



FIGHTING AGAINST IRREGULARITIES – EXPERIENCES OF THE FIRST 8 YEARS

Zoltán Hajdu, director

*Directorate for Market Support and External Trade Measures
Agricultural and Rural Development Agency,
Hungary*

Paying CAP subsidies



- Registered clients: 490 000 (230 000 - 250 000)
- Direct support claims: 208 000 → 174 000
- No. of decisions: 230 000 → 700 000
- Payments from EU funds:
 - ~1400-1750 million EUR annually (2004-2012)
- Cereal intervention:
 - 9,15 m tons bought in (75,3% in-situ) from 2004/05 till 2009/10
 - highest stock: 7 m tons (June 2006)

Fighting irregularities



Irregularity $\neq$ fraud

Irregularity

- Not intentional
- Main reasons:
 - lack of information, or
 - misinterpretation of legal provisions (*beneficiaries tend to interpret the rules in the most advantageous way*)

Fraud

- intentional
- well-organized
- more difficult to detect / to prove the fraudulent motivation

Prevention



- EU legislation
 - Often unclear, disputable requirements - different interpretation by EU / paying agencies / claimants
- National legislation – Act No. XVII of 2007 on the procedures of ARDA
 - A set of control measures to combat irregularities (*ex-ante & ex-post controls, control at 3rd party – cross checks*)
 - Appropriate sanctions if irregularity / fraud is found
 - Sanctions:
 - financial penalties (*e.g. late / inadequate / not complete reporting; false / incomplete record keeping; etc.*)
 - initiating criminal procedures

Controls



- Administrative & on-the-spot / physical
- Risk analysis for selecting the claims / claimants to be controlled on-the-spot
- Main objectives:
 - to establish whether the client fulfills all requirements
 - to establish (if necessary) the irregularity / fraud
- Main rules of controls
 - ‘4-eyes-principle’
 - On-the-spot controls can be executed without
 - informing the claimant in advance
 - the claimant’s presence (e.g. area measurement)
 - Hindering on-the-spot control – claim is refused

Communication



- Make clear: what rules & requirements apply (drawing attention to changes, new requirements)
- Make clients understand that
 - requirements must be met
 - financial budgets are limited!
 - strictly CAP rules apply (no historical, or social)
 - controls are for their sake and not against them
(„I want more strict control – on the other farmer!”)
- Involving farmers’ organizations is a must but not enough

485/2008 (EC) scrutiny



- Carried out by the Special Department of National Tax and Customs Administration
(based on Council Regulation (EC) No 485/2008)
- Ex-post control with preventive effect:
 - profound, efficient control
 - scrutiny is verified by a number of cross-checks, incl. commercial documents of third parties
 - claimants are aware of the effectiveness

Reports



Scrutiny

	2006/2007	2007/2008	2008/2009
No. of undertakings controlled	138	73	108
Expenditure controlled (€)	28 790 418	99 190 095	193 419 612
Value of (potential) irregularities (€)	1 579 421	3 382 262	2 341 314*

* Figures may increase, due to some cases recently closed

Reporting to OLAF - Reg. 1848/2006 (EC)

- No. of cases reported since 2004: 418
 - Irregularity: 355
 - Suspected fraud: 61
 - Established fraud: 2

Irregularity



Processing aid in the fruit & vegetables sector

- Regulation 1535/2003 (EC) laying down detailed rules for applying Council Regulation (EC) No 2201/96 as regards the aid scheme for products processed from fruit and vegetables
- Regulation 2320/89 (EEC) laying down minimum quality requirements for peaches in syrup and/or in natural fruit juice under the production aid scheme
- Reported to OLAF
- Processing company: not eligible products in 2005/06
Hungarian Court of Justice: 19 January 2009 →
European Court of Justice: 25 February 2010 →
decision of Hungarian Court of Justice: 15 June 2012

Irregularity?



Restructuring of the sugar industry

- Regulation 320/2006 (EC) establishing a temporary scheme for the restructuring of the sugar industry in the Community
- 968/2006 (EC) laying down detailed rules for the implementation of Council Regulation (EC) No 320/2006
- 301 264 tons of quota renounced
- 199,6 m€ (full dismantling)
- Lack of communication by the Commission
- Commission Audit - 2010 March

Fraud



Cereal intervention

- Discovered fraud (GP-Trade Kft.)
 - Straw instead of cereal: 3 500 tons (value of 0,7 m€)
 - Discovered by a buyer in March 2008 (2 month after in-situ buying in)
- Actions taken by paying agency:
 - On-the-spot controls by ARDA → more loss
 - Stored quantity at Kft.'s premises: 154 000 tons → loss: 38 000 tons (value 6,6 million €)
 - Criminal charge (still in progress)
 - Kft.'s manager is taken into custody
 - reported to OLAF (also by the buyer)

Corrective measures



- Paying Agency
 - proposals for amendment of national law
 - increased on-the-spot control rate
 - improved risk analysis
 - amending procedures according to results of audits
- EU, Ministry of Rural Development
 - amending regulations

Key points



- Effective prevention can hinder both types of irregularity!
- Wide-scale and continuous communication is essential (but not enough)
- Cooperation with the European Commission
 - more support needed for interpretation & implementation: audits results / best practices should be shared with Member States
- Cooperation with OLAF: more partnership than „super-control“ is desirable



THANK YOU FOR
YOUR
ATTENTION!

GRAZIE A VOI
PER
L'ATTENZIONE!