

Assessment by the Belgian Court of Audit of subsidies granted to land development works

The Flemish public authorities endeavour to carry out the land development policy properly, but fail to sufficiently verify whether the beneficiaries still meet the subsidy requirements afterwards. The rules need to be clarified and completed. They do not clearly state for what type of land development works subsidies can be granted. Furthermore, some issues currently governed by administrative guidelines – such as authorized derogations from the financing plan – must be ruled by a decree.

Introduction

Land development derives from land restructuring as a tool to create multifunctional rural areas. The authorities contribute to land development by granting subsidies to the Flemish Land Agency (the *Vlaamse Landmaatschappij* - VLM) as well as to other public-law legal persons (e.g. municipalities and provinces), private-law legal persons and private individuals. The land development legal basis is to be found in the VLM Organic Decree of 21 December 1988. Since the eighties, several initiatives have been taken in order to enact a separate land development decree, without any effective result. A Flemish Government decree organizing land development was published in 1990 and was modified or completed in 1996, 2004 and 2008. The decree laying down the rules for subsidizing land development works dates from 1998. Besides, the VLM established, among other texts, the note containing guidelines governing land development projects.

Planning

The provincial VLM-departments mainly complain about red tape in starting a land development project and bringing it to a good end. The 2004 and 2008 Decrees are first steps on the path to simplifying the procedure and focusing it more on demand. Nevertheless, the simplifying measures only come into force gradually on account of the transitional arrangement, which stipulates that the 1996 Decree remains in force for land development projects that had already been adopted at that time. Each development plan goes with a financing plan settling the costs to be borne by the various partners. Although this relative cost allocation is well observed, the budget assigned to the measures is regularly exceeded, without the financing plan being adjusted. According to the VLM guidelines, the departure from the rule for an individual measure may not go beyond 40%. The Court has not found any justification or legal basis for this standard.

Subsidizing

The very notion of “land development works” as the basis for getting subsidies is only widely and vaguely defined. Although the Flemish authorities’ purpose is to create a made-to-measure system, the requirements the municipalities and provinces must fulfil in order to get subsidies, for instance, are too imprecise to serve as basis for the subsidizing system as they do not specify the type of land development works.

When the VLM acts as awarding authority, it recovers the amount of the advance payments made only after the works have been completed. As a result, the land development works have a negative impact on the VLM accounts. The same applies when land is purchased on behalf of another department or local sections of the Flemish Region. The risk of double subsidizing of private individuals is sufficiently covered thanks to the modified Subsidizing Decree and to the data exchange between the various entities. Nevertheless, there is no systematic check as to know whether afterwards the beneficiaries still meet the necessary requirements to keep the granted subsidies.

Minister's response

In her letter of 20 May 2010, the Flemish minister in charge of environment, nature and culture reacts to the Court's report and recommendations. As for defining more accurately the land development works made by provinces and municipalities that qualify for subsidies, she deems it impossible to make an exhaustive list. As for the remaining recommendations, she agrees with them or she will submit them to her administration for further examination.

The audit report on "Subsidizing land development" has been sent to the Flemish Parliament. The full version and this press release can be found on the Court's website (www.ccrek.be).

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