivery: This deadline (or date) is now over.

As I still have not heard from you, I enjoin and ask you to take all the necessary measures to proceed to the delivery during the next ... days.

Yours faithfully,

Signature

Other examples of letters can be found under ‘Tips’:¹⁴ eg a general purpose registered letter, a registered letter dealing with a product breaking down, and a registered letter to terminate a contract.

On the other hand, the information part offers a convenient outline of all existing ADR tools in Belgium.¹⁵ It gives an overview of all Belgian arbitration,¹⁶ conciliation,¹⁷ mediation,¹⁸ and ombudsmen agencies.¹⁹ All this information is also offered per sector²⁰ (consumer goods, general consumer services, financial services, postal services and electronic communications, transport services, leisure services, energy and water, health, education, and cross-border disputes) and subsector.²¹ The information outline of each

¹¹ ‘It is a problem that appears during a commercial transaction between a consumer and a tradesman. This is the type of disputes that Belmed handles, with the exception of disputes between private individuals or between consumers. Scams, fraud or disputes dealing with fiscal or social law are not concerned either.’

¹² ‘The ‘third party’ is a person or authority entitled to lead an alternative dispute resolution process. Depending on his degree of involvement in the search for a solution, the third party leads: a mediation procedure, (...), a conciliation procedure, (...), an arbitration procedure, (...) a mediation procedure, (...). To carry out this mission, the ‘third party’ must respect several rules: independence (he has no interest in the parties’ problem), impartiality and neutrality, confidentiality (he cannot reveal the content of the exchanges between the parties), and transparency (the parties are informed of the evolution of the process). Belmed collaborates with authorities that respect these rules and are notified to the European Commission or to the mediators approved by the FPS Justice.’

¹³ ‘Alternative’ means that the search for a solution takes place out of court (one also talks about ‘extrajudicial’ resolution). Compared to a court action, this method has many advantages: it is fast; it is inexpensive (some authorities do not charge anything, and the fees for the intervention of an approved mediator are usually divided in equal parts); it is confidential (while court debates are public), and it maintains a good relationship between the parties (in case of agreement, there are two winners instead of a winner and a loser).’

¹⁴ http://economie.fgov.be/en/disputes/consumer_disputes/Belmed/tips/.

¹⁵ http://economie.fgov.be/en/disputes/consumer_disputes/Belmed/what/alternative_settlement_options. Another (more limited) overview can be found on the website of the European Judicial Network in civil and commercial matters (http://ec.europa.eu/civiljustice/adr/adr_bel_en.htm).

¹⁶ Real Estate Conciliation, Arbitration and Mediation Board, Mediation and Arbitration Office, Arbitration Commission for Consumers and Textile Carers, Furniture Disputes Commission, and Travel Disputes Commission.

¹⁷ Real Estate Conciliation, Arbitration and Mediation Board, Justices of the Peace, Second-hand Vehicle Reconciliation Commission, Travel Dispute Commission, and Construction Reconciliation Commission.

¹⁸ Real Estate Conciliation, Arbitration and Mediation Board, Mediation and Arbitration Office, Federal mediation service ‘Patient Rights’, Mediation Service Banks – Credits – Investments, and an approved mediator

¹⁹ Ombudsman Service for the Postal Sector, Insurance Ombudsman, The Mediator for rail passengers, Ombudsman Service for Energy, and Telecom Mediation Service.

²⁰ http://economie.fgov.be/en/disputes/consumer_disputes/Belmed/what/help/.

²¹ eg the sector ‘consumer goods’ contains the following subsectors: food, clothing and footwear, furnishing, household appliances, audio and video equipment, new cars, second-hand cars, etc. The sector ‘transport services’

agency is similar. At a single glance, all relevant information can be consulted: the address, the website, for which problems the agency is competent, the prerequisites for access, how the process works, a complaint form, the rules, and the costs.²²

The information part finally contains some frequently asked questions,²³ an overview of relevant (Belgian and European) legislation and some tips.

All the aforementioned information is explained in a plain and accessible language, thereby avoiding legalese.

Online Application

On the other hand, and this is the second pillar, Belmed offers the possibility of making an online application for arbitration, conciliation, or mediation. The idea is to create one digital portal, or access point, for the consumer and tradesman. After an application is made, the Belmed system will automatically send it to the competent agency. So, the consumer or tradesman do not have to find out, in advance, which agency is competent for their dispute.

