

/ Management summary

In July 2021 large floods and extreme rainfall in Limburg and parts of North Brabant have led to many affected people, extensive damage and high costs. The government chose to activate the Disaster Damage Compensation Act (Wet tegemoetkoming schade bij rampen, henceforth Wts). The Wts is intended to provide those affected by disasters with financial allowance, for damage that is not reasonably insurable or avoidable.

The WODC, on behalf of the Dutch Ministry of Justice and Security, has tasked Andersson Elffers Felix (AEF) with providing insight in which ways the Wts was applied after the significant flooding in the southern Netherlands of July 2021. They were furthermore tasked with identifying the possibilities for improvement and learning points seen by those involved. The research involves both the policy phase (the setting up of the Quick Scan, the ministerial regulation and directly and indirectly related policy rules and regulations) as well as the implementation of the ministerial regulation.

De primary research questions are:

- How did the process regarding the Wts proceed after its application in response to the flooding in the south of the Netherlands in July 2021? Specifically, this includes the process of drafting the ministerial regulation and the Quick Scan, policy rules and regulations directly and indirectly related to it, including the answering of policy questions from the implementation.
- How did the parties involved experience the process regarding the Wts and which lessons learned or opportunities for improvement do they see?

To effectively answer these research questions, AEF conducted desk research and organized two separate series of interviews with involved parties, focus groups with those directly affected by the flooding and finally organized a joint learning session with the parties involved.

Context of the Wts

The Wts legislation is meant to provide financial assistance to victims with material damages as a result of a disaster. The Wts has been active since 1998 and primarily applies to freshwater floods and earthquakes that qualify as a disaster as defined by art. 1 of the Wet veiligheidsregio's (Law of Safety Regions, henceforth Wvr). The Wts can however be applied to an event of at least similar order to freshwater flooding or an earthquake.

Typical features of the Wts are the following:

- ▶ Those affected by the disaster are not entitled to full reimbursement of damages and other costs associated with the event, they are entitled to a (partial) allowance.
- ▶ To be eligible the damage must have occurred within the geographic area determined to be affected by the disaster and the damage must be a direct or unavoidable consequence of the disaster, both as defined by the art. 1 of the Wvr.
- ▶ The Wts is characterized as being a safety net policy. Damage that is reasonably insurable or avoidable is not eligible for compensation.
- ▶ For precise operationalisation of the law, after each disaster a specific ministerial regulation has been set up and applied.

The application of the Wts in regard to the July 2021 disaster

The flooding and extreme rainfall in the province of Limburg occurred from 13th of July until the 20th of July 2021. The affected citizens and organisations are supported by activating the Wts. To do this an extensive process is undertaken, which has been further expanded upon in this report. Initially, the focus at the Dutch Government was to create a **ministerial regulation** in which the level of compensation for which types of damage was to be defined. In this research, we have additionally explored the policies and regulations related to the process of operationalising the Wts in response to the flooding in Limburg. De Rijksdienst voor Ondernemend Nederland (The Netherlands Enterprise Agency, henceforth RVO) has been mandated to carry out most of the ministerial and other relevant regulations.

The creation of ministerial regulation

The process of applying the Wts started while the flooding and extreme rain was still occurring. Both at the ministerial level and together with the region, despite the disaster occurring in the middle of summer holidays, action was taken quickly. The parties interviewed for this study generally speak of good cooperation from the start of the process, pleasant contacts, short lines of communication and an emphasis on speed of the process. The ministry of Justice and Security was successful in its role of directing the involved parties in the process. Within several days, different meeting structures are set up to ensure coordinated actions and arrangements. The most heavily affected local governments were not directly present in these meetings. They were represented by the larger municipalities of Maastricht and Venlo as well as the province. According to the most heavily affected municipalities this representation was inadequate.

A Quick Scan is constructed, of which the eventual added value is questioned

On the 16th of July 2021, while the disaster is still unfolding, RVO is assigned to the task of conducting a Quick Scan which provides an estimate of the potential scale of damages. To do this effectively, the borders of the affected area needed to be defined. It appears unclear who should fulfil this task and difficult to sharply map the extent of the damaged area based on the data available up to that point. This data is spread among many different parties. To maintain the speed of the process the ministry of Justice and Security defined a preliminary affected area so that the RVO could complete the Quick Scan. In practice, this Quick scan became a rather crude estimate of what the maximum damage could potentially be. The Quick Scan arrives at an estimate of a maximum of € 1.15 billion to be compensated as the allowances based on the Wts. In reality, the actual amount of money paid out turns out to be significantly less. By January 2023 RVO has paid out an amount of € 63,5 million in allowances. For some purposes, such as financial projections and calculations done by the government agencies, the Quick Scan was considered useful. Other than this, serious doubts were raised about the added value of the Quick Scan. Indeed, the Quick Scan contributed to rising social expectations in regards to compensation to those affected.

Those involved in the drafting of the ministerial regulation are generally content with the final regulation, those not directly involved were less so

With the same pace at which the Quick Scan and damage map were constructed the ministerial regulation was also prepared. In this process, the ministry of Justice and Security was director of the process, coordinating the choices to be made in all consultations with the parties involved. According to the parties involved, generosity and leniency were guiding principles. The most heavily affected - and not directly involved - municipalities say they were not sufficiently included in the preparation of

the ministerial regulation. For example, they felt the signals that the Wts offered little or no relief for a large group of private individuals in the worst affected disaster area were paid to little attention. Involving the worst affected municipalities in the design of the regulation could have ensured greater understanding in the region for the choices to be made and could have increased their involvement.

