

Summary

Introduction

Over the period 2007-2011 De Letselschade Raad (Council for Injury Damages, abbreviated as DLR) was awarded an annual grant of € 400.000 by the minister of Justice (now Safety and Justice). DLR, came into being in 1998 in reaction to social upheaval and consequent parliamentary discussions about the position of victims of car accidents and other accidental injuries. DLR was founded by a number of Dutch organizations – consumer groups, insurance associations, lawyers' unions and the like. The purpose of the Council was to enhance both the quality and the pace of insurance claim processing procedures, focusing on the victim.

In 2006, researchers from the University of Tilburg Law School developed a Code for Settling of Injury Insurance Claims – referred to with its Dutch abbreviation: GBL. In The Netherlands, injury damage (caused by traffic accidents, medical fault, or work related accidents) is usually covered by third party insurance. In the injury damage market, quite a number of different parties play a role in the settling of claims – besides the victim. Claims are filed with the liable party's insurance firm. Insurance lawyers, claim firms and damage experts all may get involved in the ensuing procedures. The Code is meant to regulate these procedures and the behaviour of the participants in such a way that the victim's claims are speedily and justly dealt with. The Code has been underwritten by most major insurance companies and a good many claim firms and damage experts, but the insurance lawyers remained uncommitted, for reasons of principle. The most important task of DLR was the dissemination of the Code and the promotion of its active application by all concerned.

The minister awarded the DLR the five year grant to support these activities. The present research is an evaluation of the effectiveness of that grant.

Statement of the problem and research design

The research was done by the department of Administrative Law and Public Administration of the University of Groningen, in cooperation with the research firm Pro Facto. Central question for the research was:

To which extend is it plausible that the five year grant that the minister of Safety and Justice awarded the DLR for the purpose of promoting the Code GBL, has been effective, in the sense that compliance with the Code has improved and that the Code has become embedded in society? Additionally, has the grant money been spent on the activities for which it was awarded?

In order to answer these overall questions, data have been collected and processed as follows:

- Interviews with twenty seven key informants
- Review of relevant documentation, including the whole DLR administration
- Review of the existing literature on the subject
- Secondary analysis of field data collected by DLR and by Insurance organisations
- Digital surveys amongst participants in the market and amongst injury victims

Some of the central findings resulting from the analyses of the data thus collected are summarized in the next sections.

Policy

The policy of the minister on which the grant for the DLR was based, has as its central goal: “promoting ways and means citizens themselves apply for effectively regulating their relations and for efficiently and satisfactorily preventing or solving civil disputes in society“. The Code GBL is one example of such a regulation of mutual relationships by civil parties themselves with the purpose of avoiding or solving conflicts in the settlement of injury claims. The declared policies of the DLR are in line with this ministerial policy: the Council asserts that it will promote both the material and the formal regulation of the claim settlement process – this research revealed.

Expenditures

DLR administers its expenditures extensively and adequately. The books show that DLR expenditures are performance-driven. The annual assessment of the grant provider however merely checks whether expenses are warranted. Formal correspondence hardly addresses the performance of DLR at all. The initial ministerial decision stipulated four areas of achievement, with indicators, but none of this was encountered in the ensuing correspondence and later affirmations of the initial decision. Apparently, the effectiveness of the grant was not of major concern for the ministerial supervisors. The only interventions to be found in the documentation related to some DLR policy initiative that was too far off the mark, in the view of the supervisor.

Subsequent calculations done as part of the evaluation showed that during the five year grant period, 94 percent of all DLR expenditures were related to the Code, its promotion and its improvement. The share of GBL-related expenses thus was considerable larger than the rule of thumb agreement of 70 percent with the ministerial supervisors.

Goal attainment

An analysis of combined data, both collected by the Council itself and in the surveys conducted for this research, revealed that the *awareness* with parties in the market of the DLR, the Code and the material regulations was large. There is strong evidence, both from surveys and from qualitative interviews, that parties in the market have *internalized* the Code. All key informants agree that the attitudes of parties active in the injury damages market have considerably changed over the last five to ten years. While once the dominant approach was to minimize liability expenditures, now the attitude is more directed toward reaching a just settlement for the victim.

As for *compliance*, according to the survey data parties affirm that they (almost) always comply with the Code and the material regulations. Nevertheless, these accounts by the parties themselves do indicate that compliance is higher in some areas than in others. Compliance with material regulation is higher if the rules are older and thus better known. Compliance with material regulation is lower if the regulated subject is more controversial.

Overall, there are very strong indications that goal attainment is high

Effectiveness

The next question is, to which extent the observed level of goal attainment can be attributed to the activities of the DLR, or to the mere existence of the Code and other regulations? From the data can be inferred that there is a concurrence of the decline in the average lead time for claim settlements on the one hand and the introduction of the Code and the foundation of the Council on the other hand. More in depth analysis shows that any other conjectured causes of the decline in lead time are far less probable. Moreover, the conclusion is warranted that the Code, in conjunction with the activities of the Council, lead to the observed levels of internalization and compliance. Beyond that, some indications were found that contributions have been made to the easing of the burden on the legal system.

Two factors discernibly influence the degree of compliance. The first factor is registration: parties that have not registered to underwrite the Code (insurance lawyers in particular) are significantly less inclined to comply. The second factor is the degree of internalization of the Code: more internalization corresponds with more compliance.

The Mediation Centre

The Mediation Centre is an operation of the DLR. It is supposed to fulfil two functions. The first function is to help reopen dead locked claim procedures, bringing parties together again or referring to an appropriate mediator or complaints procedure. The second function is to gain real life checks on the state of affairs in the injury claims market. Thus the DLR acquires feed back concerning gaps or obscurities in the Code or the material regulations that have come to the surface in claim procedures.

The research revealed that the Mediation Centre functions in accordance with the intentions. Parties in long lasting claims procedures know how to find the Centre and the clerks of the Centre effectively deal with perceived obstacles and predicaments. Parties in the market stress the importance of the Centre.