If a consumer or tradesman wants to make an application, he/she has to click on the 'make a request for mediation' link on the introductory webpage²⁴ (see the screenshot *supra*).

The consumer or tradesman who visits the Belmed platform for the first time, will be faced with two 'accessibility criteria'. On the one hand, an application can only be made when one has already contacted the other party to report the problem and try to solve it. If not, the applicant will be referred to the aforementioned guide in the information part, which contains an example of a formal notice. On the other hand, an application can only be made if there is no court proceeding pending. If so, the applicant will receive (albeit limited) information on how to mediate during a court proceeding.²⁵

contains the following subsectors: railways, tramways, busses, subways, airlines, taxi, water transport, and rental services. The sector 'financial services' contains the following subsectors: payment accounts, credit/loans, payment services, investments, and insurances.

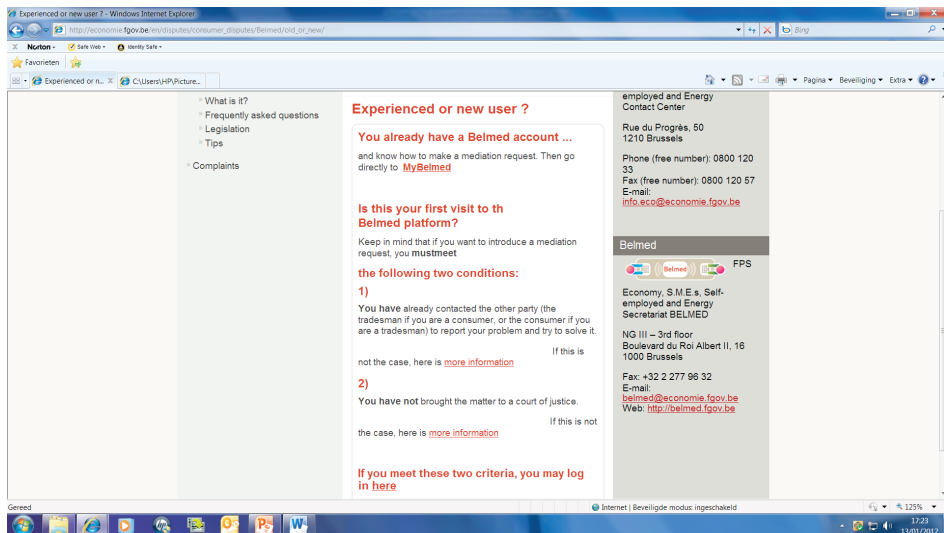
²² One example: the 'Furniture Disputes Commission':

- Address: Kasteelstraat 1A B10, 1700 Dilbeek; Phone: +32 2 478 47 58; Fax: +32 2 478 37 66; e-mail: clmeubles@gcmeubelen.be; website: <http://www.navem.be> (available only in French or in Dutch)
- Prerequisites for access: the store must be a member of Navem and the standard contract must have been used (in French or in Dutch); you must have tried to solve the dispute directly with the company, to no avail; the damage must have taken place a month ago minimum.
- How does it work? See brochure (in French or in Dutch).
- Form. Form to download (in French or in Dutch), print and fill in or to be asked from the Commission + enclose a copy of any useful document.
- Rules. Rules defining the procedure to follow (in French or in Dutch).
- Fees. 100 euro as a guarantee if you are a member of Test-Achats, Navem or Arcopar. 150 euro if you are not a member of Test-Achats, Navem or Arcopar. If the intervention of an expert is needed, a deposit will have to be made. The losing party will have to pay for the expertise costs.

²³ http://economie.fgov.be/en/disputes/consumer_disputes/Belmed/questions/. The questions are: 'amicable dispute resolution, what does it mean?'; 'if I do not have a computer, how can I contact Belmed?' (see *infra*), 'how long does a mediation procedure via Belmed take?'; 'can I try mediation if I am already involved in a trial?'; 'what is an approved mediator?'; 'what is to authenticate a document?'; 'what to do if the mediation attempt fails?'.

²⁴ http://economie.fgov.be/en/disputes/consumer_disputes/Belmed/.

²⁵ The applicant will see the text of Art 1730, §1 of the Belgian Judicial Code: 'any party can propose to the other parties, independently of any judicial or arbitral procedure, before, during or after a judicial procedure, to resort to the mediation process.'



If the applicant has contacted the other party to no avail, and there is no court proceeding pending, he/she can log in and register.

