

Abstract

Damage compensations charged on the budget of the Flemish infrastructure fund

The Court of Audit has examined the damage compensations that the road and waterways administrations charged on the budget of the Flemish infrastructure fund in 2000 and 2001. It has found that numerous damage claims are subsequent to shortcomings in the preparation of the contracts. Moreover, there is also often mismanagement of the damage cases as such. The administrations often wait unnecessarily long before implementing judgments or reaching an out-of-court settlement. The Court has also doubts about how certain claims or settlements amounts were assessed. Finally, the administrations do not always use all legal means available and do not yet systematically make a list of the claims, so that they have little insight into the financial consequences.

Audit

Each year, the budget of the Flemish infrastructure fund sustains high levels of damage claims with regard to motorways, harbours and waterways. Therefore, the Court has performed a systems-based audit of this damage compensations in 2002. In the years 2000 and 2001, the road infrastructure and traffic administration, the supporting studies and public contracts administration and the water infrastructure and marine affairs administration, three administrations reporting to the Department of Environment and Infrastructure, entered 155 damage compensation claims in their accounts.

Careless preparation

The failure to obtain the required building permits or follow the application procedure to obtain permits are often the cause of huge damage compensation amounts. For the construction of the Deuganck Dock, for example, this caused damages that the administration concerned already estimated at 34,9 million EUR at the end of 2002. The Court has also established that various other damages were subsequent to careless preparation and a deficient preliminary study of the contract.

Port of Zeebrugge

Legal proceedings drag on for too long. The court judgment condemning the Flemish Region for failure to continue the fulfilment of a part contract for the Port of Zeebrugge was passed on 8 November 2001, i.e. ten years after the writ of summons was issued. Meanwhile, the damage amount demanded increased from 16.9 million EUR to about 36,6 million EUR. The Flemish Region's lawyer was also to blame because he delayed filing an appeal and thus failed to use the opportunity to stop the interest from accruing.

Undue hesitation

Procrastination is also often a sore spot in the administration as it waits quite a long time before enforcing a final judgment, with the result that late payment penalties are to be paid when they could be avoided. For a large number of damages, a long time elapsed between the date the claim was introduced and the date on which the out-of-court settlement was reached; this again resulted in significant amounts of penalties to be paid. Furthermore, the awarding authority often failed to regularly work out a settlement for all damage amounts that were already established and unquestionably owed.