



## *Seminar Prague 24-27 October*

### *“Experience with the development and carrying out CAP audits”*

#### **Topic 2: Planning and Coordination of CAP audit**

#### **“Audit activities of CAP set out in Spain and possible improvements.”**

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#### **I Administrative organisation in Spain**

Spanish State competences in the field of agriculture are divided between Central Government and the Regional Governments (called Autonomous Communities). The article 148.17. of the Spanish Constitution says that, the autonomous communities may assume responsibilities of “farming in accordance with the general management of the economy”, and art 149.1.13 reserve the State exclusive competences in the field of “bases and coordination of the general planning of economic activity”. Therefore we are faced with a situation of competences shared, because in these areas (economic activities) the State has competences only in his foundations, within the framework of economic planning of the country, but beyond these bases competences in Agriculture falls on the Autonomous Communities. Of course, this scheme should be moved to the frame work of the CAP in implementing and developing his regulations in Spain.

The 2003 CAP reform is characterized by the wide range of national decisions that each Member State has in the cultivation prices and farming market policy. Thus each State should decide: the model of development of the single payment scheme, ( full, partial disconnection or regionalized application), year start up, the development of cross-compliance as regards the maintenance of surfaces in good agricultural and environmental condition, implementation of the art 69, creation and management of the national reserve right.....etc. These matters require coordination between the State and the Autonomous Communities. This work of coordination in terms of agriculture policy it is a balance to make possible on one hand, a minimum degree of homogeneity in the development of CAP to ensure non discriminatory treatment between farmers located in different regions, and on the

other hand enough margin to each Community to answer the specific problems in his land.

So far this coordination work had led to the agreement for the development of the single payment through the partial disconnection of aid scheme to perceive since 1st January 2006, the use of the art 69, retention of 3% of aid to the national reserve; and development of the rules about conditionality, application of the single payment scheme and other regimes of direct aid to agriculture and livestock, has been the consequences of work of coordination between the Ministry of Agriculture and conferences and meetings with the representatives of the Autonomous Communities.

## **II Designation of authorities**

Regulation (EC) 1290/2005 of the Council is the basic rule governing the financing of the common agrarian policy (CAP) for the EAGF and EAFRD funds. Payments of expenditure arising from this policy are made by authorized bodies, the paying agencies. Each Spanish Autonomous Community has designated a single paying agency to the two funds, normally this designation lies within the Department of agriculture of autonomous government. Also the competent authority appointed the certification and control agency to the General Intervention of each Autonomous Community (Internal audit of each autonomous community)

FEGA the Spanish agricultural guarantee fund, has also been designated paying agency for aid of the Ministry (MARM) and it is also the coordinating body of the different agencies promoting the harmonized application of Community provisions and it is entrusted with the task of centralizing information that should be available to the Commission.

For its part the Internal Audit of the State, called General Intervention of the State, in Spanish, Intervención General del Estado (IGAE), is the certification body of the FEGA as paying agency, and in turn is the **qualifier only account organization** based on the certificates issued by the relevant bodies of each paying agency certification.

IGAE is also responsible for reporting irregularities to OLAF, the irregularities previously FEGA lead agency has received from the paying agencies.

## **III. Increasing (mounting) of audit activities in the CAP**

In Spain the control of CAP aids corresponds to the paying agencies, plus the general responsibility of the administration of the State (IGAE) and the internal audit offices of the Autonomous Communities

### **a) Audits of the paying agencies:**

Paying agencies need to carry out administrative and physical checks laid down by Community Legislation, to that end they have established audit annual plans of CAP aids, that are performed on certain areas or help lines, for example, in 2009 the region Autonomous Community of Castilla La Mancha has been audited cross compliance, only payment, first installation, programs, operational funds for producers organization, agricultural land forestation, early retirement from farming, only payment tracking, monitoring aid for olives groves, information security.

**b) The certification bodies.**

They carry out the examination of the paying agencies in accordance with international audit standards. The certification body issues a report of audit covering certain areas of the paying Agency such as units of administrative control, area of computing, accounting, internal control procedures for each line, examination of samples of transactions, and control quality of fields control areas. For samples of transaction the chosen level of confidence is 95% , and incidences of four types are obtained; (administrative, financial, random errors and systematic errors), it will be monitored all the files.

