

ABSTRACT

Sustainable nitrogen management in agriculture

The Belgian Court of Audit has performed an audit of sustainable nitrogen management in agriculture within the Walloon Region.

Implementation of the EC Nitrates Directive in the Walloon Region

The first Walloon programme on sustainable nitrogen management in agriculture (PGDA I) was approved in 2002. It transposes Council Directive 91/676/EEC of December 12 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources into Walloon legislation. In September 2005, the Court of Justice of the European Union ruled that this programme was incomplete and incorrect. In order to comply with this judgment and with the provision submitting the programme to a four-year review, the Action programme was reviewed on January 1 2007 (PGDA II). However, proceedings before the Council of State and before the European Court of Justice are running at the moment. The resulting litigation is a source of legal uncertainty.

Measures that have been taken within the PGDA II-framework

The Belgian Court of Audit has established that the Walloon administration hasn't done everything in its power to change farmers' behaviour in nitrogen management matters. For some measures, the possibilities for performing controls are not used in an efficient way. For other measures, the controls carried out lack true effectiveness because sanctions are not imposed in all infringements cases.

In order to qualify for some support schemes in agriculture related to manure spreading, farmers have to ensure that the quantity of spreadable organic nitrogen on their farm does not exceed their farm's spreading capacity. This commitment is checked on the basis of the principle of "the soil binding rate". Administrative checks of this rate are performed in all farms. However, only half of the farms that do not comply with the regulations are being sanctioned by a reduction in aid. Moreover, farmers who do not claim aid currently escape censure, because the administrative sanctions provided for in the Environmental Code are not enforced.

In order to reduce the soil binding rate to an adequate value, the farmer can conclude "spreading agreements" with other farmers. The Court of Audit, however, established that there is no control of the actual existence of those agreements.

The follow-up of "potentially leacheable nitrogen" (PLN) is depicted as the most appropriate control device for ensuring the effectiveness and the credibility of the PGDA-project in certain so-called vulnerable areas. But this system also has its own limits, especially because only a very small number of farms are effectively controlled.

As regards the bringing into compliance of storage facilities for livestock manure, the Court of Audit noted that to date, it is impossible to evaluate how many farms are equipped with non-complying facilities.

Subsidization of the bringing into compliance of storage facilities for livestock manure.

On December 17 2010 the Walloon Region proceeded to spending commitments to an amount of 33 million euros for bringing into compliance storage facilities for livestock manure produced by farms in Wallonia. To date 25,4 million of that amount has effectively been spent.

Expenditures that have been authorized since March 26 2008 are entitled to European cofinancing by the EAFRD (European Agricultural Fund for Rural Development). The Walloon Region, however, has not applied for this cofinancing system. The Court of Audit estimated the Walloon Region treasury's loss of revenue to 7 million euros.

It also noted that the granting of aid did not take place in accordance with the provisions of article 26, § 1 of European Regulation 1698/2005. The estimated amount of the subsidies that were granted in violation of this article varies between 2.2 and 4.7 million euros.

Replies of the Walloon Minister for Environment, Land Use Planning and Mobility and of the Walloon Minister for Public Works, Agriculture, Rural Policy, Nature, Forests and Heritage

In their letters of July 6 2011 these 2 ministers state that the Walloon Region is re-examining the PGDA Action programme in consultation with the European Commission. They also confirm that undue subsidies may have been paid to farmers, as the Court of Audit found with respect to the subsidization of the bringing into compliance of storage facilities for livestock manure.