

Belgian Court of Audit



European investment aid and setting-up aid in Flanders

Presentation by Mr Jan Vervoort, Senior Auditor

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Mr Chairman,

Dear colleagues,

Ladies and gentlemen,

In the course of 2007 the Belgian Court of Audit carried out an audit of *investment aid to existing agricultural holdings and setting-up aid to facilitate the establishment of young farmers* in Flanders.

Introduction

As you know the Common Agricultural Policy is divided in two pillars.

The first pillar consists of market support measures as a single payment scheme, the costs of which are entirely met by the EU budget.

The second pillar comprises rural development, including the agricultural structure policy.

Because the first pillar is fully financed from EU resources, whereas the second pillar is implemented through cofinancing, the Belgian Court of Audit usually checks only the second pillar, as national authority funds, in this case the Flemish Region resources are used. For the 2000-2006 period, Belgium was allocated a budget of 379 million euro. This amount was further distributed between the regions and the federal state. The audit showed that Flanders received for the 2000-2006 period 193 million euro from the EU which were earmarked for rural development.

Besides environmental and social measures the rural development pillar puts a strong emphasis on the economic cost-effectiveness of agriculture and on increasing competitiveness. For the Flemish Government, investment aid and setting-up aid - the main tools of its rural policy - amounted together to approximately 45% of the EU cofinancing funds. Investment aid is meant for existing agricultural holdings that wish to modernize or switch to sustainable or diversified agriculture. Setting-up aid is geared to young farmers who wish to set up an agricultural holding. In the 2000-2006 programme the EU funded 25% of the investment aid and 50% of the setting-up aid that was paid out by Flanders.

Both investment aid and setting-up aid can be granted in the form of a capital premium or an interest subsidy depending on whether the farmer finances the project through funding from own resources or through bank lending.

In order to be eligible for rural aid, the Flemish Government had to draw up a programme for the period 2000-2006. The final version was not approved by the European Commission until 6 October 2000, while the programme period had already started on 1 January 2000. Besides a possible responsibility on the Flemish administration's part, late instructions from the European Commission also played a role.

Taking the programme document as a basis, the Flemish Government had to set up regulations for implementing the programme. The basic text for investment and setting-up aid is the Flemish Government decree of 24 November 2000 on aid to investment and setting-up in agricultural holdings.

To assess the legality of the granting of support and the payment cycle's efficiency the Court of Audit examined the regulations and the processes leading to the payment of aid and checked its practical application with a representative sample of files.

Administrative organization of the payment cycle

Flanders has set up a budgetary fund that manages the payment of investment and setting-up aid: the Flemish Agricultural Investment Fund (Vlaams Landbouwinvesteringsfonds - VLIF).

The payment of aid from European cofinancing goes through the Flemish paying agency. The VLIF transfers its contribution, i.e. the Flemish aid, to the Flemish paying agency, which pays the total grant amount to the farmer or to his bank in the case of an interest subsidy. Because of the latter possibility, the public was sometimes under the impression that CAP money goes to banks, whereas this measure was simply taken to make things easier for the farmer and to prevent the money from being misappropriated.

Subsequently the paying agency re-claims the European cofinancing part from the then [European Agricultural Guidance and Guarantee Fund (EAGGF)], now [European Agricultural Fund for Rural Development (EAFRD)].

Publicity and enforceability of the regulation

The Belgian Court of Audit first checked whether the farmers have sufficient knowledge of the regulations and whether these measures can be enforced in practice. There is a wide range of information channels: the Agriculture department's website, information campaigns set up by the staff of the provincial directorates and the trade press, just to name a few. When examining the files the Court of Audit also noted that the farmers mostly resort to specialized accounting firms, which are well informed of agricultural aid regulations.

The 4,000 or so new aid applications per year with the VLIF for ± 35.000 agricultural holdings show that the investment and setting-up aid in this sector enjoys wide recognition and that its practical enforcement does not cause major problems.

A less positive aspect is that the Flemish Government decree of 24 November 2000 and the Ministerial Decision of the same date came into effect retroactively on 1 January 2000. Retroactivity was also applied to the later modifying decisions. These delays in the decision process cause legal uncertainty and do not tend to promote transparent communication with the sector.

Internal control of the granting cycle

The section for Structure and Investments within the Agency for Agriculture and Fisheries, which is responsible for VLIF management, is made up of a central administration body and five provincial external units.

The Belgian Court of Audit first examined whether there was enough separation of functions when dealing with the aid applications. Every external unit has in its staff one or two agricultural engineers and several file administrators. The principle of separation of functions is applied in different ways. Except for some very complicated cases where the engineer also carries out an on-site inspection, the file administrator is responsible for examining the aid application and proposing aid. In the provincial

unit, the engineer then checks the file and the proposal. The engineers at the central administration level double-check the files.

