

SUMMARY

Introduction

The student finance appeals procedure was changed in 2001, when the Student Finance Appeals Tribunal (CVBS) was abolished and provision was made for appeals to be heard by the courts. At the time of the abolition of the Student Finance Appeals Tribunal, an undertaking was given to the House of Representatives that the new appeal procedure would be evaluated after two years. Regioplan Beleidsonderzoek has carried out this evaluation on behalf of the Research and Documentation Centre (WODC) of the Ministry of Justice.

The appeal procedure

Until January 2001 the Student Finance Appeals Tribunal was the only specialised body to which students could appeal against decisions of the Informatie Beheergroep (IBG), which administers the student finance system under the Student Finance Act 2000 and the Study Costs Allowances Act (WTS) on behalf of the Ministry of Education, Culture and Science. The cases were always heard by three members of the Tribunal. No appeal lay against a decision of the Tribunal. The hearings were held in Groningen or at an annex of the Tribunal in Utrecht.

Since January 2001, however, students must lodge their appeal with the court in the area in which they live. However, appeals are heard only by a single court in the court district. This court is known as the ‘concentration court’. As it was considered necessary to develop and maintain expertise in the field of student finance, it was felt better not to spread the cases among all nineteen district courts. The concentration of cases in a single district court also served another purpose. The staff establishment for student finance cases was assigned to small administrative law sectors, which thus had the possibility to expand their sector. Appeal lies from the judgment of the district court to the Central Appeals Court for the Public Service and Social Security Matters (CRVB).

The evaluation

The evaluation should provide an answer to questions about the cooperation models which have been chosen in each court district, the manner in which expertise is created, the key figures on the appeal procedure (including lead times and manner of disposal), and the experience of the procedure gained by the district courts, the parties to the proceedings and the Central Appeals Court.

Operation in practice

A different procedure is used in each court district for student finance cases. These procedures vary from, on the one hand, a model in which all hearings take place before the concentration court to, on the other, a model in which judges and secretaries of the concentration court travel to all other courts in the court district in order to hold hearings there. The manner in which student finance cases are dealt with also differs. Whereas some courts try to deal with cases as far as possible out of court, others hear the majority of cases in court.

The differences in procedure are noticeable above all in the average lead time of the procedures. Where judges have to travel, this results in longer lead times since student finance cases are accumulated until there are sufficient to warrant a hearing. Where cases are dealt with as far as possible out of court, the average lead time is shortened. A difference in the appeal percentage between the court districts may possibly be attributable to the extent to which cases are heard in court. Where many cases are dealt with in court and the student has the opportunity to explain his arguments orally, the appeal percentage is lower. However, other factors too may play a role, such as greater assertiveness on the part of litigants in the Randstad region (the conurbation in the west of the Netherlands). The percentage of appeals in the Amsterdam court district is particularly high. None of these explanations can be supported on the basis of the present research.

It is evident from the data from the district courts that the student finance cases that come before them are relatively simple in comparison with cases from other areas of the General Administrative Law Act (AWB). The lead time is in keeping with the average for administrative law cases and a relatively large proportion is disposed of in a straightforward manner. Comparatively few cases are heard in court, and only occasionally are cases dealt with by a multi-judge chamber.

The average lead time of all cases at first instance (i.e. excluding appeal) has been reduced as a result of the change in the appeal procedure since the period in which cases were dealt with by the Student Finance Appeals Tribunal (CVBS). If the cases are divided according to whether or not they are heard in court, it is found that the cases dealt with in court have a longer lead time than previously. The cases dealt with out of court have a shorter lead time. When the Student Finance Appeals Tribunal still existed, it heard all cases in court. The possibility of appeal from a decision of the court is new in student finance cases. Appeal is lodged against approximately one fifth of the judgments, i.e. fewer than in other areas of general administrative law.

Experience

The concentration court and the other courts are satisfied with the chosen procedure in each court district. Few if any problem areas are mentioned, except that it is inefficient to hold a hearing before another court in the court district. The parties to the proceedings consider that the appeal procedures are well handled by the district courts. They are satisfied with the quality of the administration of justice. The businesslike attitude of the district courts is viewed as refreshing and the possibility of appeal is seen as an improvement. The parties to the proceedings notice no difference between the court districts as regards the procedure attributable to the court districts.

The Central Appeals Court has only had to deal with student finance cases with some regularity since last year. It observes that the limited number of student finance cases means that it is difficult to be aware of everything that takes place within this particular field. Student finance cases are not treated as straightforward cases by the Central Appeals Court, unlike the position taken by the district courts.

Discussion

In the case of the respondents, the present model for student finance cases has led to a number of discussion points regarding the merits of distribution or clustering in general and student finance cases in particular. Views differ from, on the one hand, full distribution of all areas of this subject among all district courts to, on the other, complete clustering of a particular field per district court. There is also support for an intermediate form in which all relatively simple and common cases are dealt with by all district courts and nationwide experts advise on the more complicated and less common cases.

The majority of respondents believe that student finance cases are not cases which justify a specialisation model in view of their number and degree of difficulty. If the cases are to be spread among all district courts, the small district courts in particular should guard against long lead times for proceedings. It is therefore not desirable and also not necessary to save up cases until there are sufficient to warrant a hearing.