The application of the ministerial regulation

RVO was assigned the task to carry out the ministerial regulation. From the 9th of August 2021 until the 16th of December 2021 affected citizens could file their damages with RVO. After filing the report, a damage evaluation expert of the NIVRE would contact the affected party. The NIVRE expert then provides an evaluation of the property and the damages. After this RVO handles the claims.

Many affected parties have been helped by the application of the Wts. End of 2022 more than 2.000 claims have been processed by RVO. **The affected individuals who received an allowance generally report that they are happy with the process and the service mindedness of RVO in this process.** This was found as a result of an analysis of RVO's customer satisfaction survey. There are also generally appreciative voices from within the region about RVO's role in the implementation of the Wts. However, not all victims of the disaster agree with the above sentiment. The group of victims who did not receive compensation, but in many cases had expected it, has a different experience. They are disappointed in the government's handling of the damage, and find it difficult to reconcile with the promises made by government representatives about supporting victims. For victims, the handling of damages could be mentally demanding, especially when the victim was not eligible for compensation based on the Wts. The biggest point for improvement that emerges in this research concerns communication and information provision. For a long time, many citizens, entrepreneurs and authorities who had damage, experienced a lack of clarity about what the Wts entailed and what to expect from it. Furthermore, they experienced little support in the process of filing their claim, both with insurance and the government. A single point of contact could have significantly improved the process for victims.

Regulations in addition to the ministerial regulations

On the one hand, there was a focus and pressure on the policy making process on generosity. On the other hand, there was the system of the Wts, which is quite technical and based on concepts such as safety net, reasonably insurable and compensation. Therefore, in order to still meet the desired generosity as much as possible, three additional, one-time regulations were drawn up to provide compensation for damages that were not compensated on the basis of the original ministerial regulation and the frameworks outlined in the Wts. These one-off policies are: beleidsregel Couulance wateroverlast in juli 2021 [policy for leniency for waterdamage of July 2021], de beleidsregel Tegemoetkoming teeltplanschade uiterwaarden juli 2021 [policy for allowance in case of cultivation plan damage July 2021], and the beleidsregel Tegemoetkoming omzetschade na waterschade Limburg en Noord-Brabant [policy for allowance in case of lost revenue due to water damage Limburg and North Brabant]. To the parties involved, the impressions raised by this patchwork of additional policies is that of applying band aids to problems that arose during the application of the Wts. In this it is noticeable that, albeit with well-founded reasons, a situation arises in which the application of the Wts is rather removed from its original purpose and intent. This is associated with a risk of creating precedents. This is partially resolved by the explicit one-off nature of the additional policies, but some stakeholders doubt that this can hold up in the future.

Overarching conclusions

Throughout the process of applying the Wts, generosity was intended

For many, the July 2021 disaster was a profound and disruptive event. This research reveals that in the aftermath of this disaster, parties involved have applied the Wts with the best of intentions. Within the frameworks provided by the Wts, generosity was sought, according to many parties.

While generosity was established as a central goal early in the process in applying the Wts, there are limits to the generosity that can realistically be achieved within the systematics of the Wts. It is designed and meant to function as safety net. Damages that are reasonably insurable, recoverable, or avoidable do not qualify for compensation. Victims who were not insured but could (reasonably) have taken out insurance for their damages are not eligible for compensation under the Wts. The insured victims are also dependent on (the goodwill of) their insurer. This plays, to this day, an important role in the process of - and experiences with - the application of the Wts.

The application of the Wts set in motion a process of continuous repair

We noted a mismatch between ambitions on generosity and the legal possibilities provided through the Wts. In order to still meet the desired generosity as much as possible, the process of applying the Wts was characterized by applying band-aids within the chosen system. Various additional regulations were created. Only limited consideration was given to whether the Wts would provide the best possible framework to help citizens.

A gap remains between societal expectations and the possibilities within the Wts

Citizens and entrepreneurs have (had) different images of the word 'generous', prompted in part by statements made by politicians during visits to the disaster area. Officials who had to draw up the ministerial regulation were thus caught between the limitations of the Wts on the one hand and the political and social desire for the most generous compensation possible on the other. Important nuances, such as the fact that the Wts only provides an allowance, were not adequately highlighted in this context.

The multitude of one-time, additional regulations are not in line with the intent of the Wts

The enactment of the Wts in 1998 was supposed to provide more uniformity and less uncertainty for victims about whether they could receive compensation after a disaster. Nevertheless, three additional regulations were drawn up after the disaster. Involved parties in the region as well as the national government are generally pleased and see this as an unavoidable development. However, this creates a situation in which the character and intent of the Wts is worked against and a risk of precedent setting arises.

The implementation relied (too) much on the independent capacity of the citizen

Affected citizens were tasked with traversing a multitude of policies and regulations as well as different organisations. The interaction between insurance and the Wts is particularly challenging, because the Wts often only comes into the picture after victims have first appealed to their own insurance company. The Wts can then provide a solution for claims that are not reasonably insurable.

Lessons learned

During our interviews and learning session we asked parties involved what they considered as their primary **lessons learned**. These are summarized below and further expanded upon in chapter 6.3:

- 1. Take care in providing and communicating clear definitions and intentions from day one of the process. Communication is key. Avoid expectations that cannot be met.**

- 2. Make sure to have and maintain relevant protocols for determining what the officially affected area of the disaster is as well as carrying out the Quick Scan. It is important to include all parties affected and delegate the necessary responsibilities to those involved.**
- 3. Make sure there is adequate representation of those municipalities most affected in the process.**
- 4. Make the process of filing claims to the Wts as simple as possible.**
- 5. Avoid situations in the future where the Wts is activated along a host of one-off policies.**
- 6. The parties involved should discuss potential policies of a broader nature to better ensure the sustainability of the safety net function envisioned for the Wts.**