

Abstract

The Court assessed the Flemish Broadcasting Corporation (VRT)'s cooperation with external services for television programmes

The Court examined three forms of cooperation agreements concluded by the Flemish broadcasting corporation VRT with external services for television programmes: subcontracting to broadcasting production companies, purchasing of services and goods for programme production and hiring of external collaborators. It found that VRT has effectively a policy regarding its external and internal production, but noticed that its subcontracting strategy lacked sufficient evidence. The Court also found out that the subcontracting process is marred by a lack of written procedures, insufficiently reasoned decisions, a limited recourse to competition, and a delayed contract conclusion. The contracts as such are properly drafted and followed up but sometimes lack flexibility due to the lengthy period covered. Also, purchases of goods and services frequently ignore the principle of effective competition or are insufficiently documented and reasoned. Finally, the hiring of external presenters is not based on fixed conditions and procedures. A positive element is that VRT keeps using its own production capacity to produce its own key programmes. Additionally the Court ascertained that VRT does not provide the Flemish parliament with much information on the use of external resources to produce television programmes.

Examination

In 2007, VRT received a basic allocation of 279 million EUR to fulfil its public broadcasting mission. In 2006, nearly 60% of VRT's total cost expenditure was related to television programme costs. In order to produce its television broadcast, VRT does not only use its own staff and resources, it also has recourse to external supplies and services and subcontracting to production broadcasting companies. This external cost expenditure increased by 37.3% between 2004 and 2006, while total programme cost expenses only increased by 13%.

The Court examined therefore whether the collaboration with external parties to produce television programmes was implemented in a regular and efficient way and to what extent Parliament was well informed about VRT's policy.

The audit covered mainly the period 2004-2006 and involved a sample of individual purchasing and subcontracting files dating from 2005. The Court selected among others 13 broadcasting production companies out of a total of 38. It concluded that public contracts legislation was not applicable to the purchase, development, production or coproduction of programme material by television broadcasting organisations, but that VRT had to comply with the basic standards of the EC treaty, including equal and objective treatment of bidders. A minimum requirement is thus the need for an appropriate publicising of public contracts and a statement of the reasons on which decisions are based.

Subcontracting strategy

VRT did not have its programme subcontracting strategy based on a thorough examination of possible options or an analysis of the internal capacity. It also failed to formulate clear objectives or a budget frame.

The availability of internal production capacity was considered in the subcontracting strategy, but it is only later on that the standard to apply to internal production was drawn up. Subsequently it appeared that the long-term subcontracting contracts hampered the implementation of the internal production strategy.

Subcontracting process

The Court cannot give any univocal answer to the question of whether subcontracting procedures went off unbiased and whether proposals were given equal treatment. The subcontracting process is insufficiently transparent and documented in this respect. Most of all decisions regarding subcontracting, selection of candidates or the awarding to a specific candidate are rarely sufficiently reasoned. VRT did not act in compliance with the principle of equal treatment advocated by the EC treaty in confining negotiations for a strategic partnership and frame agreements to a few broadcasting production companies and in contacting only one broadcasting production company for several ad hoc contracts.

Contracts

The subcontracting contract provisions usually contain all the essential elements but VRT delayed concluding the contract in nearly one fourth of the cases. The time limits of frame agreements exceed the time limits laid down in management contracts and are little flexible so that commitments made do not match with the financial frame of the following management contract.

Because of a limited recourse to competition, the Court cannot give an univocal answer to the issue of market compliance of the subcontracting contracts. In addition, programme proposals are often not supported by any budget. It does not therefore appear clearly to what extent the price is influential in the selection of a broadcasting production company.

Internal control and assessment

The processing of invoices is well organised, but VRT fails to check sufficiently well what revenue broadcasting production companies get from the exploitation of programmes subcontracted to them. VRT supervises the quality of the subcontracted programmes. The research section makes quantitative programme analyses, but these are little used for an assessment of the cooperation with production companies. Admittedly, VRT assesses the outcome of programmes systematically, including in respect of the performance criteria contained in the management contract but it does not analyse the outcome of external programmes separately nor does it compare external and internal programmes. As a result, subcontracting policy decisions cannot rely on information about the general effectiveness of internal and external production in certain programme types.

Cost price calculation

VRT collates data about cost prices of internal and external productions systematically, but does not carry out an in-depth analysis of the cost effectiveness of the use of external production resources. Cost price com-

parisons with market shares are made only occasionally and do not take audience appreciation or quality into consideration. Besides, VRT's cost price calculation shows flaws whereby a possible comparison between external and internal productions is made difficult.

Purchases of goods and services

The Court noticed a lack of supporting documents, most of all in the case of contract awards using the negotiated procedure. As a result, the Court was often not able to check the purchasing procedure satisfactorily. Also, supporting documents were missing for a few significant files. It appears prima facie that purchases made for television often ignore the principle of competition, more particularly in the instance of hiring teams of cameramen and orders for assembly and technical finishing. Admittedly, VRT has a recourse to competition for its offer enquiries when it goes to invest and hire technical equipment, but it sometimes does not fully implement the rules of this procedure. VRT has recently developed a mission and strategy plan for its purchasing policy including written procedures for the various purchases. The new approach has not yet been fully implemented, but has already generated some results in 2007.

External collaborators

VRT has embedded in its structure the necessary internal competences. It, however, has not worked out clear objectives, conditions and procedures as to the incorporation of external presenters. An issue at stake is the lack of directives governing the revolving door set ups. They refer to structures allowing collaborators to leave the VRT and then to reappear working in another capacity for VRT. This entails a risk of conflict of interest or circumvention of salary regulations. VRT frequently uses temporary workers although this is principally banned in government offices in accordance with the regulatory frame.

Reporting to Parliament

In its 2005 and 2006 annual reports VRT provides the Flemish Parliament with little information on the use of external resources to produce its television broadcasts. VRT supplied once additional information on external and internal production to the Flemish Parliament's media commission, but hardly broached on the question of its limitations.

Minister's response

In his reply the Flemish Media Minister stressed, in general, that VRT was granted a large degree of autonomy by the contract management and media decrees applicable. He also underlined that VRT had largely changed since the audit was carried out as it now has a new organisational structure and a better balance between management and the board is ensured. The minister expressed reservations, more particularly about drawing possible conclusions from the Court's comparison between internal and external production cost prices because of the sharp differences between the various types of programme. In conclusion he highlighted three ongoing improvement projects: a review of the offer and production strategy, a project of professional approach to purchasing processes for external production and a concrete action plan for carrying forward the implementation of the new purchasing policy.