

### ***The Court draws attention to the insufficient insight into both the cost and effects of non-active status in the education system***

*The Court examined the non-active status of education staff members granted leave on personal grounds (TBS) ahead of their retirement pension. It found that the objectives of these provisions are not sufficiently specific and measurable. 'Work amenity' has already been an objective since 1984, but had never been worded explicitly. Objectives and modalities were framed at government level while they should have been framed at the level of the decree legislator said the Court. Moreover the administration services follow up the provisions in a limited way and insight into the cost is too limited. In 2007 the Flemish authorities had planned an examination and possibly an adjustment but it failed to take place.*

#### **Lack of uniform regulation**

In 2006 nearly 11.200 education staff members benefited from TBS. Since it was introduced in 1984 the system has been reformed several times following the failure of the original intent, that is work redistribution to combat youth unemployment. Various executory decrees govern the arrangement modalities for non-higher and higher education institutions, but these arrangements lack terminological uniformity. Besides the regulation specifically applicable to pre-school nurses is inconsistent and the regulation applicable to the non-higher education institutions is deficient as to limiting the plurality of offices.

#### **Flemish Government**

The decree legislator provided for the possibility of an early retirement for education staff members, but entrusted the practical modalities to the government. The objectives are therefore to be found mainly in the documents of the Flemish government or the minister's policy letters. The Court is, however, of the opinion, that pursuant to the Constitution a regulation by decree of the most important components is mandatory.

#### **Vague objectives**

In 2000, when the decree legislator decided to provisionally reactivate the status of non-active staff members, this seemed to be in contradiction with the original TBS intent. This provision failed to prove successful. When the TBS regulation was adapted in 2002, the aim was to make up for the shortage of teachers and increase the activity rate of the population. These objectives were hardly specific and hardly measurable. Nor was any distinction made between higher and non-higher education, although they are assumed to have different staff needs.

#### **Effects**

In the higher education system the responsible service recorded the financial effects of the TBS staff leave separately in specific follow-up reports while noting budgetary historical data and accurate previews. The TBS follow-up in the non-higher education differs greatly and is made up of yearly labour market reports. The statistical yearbook now also contains data but this follow-up is still limited or unilateral and is insufficiently targeted at an assessment of the objective achievement. For 2007 the Flemish authorities had announced an examination of the TBS system and its possible incorporation into the whole end-of-career issue but this has not materialised so far.

### **Trends**

The Court carried out its own analysis of a few data files. It found several striking trends:

- 62% of staff members eligible for early retirement do leave effectively.
- In the last five years the percentage of TBS staff members in the age category concerned has gone down by 10%.
- The highest number of TBS staff members is to be found in ordinary primary education.
- The work location has little impact on the percentage of TBS staff members.
- The percentage of female TBS staff members is much higher than the percentage of male staff members.
- Staff members who had a career break before being granted TBS were not disadvantaged financially when they left.

### **Cost assessment**

No information is provided about the TBS appropriations in the non-higher education budget. Internal work documents used for budget draft give too little insight into the TBS budget development and budget estimate. Higher education TBS budgets are clearer though. When the Flemish Community took over this cost in 2001 it, however, underestimated the required budgets. The real expenditure was 39% higher than expected in the period 2001-2006. These last few years the responsible office issued detailed estimates and previews, so that future budgets are likely to be more accurate.

### **File management**

The risk of error is reduced. The administration service has built in a whole range of internal risk management measures. A sampling led the Court to conclude that the risk of error is low to medium: at least 2,45% of staff files show an error in tideover allowance. The administration service put right all the errors reported.