There are two ways to register.²⁶ First of all, every Belgian resident can use his or her electronic ID card or token with the federal authentication portal to register. Secondly, every Belgian resident and every European consumer can create a personal Belmed account. All European consumers can use the system. For the moment, they can only do so when they have a dispute with a company that is registered in the Belgian Register for Companies (eg a German consumer who lives in Berlin and bought a second hand vehicle in Antwerp, or an Englishman who lives in Brussels and has a dispute with a real estate agency in Bruges).

Every private individual, or enterprise, can create a personal Belmed account. The applicant has to fill out the following information: email, password, name, first name, street, n°, zip code, city, country, phone, language (Dutch, French, German, or English), and gender. The applicant also has to agree with the terms of use.²⁷

²⁶ https://belmed.economie.fgov.be/belmed/faces/login/login_form.jspx?belmed-user-language=EN.

²⁷ '1. Belmed offers a place where consumers and traders can talk freely – with the help of a mediator – to try and solve a commercial dispute amicably. 2. Each party can end this dialogue whenever they wish. 3. If mediation does not work, one or both parties concerned can try another type of amicable resolution (for instance, arbitration or conciliation with a justice of the peace), or can bring the dispute to a court of justice. 4. Belmed users promise not to use this space to denounce or criticize any person, company or institution. If such a negative behaviour or any exterior disruption renders dialogue impossible, the mediator will inform the Belmed manager and will, if necessary, suspend or even cancel the mediation procedure. 5. The Belmed platform is entirely secure and confidential, which implies only Belmed users and the mediator have access to it. Belmed also observes the loi du 8 décembre 1992 relative à la protection de la vie privée et à l'égard des traitements de données à caractère personnel (privacy act). This means that the Belmed manager as well as the mediator in charge of a mediation request promise not to divulge any data of a personal nature or pertaining to the dispute in question. Anyone can ask – in writing – a correction of his personal data from the person in charge of the processing: (...). 6. When a mediation request is made via the appropriate form, the applicant automatically receives an acknowledgement receipt that gives a reference number to the request. Within two working days, Belmed will indicate which amicable resolution options are possible. If there is a mediator in the specific sector, and if this mediator works with Belmed, the request will be automatically sent to him. He will then contact the applicant and the other party in the dispute and inform them on the process. 7. Since the Belmed platform is secure, users can only access it after registration and authentication – preferably with the electronic identity card or eID, or, failing that, a personal code (federal token for more information or to request a token, use the following link: <https://www.belgium.be/usermgmt/>


Belmed - Windows Internet Explorer
 https://belmed.economy.fgov.be/belmed/faces/register/register_Servlet.jspx

Account type: **Private individual**
 Enterprise

The fields marked with Enterprise

Email * : _____
 Password * : _____
 Confirm password * : _____
 Name * : _____
 First name * : _____
 Street * : _____
 N° * : _____
 Zip code * : _____
 City * : _____
 Country * : **Great Britain**
 Language * : **English**
 I am above 18 years old*
 Gender * : **M**
 Type the characters displayed here * : _____

[If the characters are not sufficiently readable, click here for a new image](#)


 There is no capital letter in this captcha.
 I agree with the [Terms of use*](#)

FPS Economy, S.M.E.S., Self-employed and Energy
 NO 18 - 3rd floor, Boulevard du Roi Albert II, 16
 Fax: +32 2 277 96 32
 E-mail: informatie@economy.fgov.be

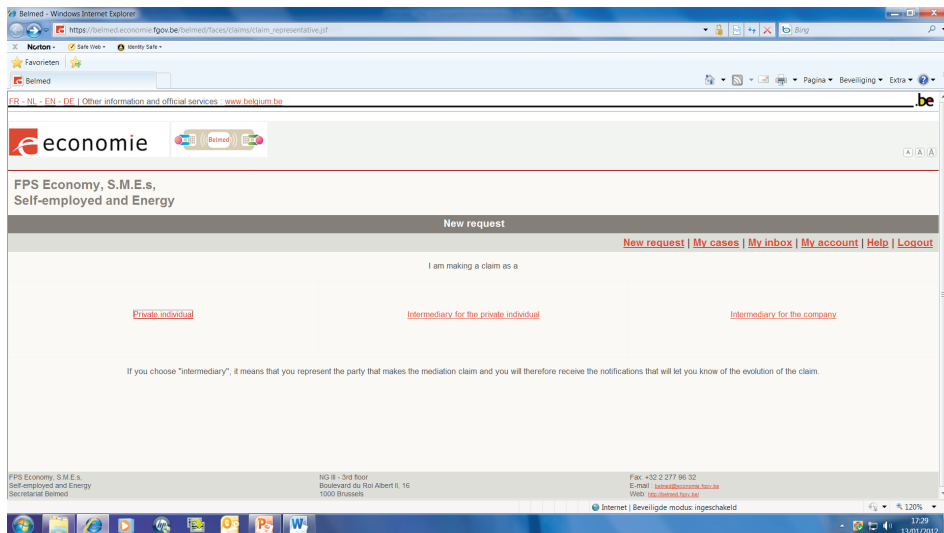
Internet | Beveiligde modus: ingeschakeld
 17:27
 11/01/2012

