
RESEARCH ON LEGAL MEASURES APPLIED UNDER THE COMMON
AGRICULTURAL POLICY OF EUROPEAN UNION IN 2012

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Abstract: *Based on a thorough review of the relationship between agriculture and biodiversity, the purpose of this study is to consider how policies, particularly the Common Agricultural policy (CAP), have worked in terms of their design, coordination and implementation for sustaining biodiversity and associated ecosystem services through agriculture, and how their role can be enhanced in the future to contribute towards meeting the EU's biodiversity goals. The interactions between forest management and biodiversity were out with the remit of this study. It considers the impacts and effectiveness of the current suite of policy measures, both within and outside the CAP, on delivering biodiversity benefits through agriculture and mitigating adverse agricultural impacts. Stepping back from a purely agricultural focus, the study also considers how biodiversity associated with farmland can be delivered alongside other economic and social priorities in rural areas.*

Key words: *measures, biodiversity, agriculture, legal structure*

INTRODUCTION

The EU Biodiversity Strategy stresses the importance of the agricultural sector in meeting the EU's biodiversity targets, including a specific objective to 'maximise areas under agriculture across grasslands, arable land and permanent crops that are covered by biodiversity-related measures under the CAP so as to ensure the conservation of biodiversity and to bring about a measurable improvement in the conservation status of species and habitats that depend on or are affected by agriculture and in the provision of ecosystem services as compared to the EU 2010 Baseline, thus contributing to enhance sustainable management'.

The study uses the widely accepted definition of biodiversity, as set out by the Convention on Biological Diversity (CBD): 'biological diversity means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems'. Biodiversity, therefore, is understood as relating not just to species, but also to genetic diversity, habitats and ecosystems.

The EU's headline target of halting the loss of biodiversity and the degradation of ecosystem services in the EU by 2020, and restoring them in so far as feasible, also concerns all these components. Furthermore, it is important to note that biodiversity conservation does not just focus on rare and threatened species and habitats listed in the Birds and Habitats Directives. The maintenance of populations of widespread and common species, including those of agriculture habitats is also a serious concern. Such species may not necessarily be protected by EU legislation, but underpin some ecosystem services, are regularly encountered, enjoyed and therefore valued by the EU public. The evidence draws on a wide range of secondary sources, including scientific literature, evaluation studies, an in-depth analysis of the policy framework, along with detailed information collected from six case studies conducted in the Czech Republic, France, Germany, Greece, Romania and the UK.

The importance and value of biodiversity for human well-being is recognised increasingly both in Europe and globally for its intrinsic and cultural worth, as well as its role in providing essential ecosystem services. Indeed, amongst the European public, there

is widespread concern for the environment and biodiversity in particular. The EU Biodiversity Strategy, adopted in 2011, stresses the importance of the agricultural sector in meeting the EU's headline biodiversity target. The Strategy includes a specific objective to "maximise areas under agriculture across grasslands, arable land and permanent crops that are covered by biodiversity-related measures under the CAP so as to ensure the conservation of biodiversity and to bring about a measurable improvement in the conservation status of species and habitats that depend on or are affected by agriculture and in the provision of ecosystem services as compared to the EU 2010 Baseline, thus contributing to enhance sustainable management".

MATERIAL AND METHOD

Agriculture covers about 40 per cent of the total land area of the EU-27 and its management has substantial impacts, both positive and negative, on the functioning of natural systems. Over time, agriculture has contributed to the creation of a rich diversity of habitats and landscapes, including semi-natural habitats of high biodiversity value. However, structural changes in agriculture in the second half of the twentieth century have led to increased intensification, concentration and specialisation of production in some areas and marginalisation and abandonment in others, leading to significant biodiversity losses across the farmed landscape. A number of drivers have encouraged these trends, including support under the CAP and exogenous drivers such as trends in agricultural commodity prices, changes in technology, trade agreements, and more recently climate change. These trends do not just impact upon farmland biodiversity, but also on the provision of several ecosystem services, such as water quality, soil health, and air quality.

