

Abstract

The implementation of the decree on innovation by the Flemish Government

The Belgian Court of Audit examined how the Flemish Government implemented the decree on innovation and what tasks it assigned to IWT-Vlaanderen (public body responsible for promoting technological innovation in the Flemish Region) in 2001. It noticed that due to the lengthy incubation process of this decree and the related implementing orders, the Government took steps before the regulations came into force. Moreover, not all decree provisions have yet been enforced. The Flemish Government also holds the view that the notification of several aid measures to the European Commission is not needed but it does not account for it to the European Commission itself. Finally, the Flemish Government funds the ad hoc aid measures through appropriations of IWT-Vlaanderen but in many instances, the aid measures are not part of the legal objects of this institution. A legal basis for the applied subsidy percentages is also often missing.

Decree on innovation

The 18 May 1999 decree on innovation is the new basis for the Flemish Government's policy concerning scientific and technological research and innovation. It results from a process, which dragged on for a long time and only constitutes the institutional frame. The policy priorities were to be transposed into a policy plan, regulatory decisions and a management contract concluded with IWT-Vlaanderen. However, a long time elapsed before three implementing orders came finally into force and a policy plan and a management contract concluded with the IWT-Vlaanderen are not yet forthcoming.

Decree on research and development

The 5 October 2001 implementing order on R&D lays down the rules for aid funding of projects of development of scientific and technological expertise put forward by companies. The Belgian Court of Audit has pointed out in particular that this implementing order allows IWT-Vlaanderen to delegate its power to take decisions on aid measures – which by the way is its core task – to an ad hoc commission. After the Court of Audit made its comments, the minister rescinded it. Further-more, the required duty of financial accountability is limited and IWT-Vlaanderen performs an audit only if it suspects an improper use.

Implementing order on VIS

The decree on VIS ("Vlaamse Innovatiesamenwerkingsverbanden" -Flemish associations on cooperation and innovation) made collective research, technological consultancy and the promotion of technological innovation eligible for subsidies in 2002. The Flemish Government bases its order on the European *de minimis*-regulation, so that a notification to the European Commission is not needed.

The Court of Audit has noticed that the staggering of VIS-subsidies in the budget has made any financial follow-up difficult. Moreover, in 2001, several calls for bids were launched while no regulatory basis yet existed.

Implementing order on interface

Interface-activities were subsidized on an ad hoc basis since 1998. But since 2002, the order on interface has been in force. The Flemish Government has not found it necessary to notify this order to the European Commission. The order on interface regulates inter alias cooperative initiatives involving universities and companies and the setting-up of spin-off companies. According to the Court of Audit, the issue is whether this does not constitute an indirect aid to companies, in which case notification is needed.

Related dossiers

Besides these implementing orders, the Flemish Government also subsidizes a whole range of related dossiers, such as the clusters (research networks in the business world), university-research projects, collective centres (research institutions organised by sector) and innovation projects in large and medium-sized companies. Most of these projects have no legal basis because the Flemish Government has not notified them to the European Commission, which has to give his prior approval to their compatibility with the common market. More often than not, the subsidy percentages also have no regulatory basis.

Government initiatives

As far as the aid measures mentioned above are concerned, the initiativetaker is the beneficiary. The Flemish Government, however, is also allowed to take the initiative itself and assign projects to IWT-Vlaanderen. It has to always comply with the European frame-regulation applicable to government aid for research and development. The Court of Audit has examined the 2001 projects. It has noticed the same irregularity, as was the case for regulated aid measures: the Flemish Government has not notified the aid to the European Commission and used unclear subsidy percentages. Moreover, a striking fact is that several projects do not fit into the mission of the IWT-Vlaanderen, as for in-stance they are not innovative or do not include any scientific research. Sometimes, the implementing orders granting government subsidies are a public procurement in disguise and have thus the form of a public contract. This practice is very reprehensible according to the Court of Audit.