When the consumer or tradesman has registered, he/she receives a confirmation email with a link to validate the registration.

The Belmed account consists of different parts: making a new request, an overview of all (current and previous) applications ('my cases'), an email inbox ('my inbox'), a link to the account (where the applicant can edit his or her personal information) ('my account'), and a help link.

A new request can be made in three capacities: as a private individual consumer, as an intermediary for a private individual consumer (eg a son making an application for his 80-year old grandmother who has a problem with her electricity supplier, or a father making an application for his 15-year old son who has a problem with his new cell phone), and as an intermediary for a company (eg a lawyer or accountant).

eGovUserMgmtwebapp/public/RegistrationIntro.do) or a personal password. This access enables each party to talk to the mediator, to send him documents by e-mail, to correct/update personal data or to follow up the dispute online. 8. The Belmed space is available 24/7 (subject to technical or maintenance constraints). Any message sent to the mediator (secure space) will receive an answer as soon as possible, during office hours. 9. Before any mediation request, the applicant has to give his explicit consent to Belmed's terms of use. 10. As it does not play any part in the mediation process, the FPS Economy, SMEs, Self-employed and Energy cannot be held responsible for any direct or indirect harm resulting from the use of the Belmed space (08/11/2011).'



The structure of the online request is based on Commission Recommendation 2010/304/EU of 12 May 2010 on the use of a harmonised methodology for classifying and reporting consumer complaints and enquiries.²⁸

Preliminarily, the applicant will be confronted, for the second time, with the two ‘accessibility criteria’: ‘have you contacted the tradesman/consumer concerned to report your problem?’ and ‘did you take the matter to court?’. Then the applicant has to provide information about the provider, or supplier (there is a tool to search for the business number), or, if the application is done by a tradesman, information about the consumer who eg didn’t pay an invoice. The request information itself is vital (see next screenshot), because the system will use this to send the application to the competent agency.

The applicant has to fill out:

- the sector (and subsector) where the problem has occurred: consumer goods, education, energy and water, financial services, general consumer services, health, leisure services, postal services and electronic communications, or other;
- the sales method: distance or face to face;
- the type of problem: contracts and sales, delivery of goods/provision of services, invoicing/billing and debt collection, price/tariff, privacy and data protection, provider change/switching, quality of goods and services, redress, safety (covers both goods (including food) and services), unfair commercial practices, warranty/statutory guarantee and commercial guarantees, or other issues;
- the value of the claim (‘financial loss estimation’): between 500 and 1,800 euros, from 0 to 500 euros and over 1,800 euros.

Finally, there is an unlimited empty field (‘description’) where the applicant can provide additional information. It is also possible to add scanned documents (eg an invoice, pictures, a letter etc), that can also be send by regular mail.

²⁸ Official Journal L 136 of 2 June 2010.

The screenshot shows a web browser window with the URL https://belmed.economie.fgov.be/belmed/face/ce/mo/garanties_claim_form.jsp. The page content includes:

- Provider information:**
 - Supplier name (company) *:
 - Supplier's business N°:
- Request information:**
 - Sector *:
 - Sub-sector *:
 - Sales method *:
 - Type of problem *:
 - Type of problem *:
 - Financial loss estimation (EUR) *:
- Description *:**
 - Attached files: [Bladeren...](#) [Add new attachment](#)
 - I send my documents by regular mail: [keep and send later](#) [Send](#)

Footer information: FPS Economy, S.M.E.s, Self-employed and Energy, HQ II - 3rd floor, Boulevard du Roi Albert II, 10, Fax: +32 2 277 96 32, E-mail: belmed@economie.fgov.be, 17:31, 11/01/2012.

