

PRESS RELEASE

January 2016

Report to the Flemish Parliament

Legal status of the staff of primary and secondary schools

The Court of Audit has examined if the legal status regulations applying to the educational staff contain pressure points when it comes to good rules, the protection of the staff and the application of a good human resources policy. To that end, the Court interviewed, for instance, principals, educational pools and unions.

Extent and complexity of the regulations

The legal status of the educational staff is determined by a complex set of regulations, influenced by several fields of tension. One of those is of a legal nature: although the legal status regulation provides the staff of the non-governmental schools with a statute, the employment relationship remains contractual. A second field of tension regards the constitutional principles (freedom of education, legality and equality) that need to be reconciled. A third one concerns the balance between the interests of the staff and those of their school administration, which needs to be secured. In combination with new social, pedagogic and organisational developments, the fields of tension put pressure on the principle of good regulation. Evolutions of those fields and new policies regularly lead to adjustments of the decrees, extending them and increasing their complexity. The Court of Audit recommends to revise the legal status regulations thoroughly from a technical legal point of view.

Pressure points concerning content

The answer to the question if the legal status regulations protect the rights of the staff and enables a good human resources policy in the schools should be balanced. During the examination, several elements of the legal status regulation were assessed positively by the interviewees. The offering of successive temporary appointments for years on end is being avoided by continuous temporary appointments; in general, the wage level is good; the horizontal staff structure and the “flat career” (successive appointments of an official without the permanent position being declared vacant and without the need for the person concerned to apply) are hardly criticised; the importance of the performance interviews is emphasised; the leave systems enable work/family balance; participation is organised, a.s.o. Some arrangements, such as the leave for another temporary appointment, enable great flexibility. Even the elaborate and strongly criticised systems of competence certificates, also enabling flexibility, for that matter, are judged thoughtfully. There are problems, certainly, but the systems contribute to guaranteeing the quality of the education.

Nevertheless, the position of a junior teacher remains vulnerable. The legal status regulations leave little room for easier assignments for them. The legal status decrees barely define specific rights and obligations for this group. The regulation regarding continuous temporary appointments, the mandatory annual declaration of all vacancies and the mandatory security of tenure imply the risk of rights being acquired in a creeping way. Another pressure point regards the assignment determination. Evolving educational views and school organisation blur the line between education and support and prompt a new regulation for the assignment determination that also enables job differentiation. The job differentiation demand is more urgent and general than the wage differentiation



demand. Furthermore, the evaluation system is found ponderous, hard to realise and formalistic, the leave possibilities are not very transparent and the number of consultative bodies is counterproductive.

Although the legal status regulations contain provisions that provide the school administrations with a certain liberty when it comes to the execution, in general, they only entice the school administrations and managements to a certain extent to develop their own, vigorous human resources policy. For example, the legal status regulations do not require an explicit definition of the schools own selection criteria or priority principles regarding continuous temporary appointments and assignments in the case of several candidates. As a consequence, schools often pursue a rather implicit human resources policy from different points of view.

Response of the minister

In her response to the report of the Court of Audit, the Flemish minister of Education announced that the findings, conclusions and recommendations are useful for several current policy files. Many subjects are already included in the career debate.

Information for the press

The Court of Audit exerts an external control on the financial operations of the Federal State, the Communities, the Regions and the provinces. It contributes to improving public governance by transmitting to the parliamentary assemblies, to the managers and to the audited services any useful and reliable information resulting from a contradictory examination. As a collateral body of the Parliament, the Court performs its missions independently of the authorities it controls.

The Report *Legal status of the schools of primary and secondary education's staff* has been sent to the Flemish Parliament. The report (in Dutch) and the press release can be found on the Court's website (www.courtofaudit.be).