

# Abstract

*The Belgian Court of Audit has noticed that the Flemish public institution "Toerisme Vlaanderen" has been operating in a legal vacuum since the end of 1998 because the Flemish Government has failed to enforce the organic decree. The Court of Audit has focused its examination on the marketing and promotion expenditure spent by "Toerisme Vlaanderen". It has noticed numerous violations of the law and an extreme legal vagueness and uncertainty governing its contractual relations with service providers and partners. The internal control was totally ineffectual. Consequently, the Court of Audit has concluded that urgent measures needed to be taken.*

## **Legality**

As far as legality is concerned, all procedures used by "Toerisme Vlaanderen"- (TVL) for the award of marketing and promotion contracts were liable for comments. In the case of limited tendering procedures, the establishment and the verification of the awarding criteria are subject to criticism. The negotiated procedure with notice did not always take place within the conditions defined by the law and the contracts for which the negotiated procedure with publication of a notice was used were in fact awarded along the lines of a limited tendering procedure.

## **European publication of a notice**

TVL failed to apply - or applied incorrectly - the enunciative contract notice as provided in the European publication rules, with the result that the two-tier procedure of the limited tendering was undermined. It also misinterpreted the application of the rules governing publication as far as the amount stated for the contract is concerned.

## **Action outside its authority**

The TVL did not comply with the duty of reasoned statement as it should and the files showed several formal shortcomings. Moreover, the files also revealed frequent instances of violations of the regulation concerning the delegation of powers. Unauthorised staff members took decisions in nearly all files connected with the award and the contract execution and the previous senior official exceeded more often than not the authorisation he was conferred.

## **Advertising campaigns**

The supporting documents contained in the files under examination concerning the advertising campaigns 2000 (Belgium and Germany) did not allow to check whether the invoiced services provided were in agreement with the services to be provided by contract. The reporting of the advertising campaigns 2000 (The Netherlands and Germany) to the management board did not allow a clear-cut cost allocation and the budgets adopted by the management board and the detailed budget plans as notified to the advertising offices were not always in agreement. With regard to the advertising campaign Germany 2000, a decision of the management board on the spending of the remaining budget was never implemented and with regard to the Belgium campaign 2000, there was a gap of five million BEF between the latest budget decision taken by

the management board and the resulting contracts concluded with the advertising office.

### **Internal control**

The divisions of the unit Marketing and Promotion suffer from a serious lack of organisational directives and procedural descriptions. This partly explains the numerous infringements of the law. Furthermore, there is a lack of separation of duties and both the previous senior official and the heads of divisions seemed to systematically act beyond their authority. The control on the transactions is not enough formalised and is sometimes even not implemented. No division at all has a robust recording system of the transactions. The division Accounting pays the invoices but does not perform any control on the transactions.

### **Management**

The previous senior official failed to develop procedures and systems to regulate the organisation of his divisions and the supervision of the budget implementation as well as the reporting to the management board. As to the management board, it did not always act in consistency with its own decisions and often failed to enquire about the deficient implementation of its own practical decisions or the deficient reporting thereof.

### **Promise**

In response to the report, TVL mentioned that it has already taken corrective measures to remedy several shortcomings partly or entirely. It would also have recently introduced a range of procedures involving standard forms, which could offer a step towards a solution to the points at issue.