When the applicant clicks on 'send', the application will be sent, through the Belmed system, to the competent agency. From that moment on, this agency will deal with the case: they will contact the applicant, examine the admissibility of the application,²⁹ contact the opponent, explain the arbitration/conciliation/mediation process, etc). This entire process goes online.

Belmed only serves as an administrator, a 'serving-hatch'. The FPS doesn't see the identity of the applicant, nor does it read the application, nor does it interfere in the ADR process. This makes sense, because the FPS is the control agency of some of the arbitration/conciliation/mediation agencies that are using Belmed.

The FPS only collects statistical data (how many times the system is used, how many people clicked on the guide, how many people made an application for mediation with respect to a travel dispute, etc).³⁰ This data is vital for two reasons. One, if a lot of applications are made in a sector where there currently is no ADR agency (in which case the applicant receives general information on how to start an informal conciliation procedure with the Justice of the Peace), this is an objective policy argument for the FPS to persuade the sector to create such an agency.³¹ Two, a lot of similar applications (eg with respect to a specific deficient product) can indicate a collective problem, which can be a trigger for a governmental (or other) body to act and seek collective redress.

At the end of 2011, six CADR agencies have signed a protocol to work with the Belmed system:

- Ombudsman Service for Energy;
- Mediation Service Banks – Credits – Investments;
- Second-hand Vehicle Reconciliation Commission;
- Travel Dispute Commission;

²⁹ If the agency is not competent (because the applicant has chosen the wrong sector), this will be communicated to the applicant, who will have to make a new application. In other words: the 'incompetent agency' will not send the application directly to the 'competent agency'.

³⁰ This statistical data will be published.

³¹ This already seems to be the case with respect to consumer goods.

- European Consumer Centre;
- Furniture Disputes Commission.

In the near future, the Real Estate Conciliation, Arbitration and Mediation Board, and the Belgian Direct Marketing Association will join the Belmed system.

All Belmed partners must comply with the minimum guarantees of the two EU Recommendations of 1998 and 2001 to promote consumer ADR: Commission Recommendation 98/257/EC of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes³² (independence, transparency, adversarial principle, effectiveness, legality, liberty, and representation) and Commission Recommendation 2001/310/EC of 4 April 2001 on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes³³ (impartiality, transparency, effectiveness, and fairness).

In the long run, the FPS wants to have agreements with *all* CADR agencies. If two or more agencies are competent in one sector, the consumer will be able to choose based on specific parameters (eg cost and speed). In other words, competition between the agencies will be tolerated.

Attention is also paid to consumers who do not have computer access.³⁴ A collaboration is established with non-profit organizations that help poor and socially excluded people, and with Public Computer Spaces (eg libraries and schools). In those Public Computer Spaces, and with the help of those organizations, consumers who don't have a computer, or don't have computer skills, also can make an application.

Finally, the Belmed site contains some success stories in the energy, financial services, second-hand cars and travel sector.³⁵

CADR Agencies

The five Belgian ADR agencies that currently have signed the Belmed protocol, cover a wide range of consumer disputes.

For any problem arising between a consumer and a supplier within the framework of the electricity and natural gas market, the consumer can apply to the (public) *Ombudsman Service for Energy*.³⁶ There are two prerequisites: the consumer must have tried to solve the dispute directly with the company, to no avail; and the dispute cannot be more than

³² Official Journal L 115 of 17 April 1998. See also appendices of this book.

³³ Official Journal L 109 of 19 April 2001. See also appendices of this book.

³⁴ One of the frequently asked questions is 'If I do not have a computer, how can I contact 'Belmed?'. The answer is: 'you can go to a public computer room (PCR) where someone will help you browse the Belmed website. Info: PPS Social Integration, anti-Poverty Policy, Social Economy and Federal Urban Policy : tel. : +32 2 508 85 85 or +32 2 508 85 86.' For the visually impaired, it is always possible to enlarge the screen.

³⁵ http://economie.fgov.be/en/disputes/consumer_disputes/Belmed/success_stories. One example in the second-hand cars sector: 'Description of the dispute. A merchant from the region of Mons sold a BMW 318 from 2003 to a private individual residing in the province of Walloon Brabant. The sale took place in March 2011. Two months later, the engine started to stop at random due to a failure of the crankshaft and of the flow meter. At first, the seller refused to take action. Result : conciliation agreement. After many letters, the seller has accepted to cover parts of the repair costs as a gesture of reconciliation, which the customer accepted and which solved the problem. The customer has since then resold the vehicle.'