The second function of the certification body is the control procedure applied to each type of aid, and usually is hired a company audit, though the certification body determines controls to be carried out, the scope of work to perform, establish observations on the paying agency controls not adjusted than expected and also it will issue a report of findings and recommendations.

**c) Of the lead agency for payment: Coordinator payment Agency**

- The process of revision of the accounts of the paying agencies.
- Coordination of controls of the paying agencies in the national plan of administrative controls. and controls on the ground.

**d) Internal auditor of the State ( IGAE)**

The general budgetary act in its art. 18 provides lies with the IGAE for coordination of controls carried out within the scope of the Community funds, assuming the service referred to in article 11 of Rgt EEC 4045/89, and which is exercised by the National Audit Office as a national body for coordination of controls in the field of aid financed in whole or in part by Community funds law 28/ 2003, general grants

In the fields of agricultural funds ( EAGF- ERDF) these actions are realized in:

- Checks on beneficiaries of grants and subsidies financed wholly or partly financed under EAGGF R485/ 2008 integrated control approved by the respective Coordination Commission plans.

- Audits derives from the annual certification of the accounts of the paying agencies in the different territorial administration in accordance with R1290/ 2005 on the financing of the CAP and its developments regulations.

These audits are implemented by the delegated regional and territorial and the own IGAE and their distribution reflects the concentration of the number of beneficiaries in the different actions lines as well as the regional concentration of agricultural products.

#### **IV Other activities which affect the CAP.**

##### **1. Tax agency**

Concerning irregularities detected by the bodies of audits of the paying agencies, in 2009 have been communicated 454 cases to OLAF in accordance with the regulations. The total recoveries of 2009 both by irregularities of the year as in previous years affecting 929 cases and an amount of 24.5 million .Also for compensations arising from the financial responsibilities of paying agencies, cost excluded by the Commission on CAP financing.

##### **2. Community institutions.**

- Controls of the Commission through the clearance of accounts and settlement of conformity on physical presence to the country and/or the beneficiary stage procedure. The Commission has made 15 visits during 2009 and 19 visits during 2010 which affected 13 paying agencies.

- Audits from the **Court of Auditors**, ECA, in the framework of DAS inspections according to art 188 C of the Treaty. They also covered section inspections of article 248 of the Treaty. ( In 2009 there were 12 visits and in 2010 15 visits, to the DAS, direct inspections in the single payment, Poseican, debt management and SIGC or IACS)

- **OLAF**, if there are complaints.

## V. The external audit bodies and the CAP. Experiences.

- The audit scope covered by the mandate of the **Spanish Court of Audit (Tribunal de Cuentas)** is very wide and it has double focus. On one hand, it extends to the management carried out by any entity of the public sector, at all levels of Government (central, regional, local) : On the other hand, it covers any public fund managed by public or private bodies, enterprises or natural persons and even by other entities which audit is entrusted to the Court by specific regulations. So the mandate of the Court of Audit covers any public money managed by any public or private entity.

The Spanish legislation specifies that the audit function entrusted to the Court of Audit involves verifying all public revenue and spending programs. It includes National and also EU funds ( Structural Funds, CAP, Cohesion fund ) managed by national authorities at any level.

There is not a specific formulation in the national regulation in EU funds auditing to be carried by the Spanish Court of Audit. But, as far as they become national public funds, while incorporated to the national budget or passing through the Spanish Public Treasure, they are subject to the same comprehensive auditing mandate of the Court of audit, as said above, as the funds coming directly from national sources.

Based on this criteria, the Spanish SAI audits EU funds jointly, under the same principles, criteria and procedures , in the same way and with identical addresses than the national funds. EU funds are not audited in a separate way and no independent and special audit report is produced regularly on Community funds managed by national authorities. However there are specific references in the annual report audit and special reports on specific topics, in which there is partial funding; to some specific aspects of the management of EU funds to be of particular relevance.

And they include the following actions affecting the payments of the CAP in some way:

1) Focus on the activities of the “FEGA” of year 2004,1 (but examines till 2007) in its dual roll as Agency Coordinator for the purposes existing regulations 1258/1999 and aids in which the State has competence management, resolution and payment concluding:

- As a coordinating body, it has made timely financial statements
- It has control mechanism for implementing the budget limits Shipping 2004 account on time and with appropriate documentation, and only one limitation on the scope of a paying agency
- The Commission settled accounts with the exception of the limitation on the scope of that authority.
- Minor incidents compared to recoveries of two financial irregularities were corrected by the Commission

-Lack of diligence in this period in determining financial responsibilities in amounts advanced by the Treasury.