At the central level, the section for Research and Follow-up is involved with the functioning of VLIF. This section is responsible among others for quality control, procedure control and monitoring uniform application of the regulation. To this effect it regularly meets with the engineers of the external units. It has drawn up an internal working paper with instructions and understandings about the application of the VLIF-regulation, as well as a written roadmap, a flowchart describing file-checks and a detailed discussion of procedures for checking aid applications.

The VLIF itself submits 1% of all current files to a follow-up check: the engineers of the external units examine whether the conditions for granting aid were complied with. They check the concerned farmer's every subsidy file. It is not impossible that the engineer has to check a file which he has already examined when first granting aid.

The agency's Internal Quality Control unit, whose staff comes directly under the administrator-general, controls 5%¹ of the beneficiaries whose subsidy is being paid out for the first time during the year under consideration. 1% of the selection is at random and 4% is based on a risk analysis (big amounts are more likely to be selected). For this kind of checks, the whole file is completely re-examined, including invoice checks.

The results of both controls² are examined once or twice a year by the follow-up Audit committee. This committee is chaired by the Agency's administrator-general and is composed of several engineers from the section for Structure and Investments and of the Internal Quality Control unit. It is up to the committee to decide how to act upon the observed shortcomings. As a result of the 2006 5%-control, 30 files were submitted to the committee: the support granted to 10 of them had to be reviewed. During the 1% follow-up check of 2006 remarks were made in 24 cases. The support was partially or totally stopped in 8 out of them. The Internal Audit unit of the Flemish paying agency, which comes under the Agency's administrator-general, is responsible for the internal audit of the business process related to the management of EAGGF support measures. This unit examines and evaluates all internal control procedures of the Flemish paying agency and the managing units (in this case the VLIF).

Decision-making processing time

An aid application is normally submitted to the provincial units. A file administrator from these provincial units goes on the spot to the agricultural holding. He checks the data mentioned in the aid application, evaluates the investments and writes a report concerning the holding and the planned investments. In case of a favourable decision he makes a proposal to grant aid. An engineer of the provincial unit then checks the file, which is sent to the central administration body. There it is revised and when the proposal is found correct, it is adopted.

¹ In accordance with the Instructions for enforcing systems of management, controls and sanctions related to the rural development support measures under Regulation nr. 1257/1999.

² Both 1%- and 5%-controls comprise about 200 files.

The VLIF applies a standard of a maximum treatment period of 180 days from the aid application's submission to its approval by the minister or his deputy. There are 120 days for the processing by the provincial units and 60 for the processing by the central administration body. The Court of Audit applied the same standard and checked to what extent it was abided by.

The problems appeared to be located especially in the provincial units. During the examined period the processing time was generally longer than the standard of 120 days, as the table below shows.

	Under 120 days	Above 240 days
Antwerp	11%	67%
Limburg	34%	24%
East-Flanders	54%	13%
Flemish-Brabant	38%	11%
West-Flanders	20%	46%

The average number of files per year in the period 2000-2006 amounted to 3,798.

The standard processing time of 120 days was only reached in Antwerp and West-Flanders for respectively 11% and 20% of the files. The percentage of files that had not yet been treated after 240 days amounted to 67% of the aid applications in Antwerp and 46% in West-Flanders.

As a result of the long processing periods in the external units the total processing time was more than 315 days for 67% of the aid applications in Antwerp and for 44% in West-Flanders.

Causes

There are several causes for the long processing times. Thus the Antwerp external unit has to contend more than other external units with turnover of personnel and recruitment problems. Antwerp is a rich region with a good-paying private sector. This unit has more files of legal persons in the sector of greenhouse farming. Large investments are concerned (amounts of 1 million euro are no exception) with ensuing legal complications.

Additionally, the provided Flemish financial resources are insufficient, as a result of which no more subsidies can be approved in the last months of the year.

Another problem is that the European Commission issues its instructions behind schedule. This also explains why the Flemish rural development programme could only be approved when the first year of the programme had almost elapsed. Therefore aid applications that had been submitted earlier could not be approved yet. The same went for the 2007 aid applications for the new programme period.

Sometimes the applicant himself is responsible for the long treatment period because he submitted an incomplete file or provided additional information too late.

The VLIF monitors the processing times by means of indicators.

If due to the long processing time the interest subsidy has not yet been approved when the interest payment falls due for the first time, there is a risk that the farmer may come into financial difficulties. Sometimes the banks wait before claiming the interest, although there is no obligation to do so. The problem is moreover not new: the Belgian Court of Audit had already drawn the attention to this issue in 1999 and 2001.

The Court recommended that the Structure and Investments Section within the Agency for Agriculture and Fisheries keeps monitoring the issue of the long processing times of aid applications in some provincial units and takes the necessary structural measures.

Efficiency of the payment cycle

By payment cycle we mean the process from the approval of the investment by the minister (or by delegation the head of department) until the moment the money is paid to the beneficiary by the paying agency. The Court of Audit calculated the time intervals for all files from the sample. It noted that the duration of the payment cycle strongly differed from file to file and that rather large time intervals were no exception.