The pattern of biodiversity found today in Europe is primarily a result of thousands of years of human interaction with the environment. As agriculture expanded in Europe, a variety of low-intensity traditional agricultural practices developed over time that were suited to the varying climates, topography and soils, creating in the process a rich diversity of farmland landscapes and new habitats. The novel species communities that developed initially probably increased species richness across much of Europe. Some of these semi-natural habitats, such as wood pastures, hay meadows, scrubland and heathlands, survive today, and continue to be managed by farmers and graziers. A key characteristic of many of these habitats is that natural succession is prevented by grazing, cutting of grass and, in certain parts of Europe, carefully controlled burning practices. Livestock farming and the associated low-intensity practices have played a significant role in this and their continuation is often crucial for their survival. Some of the natural non-forested habitats that developed after the last ice-age in Europe, such as tundra, blanket bogs, montane grasslands and salt-steppes, can be considered to be agricultural habitats as well as they are grazed to some extent, although they are generally not dependent on this for their continued existence.

However, the rapid changes in agricultural development over the past decades have led to significant productivity gains in the most fertile areas of the EU through processes of intensification, concentration and specialisation. This has created highly modified and simplified agricultural habitats and landscapes that are hostile to many wild plants and animals (for example as a result of frequent cultivations, the use of pesticides, fertiliser, and the presence of highly competitive crop cultivars) and often no longer provide sufficient food resources for the species that could otherwise tolerate the changed conditions.

RESULTS AND DISCUSSIONS

While real progress has been made in recent years with efforts to reverse the declines in agricultural biodiversity in the EU, the pressures facing biodiversity are such that this has been insufficient to meet the targets that were set for 2010. There are a range of reasons why this is the case. However, it is clear that the current policy framework provides a good foundation on which to build to make the changes needed if the new 2020 biodiversity targets and the related agricultural targets under the new Biodiversity Strategy are to be met in the next eight years. To this end, as part of the current reform of the CAP, the Commission is proposing to enhance its contribution to biodiversity by introducing new compulsory environmental measures linked to direct payments within Pillar 1.

Agri-Environment: As the only measure in Pillar 2 of the CAP that is compulsory for Member States to implement, the agri-environment measure is the primary policy measure used to encourage farmers to adopt management practices that are beneficial to biodiversity. One of the merits of the measure is its flexibility, which allows Member States to develop voluntary schemes that reflect different bio-physical, climatic, environmental and agronomic conditions to suit local conditions. A number of scientific studies have confirmed that as a whole, the biodiversity status of agricultural habitats subject to agri-environment measures is significantly better than would have been the case if the policy had not been in place. There is good evidence that well designed and implemented agri-environment measures have been critical in maintaining and restoring biodiversity in many areas.

In semi-natural habitats, the agri-environment measure has been used for highly targeted and tailored schemes for the conservation of threatened habitats and species (often being the key means of achieving appropriate management in Natura sites), as well as encouraging the maintenance of low intensity management on High Nature Value (HNV) farmland in the wider countryside. There are a number of examples of agri-environment schemes that have been successful in supporting HNV farming, thereby maintaining semi-natural wooded pasture habitats (Sweden, Estonia), hay-meadows and mountain pastures (Slovakia, Romania), the restoration of overgrazed pastures (Bulgaria), moorland grazing (the UK) and traditional agro-forestry systems in Spain ('dehesas'). Support for traditional local breeds, either through their use in management options within agri-environment schemes targeting the HNV farming, or through specific agri-environment schemes for genetic resources, has been essential for stemming their decline. Agri-environment schemes targeting HNV farmland have not been beneficial just for biodiversity, but have also provided a range of other environmental benefits and supported ecosystem services. By making it possible for such systems to continue, agri-environment schemes indirectly support the ongoing contribution they make in the local economy, contributing to employment and providing a basis for diversification activities.

Although the overall evidence is variable, it suggests that agri-environment measures have also proved successful in delivering benefits for widespread and common species in improved grasslands and intensive croplands. The benefits associated with agri-environment measures for intensive croplands are found mainly in instances where a combination of management options provide key ecological resources for vulnerable species, in particular breeding habitat and year-round food resources, as these tend to be reduced by agricultural intensification and specialisation. The main priority for most of the declining species of such habitats (especially birds), are measures that provide in-field resources (such as fallow patches or fields, over-wintered stubbles, diverse crops and crops with reduced pesticides).