-As a paying agency has discharged the duties required by the Community legislation, it have their accounts audited by the certification body unqualified sovereign integrity, accuracy and veracity.

2) Audit of the “Agency of the Olive Oil”, which currently develops derivative of the involvement of the Court in a mission of the EC Treaty, and in which discusses controls for the periods before and after the inclusion of the olive sector aid under the single payment system.

3) In general the Spanish Court of Auditors stay present in many visits (missions) of the European Court of Audit.

- **The Audits Courts of the Autonomous Communities (OCEX)** may decide audits that affect the managing and payment of the corresponding area of responsibility. For instance the northwest Audit Court, called Concello de Contas de Galicia, includes in their reports since 2006, audits of FEOGA funds; the audit Court of Castilla y Leon has audited the aids of improvements to agrarian’s infrastructures; and the Audit Court of Andalucía has audited the aids of advertisement of the agro food sector

Also at times, an when missions of the European Court of Audits are conducted in the territory of the Communities visits are notified if they wish to participate in them.

It is possible than the audit of the aids of CAP will be greater in the future because also will bigger the weight of national budget in the rural development policy.

## **VI. Possible improvements in the planning and coordination of aids of the CAP and its audit.**

Thinking in aids CAP, and his audit it must not be independent of the next 2013 year and the necessity of a new CAP

### ***A) Harmonization of rules.***

Simplifying the CAP is essential to achieve the goal of a more competitive agricultural economy, protecting and creating jobs and contributing to sound development of rural community. Its rules should be more easy to understand, more accessible and less heavy on application by the beneficiaries. At the same time strict rules of management and control should protect the integrity of the Community budget. In this context to avoid inappropriate application of the rules and regulations which are reported in the accounts presented by the Member States by undue payments known as financial corrections it is advisable to further to continue to intensify the harmonization of the interpretation of regulations. Even the small change of rules produce high cost in the management aids and double works.

### ***B) Procedure for management and efficiency development***

It is found that the intensity with the controls are made, it will be possible to achieve levels of expenditure in accordance with the rules around the 98% EU average: However this implies high cost, so it must be analyze the cost benefit ratio of their intensity, since its effectiveness can hardly be improved. Perhaps in some cases penalties must be higher.

Also the efficiency of management procedures recommended to overtake bills to be strictly bilateral (Commission- Member State) and thus the detection of deficiencies that may arise in a liquidation is know by other members and thus correct prior to being committed.

### ***C) Using information and communication technology in the CAP***

It seems plain the need for continuous exchange of information both in terms of good practice or on findings detected in the implementation of the various control tasks that take effect in different countries, maintaining of course, how many reservations accurate identity data, because this way the European management system for CAP subsidies achieve higher levels of reliability

### ***D) Coordination mechanism in the work of audit***

Obtain reasonable assurance of the legality and regularly of payments support single payment scheme is the primary objective of a successful operation of systems and supervisory controls Political and administrative decentralization of the State where each administration has its own supervisory bodies, such as memberships in a supranational structure, which also has an internal and external control, requires the establishment of coordination mechanism in the exercise of control tasks.

This should be articulated a system for share in the control of the EU funds, that will meet the EU requirements at the same time preserving the autonomy of our institutions, though the mechanism coordination between the organs of control and evaluation of public policy to avoid overlap and duplications.

It essential a procedure for decision-making bodies by

- Establish audit objectives with a methodology fully or partially common.
- Maintenance of legitimate supervisory bodies bur removal of unnecessary duplications of identical object and scope.
- Structuring effective performance of the supervisory bodies involved, with common methodology.
- Coordinated planning in the audit activities to reduce the number of visits, with transparency in the audit and with technical's body.

- To assume reciprocal results by the audit institutions, to make possible the coordination audit. At least in some payments, for example ecological production.

In this context International Audits Regulations propose that the Court of Audits must use the works of other auditors in his own audits

It is not possible in a changing European Unión not to try to be ready to go out of this complex system of audits, internal and external, that has his own explanation and background but we need more coordination than we have today.