In this payment cycle there are two important phases. The initial phase goes from the signature by the minister of the granting decision to the end of the invoice control. The last part of this process goes from the end of the invoice control to the effective disbursement of the support to the final beneficiary (farmer or bank).

Especially for the first phase the processing times strongly differ. Moreover the arithmetic averages are relatively high. On a sample of 100 files, the average time between the granting decision and the notification to the beneficiary amounts to 51 days, with three exceptional cases where it lasts more than twice as long.

At the last stage the determined values indeed leave room for improvement, but the average values remain within acceptable limits. For example it becomes clear from the sample that between the invoice control and the closing of the payment lists by the VLIF 11 days went by on average. It took on average 6 days between the Flemish part of subsidy being paid by the VLIF to the Flemish paying agency and the complete amount being transferred by this paying agency to the beneficiary.

Compliance with the subsidy conditions afterwards

The obligations of the beneficiary do not end once the subsidy has been approved. He cannot sell the subsidized capital goods during a certain time and he must keep practicing farming as his main occupation.

In accordance with the regulation and the commitment he signed when applying for support, the farmer himself must inform the VLIF when he no longer meets the support conditions. The sanction possibilities are however limited: the commitment mentions 5 years exclusion for concealing information and cheating. So far that sanction has but seldom been applied. Moreover the provincial units do not check systematically whether the beneficiaries still meet the conditions for eligibility.

In the 1%-controls performed in 2006, support had to be partially or completely stopped in 8 files out of 200 because the conditions for eligibility were not (anymore) met.

When an investment no longer serves for the aim for which it was subsidized or when the agricultural holding stops its activity, the support expires as from the date - as far as it can be determined - that the support conditions were not met anymore. In that case the VLIF only recovers the undue amount. The legal interests, calculated as from the notification of the recovery, are only claimed by the VLIF when the farmer has not paid 30 days after notification. This working method benefits farmers who do not comply with their commitment to report to the VLIF or do so behind schedule. Besides, it cannot be reconciled with the provision in the Instructions that the penalties must be effective, proportionate and dissuasive.

The Belgian Court of Audit recommended to stipulate in the regulation a rule stating that as from the date when the support conditions are not met anymore, default interests will be claimed if some amounts have been unduly paid by the beneficiary. The regulation should also include a sanction for beneficiaries and banks who omit to report that the agricultural holding has stopped its activities or for some other reason does not comply anymore with the support conditions.

Second phase installation and take-over of second agricultural holding

Some files of the sample concerned the take-over of a second part of the agricultural holding's equipment, also called "second phase installation". In practice it's generally about an agricultural holding that is taken over in two phases. For example the son takes over part of the family agricultural holding at an early age and acquires later the complete holding. Both European³ and Flemish regulations provide only for setting-up aid on first installation. It appeared from the files that investment aid was granted for the take-over of a second part. Such a take-over cannot however be considered as an investment: from the economic point of view, no new capital goods come into the agricultural sector. Moreover the Flemish regulations stipulate that purchase of pigs, poultry and fattening calves does not qualify for investment aid. In breach of these rules the appendix mentions among the eligible investments: *the take-over of a second part of the agricultural holding's equipment restricted to cattle, equipment, material, stocks, growing fruit, based on a registered take-over contract with a real inventory.*

A similar observation applies to the take-over of the holding equipment of a second holding restricted to cattle, machines and material as stipulated in the appendix to the Flemish Government's decree. It concerns a farmer who takes over a holding after he has already fully taken over a first holding (possibly in two phases, as described above). In this case again, it is neither an installation nor an investment, and the appendix is against the Flemish Government's decree and the European regulations.

Overestimation of assets

To avoid overestimation of the costs in the aid application, the European Commission recommends an evaluation system on the basis of e.g. reference costs, an evaluation committee or expertise. The regulations mention maximum prices for property investments, but there is no price control for movable investments.

³ The setting-up aid may comprise: - a single premium up to the maximum eligible amount specified in the Annex, (Regulation 1257/1999, art. 8, 2).
- The individual decision to grant the aid provided for in Article 8 of Regulation (EC) No 1257/1999 shall be taken no later than 12 months after start-up as defined by the provisions in force in the Member States (Regulation 445/2002, Article 5, 1).

The VLIF is of the opinion that it is not in the farmer's interest to pay too high prices because he has to finance the major part of the investment himself. Yet there is a risk that the support applicant agrees on a higher price with the supplier, which he recuperates with a credit note.

Minister's response

In his answer the Flemish minister for Agriculture and Rural policy agreed with the Court's findings and general conclusion. He promised to take heed of the recommendations, which would in his view contribute to strengthening the VLIF as the most important instrument in the implementation of the Flemish rural development programme.

Thank you very much for your attention.