Cross-compliance: Certain of the cross-compliance requirements now specified in the CAP are important for ensuring basic levels of management that can support

biodiversity on farmland. By requiring a certain level of management to be carried out as a condition both for receipt of direct payments and for area based agricultural payments under Pillar 2, cross-compliance can help constrain the potential adverse impacts of both the intensification and marginalisation of agricultural habitats (through the standards of Good Agricultural and Environmental Condition – GAEC). The Statutory Management Requirements (SMRs) help to reinforce the application of environmental legislation. The evaluation of the impact of these measures on biodiversity at a pan-European level is urgently needed, as many of these standards have been changed since 2005, or introduced more recently, and little current information exists on which an assessment of their effectiveness can be based.

Direct Payments: Direct payments themselves are not focussed directly on the delivery of biodiversity. However, they provide the basis for cross compliance requirements, and as a result of this link, direct payments can influence farmers' awareness and behaviour relating to certain biodiversity concerns. They play a role in stabilising farm incomes which in this context is particularly significant for those farms that are economically vulnerable and managing land that is important for biodiversity. As such, they provide a basis for more targeted measures under the second pillar. There is scope for targeting these payments more on environmental objectives in future, as the Commission is proposing.

They include having the appropriate administrative and technical resources and expertise in place in public authorities, including appropriately trained staff who understands the dynamic interactions between agriculture and the environment. Adequate databases, and suitable systems need to be in place to be able to target and monitor measures well, to deliver payments efficiently and to ensure effective control and enforcement. Finally, it is important to recognise that policy measures under the CAP do not operate in isolation. They interact with a range of other policies. The use of biodiversity focussed measures in the CAP, therefore, needs to be identified as an integral part of broader national biodiversity strategies that identify the range of policy instruments to be used to meet biodiversity goals.

CONCLUSIONS

The CAP is the most important funding instrument at the EU level with potential to deliver biodiversity associated with agriculture at a European scale given that it influences the management of the majority of agricultural land. Maintaining, enhancing and restoring biodiversity has been one of the key priorities to be addressed by environmental measures within the CAP since they were introduced in the 1980s/1990s, with the main focus being on measures to influence land management practices.

The agri-environment measure continues to be the most significant one in this regard, both in terms of the financial resources allocated to it and its spatial coverage. Under Pillar 1, cross-compliance is the main measure currently to have biodiversity as an objective. However, a whole range of other CAP measures can also be used to deliver biodiversity, both within Pillar 1 and Pillar 2. Environmental legislation evidently also plays a key role, for example the requirements of the Birds and Habitats Directives, including the creation of the Natura 2000 network. Other EU environmental legislation, such as the Water Framework Directive and the Nitrates Directive also can help to protect and enrich agricultural biodiversity, for example by reducing the use of fertilisers and pesticides, with beneficial knock-on effects on species and habitats.

The main conclusions of this study are:

1. Maintaining and enhancing biodiversity through agriculture is important for species and habitats in protected areas and the wider European countryside, as well as for agriculture itself.
2. Pressures facing biodiversity associated with agriculture are such that efforts to date have been insufficient to meet the biodiversity targets for 2010.
3. There is a considerable potential to support biodiversity in all agricultural habitats of the EU, with semi-natural grazed habitats meriting a special policy focus.
4. A wide range of policy measures within and outside the CAP is in place to address biodiversity - within the CAP some are of key importance.
5. A wide range of policy measures within and outside the CAP is in place to address biodiversity - within the CAP some are of key importance.
6. The agri-environment measure has achieved considerable successes in maintaining and enhancing biodiversity on the ground, but its potential is still not fully used.
7. A well balanced combination of measures is essential for a successful strategy to achieve biodiversity outcomes.
8. Trends within wider rural economies can exert differing pressures on biodiversity.
9. Biodiversity is recognised increasingly as providing economic benefits and development opportunities for rural areas, contributing to green growth.
10. A step change is needed to be able to meet the new 2020 biodiversity targets for agriculture, and this requires action on several different fronts, with the CAP being a key component.

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