³⁶ www.mediateurenergie.be.

one year old. The Ombudsman will try to reach an amicable solution with the company in question. If this doesn't work, he will give a non-binding recommendation. If the request is considered admissible, the collection process carried out by the electricity or gas company will be suspended from the moment the request was made with the mediation service and until this service gives a recommendation or until the dispute is settled amicably. In case of failure, the parties can still try arbitration or take the matter to a court. The service of the ombudsman is for free.

For any problem related to a bank service, a credit, an investment, assets management, stocks, etc., one can apply to the (private) *Mediation Service Banks – Credits – Investments*.³⁷ There are some prerequisites. First of all, the applicant must have tried to solve the dispute directly with the company, to no avail. Secondly, the financial institution must be a member of the Belgian Banker's Association, the Professional Union of Credit Providers, the Belgian Association of Stock Exchange Members, or the Belgian Asset Managers Association. Thirdly, disputes concerning a trade decision (rate or credit refusal) or overindebtedness, are excluded. And fourthly, the applicant must act as a private individual. A legal person (company) can only appeal to the service if it concerns a cross-border payment of €12,500 maximum within the European Union. The mediator, helped by a consumer representative, will try to solve the problem and will propose a non-binding recommendation (unless the problem concerns a basis banking service, such as the opening of an account with withdrawal and payment possibilities, in which case the decision will be binding). In case of failure, the parties can still take the matter to a court. No fees have to be paid. Legal persons calling on the Mediation Service for a dispute dealing with a cross-border payment have to pay €50.

For any problem relating to the purchase of a second-hand vehicle, the consumer can go to the (private) *Second-hand Vehicle Reconciliation Commission*.³⁸ There are two prerequisites: the trader must be a member of Federauto and the standard contract must have been used, and the applicant must have tried to solve the dispute directly with the company, to no avail. A conciliation expert will first try to solve the problem with the parties. If he can find an agreement, he will write down an agreement report to be signed by the parties. If this doesn't work, he will send a notice (binding for the parties but only with respect to the technical aspect of the case) to the Commission, which will then gather a college made up of representatives for car drivers (Touring and VTB-VAB) as well as for the professional sector (Federauto) to make a unanimous decision. In case of disagreement, a lawyer (third party) intervenes to take a stand as an arbiter. A fee of €50 has to be paid. If the expert's mission must be extended or expanded, the parties must pay €100 plus €0.30 per Km (expert's travel allowance) each. For other possible charges, an estimate will be sent to the parties for approval.

The (private) *Travel Dispute Commission* handles disputes opposing a traveler and a tour operator and/or a travel agency.³⁹ The Travel Dispute Commission is qualified to handle disputes by way of conciliation or arbitration. It is not competent if the complaint concerns physical damage, the non-inclusion of a travel insurance or of an assistance insurance, etc. There are four prerequisites. First of all, the tour operator and/or travel agency must be registered with the Belgian Register for Companies. Secondly, the general terms included in the tour operator's brochure and/or on the travel agent (or travel agency)'s order form must

³⁷ www.ombfin.be.

³⁸ www.federauto.be.

³⁹ www.clv-gr.be.

correspond to the general terms of the Travel Dispute Commission. Thirdly, the applicant must have tried to solve the problem amicably with the tour operator and/or travel agent. And fourthly, the application must be made within specific time limits. After the parties have signed a conciliation agreement, a conciliator will be chosen. He will actively guide the parties to find a solution but will not impose any. In case of failure, the parties can still take the matter to a court. A fee of €50 has to be paid. In case of arbitration, a college made up of professional and consumer representatives will analyze the case, and make a definitive and binding decision. A 10 per cent guarantee of the sum the applicant claims as compensation (with a minimum of €100) has to be paid.

The (private) *Furniture Disputes Commission* deals with disputes concerning furniture.⁴⁰ There are three prerequisites: the store must be a member of Navem (the National Federation of Furniture Traders) and a standard contract must have been used; the applicant must have tried to solve the dispute directly with the company, to no avail; and the damages must have taken place no more than a month ago. If the applicant is a member of Test-Achats (Belgium's largest consumer organization), or Navem, a guarantee of €100 has to be paid. If the applicant is not a member, a fee of €150 has to be paid. If the intervention of an expert is needed, a deposit will have to be made.

⁴⁰ www.navem.be.