

*O.D. KOVALCHUK, candidate of economic sciences,
associate professor (docent)
Zhytomyr National Agroecological University*

“Cross compliance” as an institutional norm for ensuring of ecological agriculture in the European Union

Scientific problem. Agriculture is a major user of natural resources such as land and water; it influences eco-systems and biodiversity and shapes rural landscapes. It has a complex relationship with the environment; it creates greenhouse gas emissions but also acts as carbon sink, it has a potential to foster or harm ecosystems; can be considered as a provider of cultural landscapes but also as a polluter of natural resources (land, water).

Most countries aim to ensure the production of food, feed, fuel, and so on while achieving a wide range of environmental and social objectives. Typically, policy objectives relate to the security of supply, the safety of food, the welfare of farm families, the viability of rural areas, while ensuring the health of the environment and the good management of animals. Increasingly, public interest is placing more emphasis on the processes and methods used in the agri-food production chain – as well as the effects on the environment and the longer term sustainability in particular of the land and water resources on which the sector heavily depends. To this end, governments have put in place a variety of agricultural and agri-environmental policy support instruments, environmental regulations and other policies that apply across the economy as a whole. There is a complex interaction of these policies: agricultural policy instruments as well as agri-environmental policy measures affect the environmental performance of agriculture, while environmental regulations and economy-wide policies have an impact on the economic performance of the sector.

Analysis of recent researches and publications. In order to analyze the various Cross compliance approaches used in EU, it is useful to put those approaches within the context of

the range of policy instruments and instrument mixes to support farm incomes and those to improve environmental performance.

Legg W. and Diakosavvas D. research the possible policy options to provide income support and separately to improve environmental performance, which includes defining the relevant terms; examine the links between environmental regulations, agricultural income support payments, agri-environmental payments and Cross compliance; and describe the Cross compliance approaches in OECD countries [8].

Underwood E. and Tucker G. reviewed what the EU regulations define regarding Ecological Focus Areas (EFA) Cross compliance requirements and what EFA rules have been put in place in 13 case study countries and regions. EFAs, one of the three greening measures for which payments are received under Pillar 1 of the CAP, are intended to safeguard and improve biodiversity on farms, and member states were required to select crop types and define other elements that benefit biodiversity in their country [13, p.14, 21-32].

Nesbit M., Paquel K. and Illes A. examine experience in the use of the European Structural and Investment Funds to deliver climate policy objectives, with a particular focus on the funds that fall under the remit of the European Regional Development Fund and the Cohesion Fund. They look at the mechanisms introduced in the 2014-20 programming period to ensure the mainstreaming of climate objectives, and identify both successes, and areas which could be improved. They then consider the implications of the Paris Agreement for future programming periods, and sets out recommendations. The research has been based on a review of relevant legislation, policy documents, guidelines, and literature, together with an as-

assessment of monitoring information provided on the websites [11].

Social inclusiveness concerns need to be more explicitly worked into the Green Box, through a better targeting of Green Box transfers, noted Irene Musselli [10]. The approach is twofold: provide some leeway for direct payments not subject to agri-environmental Cross compliance conditions, but narrow eligibility to “low income, resource poor, or subsistence farmers, including disadvantaged or vulnerable communities and women”

Issues of the Cross-compliance requirements are also considered in the works of many Ukrainian scientists, including Fylyuk G. [6], Popova O. [12], Zinchuk T. [14] and others.

The objective of the article is to research an institutional mechanism of EU Cross-compliance that links direct payments to compliance by farmers with basic standards concerning the environment, food safety, animal and plant health and animal welfare, as well as the requirement of maintaining land in good agricultural and environmental condition.

Statement of the main results of the study. Common Agriculture Policy (CAP) is the main agriculture policy instrument of the European Union. But the CAP is not only about agriculture and, while 96% of the CAP budget supports agriculture, it also covers forestry and some more general services destined to rural areas with the remaining funds. EU member states may also implement domestic policies that support agriculture, in addition to the CAP. In many ways CAP 2014-20 can be characterized as a continuation of the CAP 2007-13. Its overall funding is almost constant and the two – pillar structure is maintained. At the same time, new measures, increased flexibility and more binding instruments were introduced. The process formulating the new CAP 2014-20 started in 2010. 2014 was a transition year with the introduction of pillar 1 (direct payments to farmers and market measures), implemented in full in 2015 and the full implementation by member states of pillar 2 (rural development measures) occurred in 2016. Market measures and most of direct payments (pillar 1) are funded by the European Agricultural Guarantee Fund (EAGF), rural development measures -

European Agricultural Fund for Rural Development (EAFRD).

The overall budget of the CAP, including co-funding and top-ups by member states, adds up to EUR 426 billion over the seven years of the CAP 2014-20 lifespan, of which 14% is funded by member states. Statutory co-funding ratios vary according to the payments and regions. When taking into account the additional amounts of top-ups, the share of member states funding of the CAP from own budgets vary from about 50% in Finland and Luxemburg to less than 5% in Denmark, Croatia and Slovenia. 4% of the overall budget are spent at EU level for common market organization and the remaining 96% are attributed to member states for pillar 1 and 2. Taking into consideration pillar 1 direct payments to farmers, and those expenditures on rural development programmes that are implemented as direct transfers to farms, the share of the CAP agricultural expenditure transferred to farms is 90% [2, p.24].

Most new features of the CAP 2014-20 are in pillar 1. These include the budgetary provision for a Crisis reserve, the per hectare Greening payment, the mandatory Young farmer top-up and a number of choice schemes, including the sector (commodity) specific Voluntary Coupled Support payment, the additional payment to the first hectares also called the redistributive payment, the payment to Areas with Natural Constraints, the limits put on high levels of payments under degressivity and the small farm simplification scheme. While most measures under pillar 1 continue to apply across the board to all farms, the CAP 2014-20 offers member states more flexibility to tailor and target pillar 1 expenditures to support own objectives, while this has always been true for pillar 2 Rural Development Programmes [1].

EU farmers are required to respect the various standards set down in EU legislation (Directives and Regulations) on the environment, climate change, good agricultural condition of land, public, animal and plant health and animal welfare. These requirements are commonly referred to as Cross compliance.

The concept of Cross compliance as a policy term originated in the United States of America. It has been used since the 1970s to refer to various conditions (environmental and other)

that farmers have to meet in order to be eligible for assistance under government support schemes for agriculture, notably the commodity 'programs'. Cross compliance was a policy response to the detrimental impacts of agricultural intensification. Farmers claiming support had to meet the rules for that programme and certain obligations of other programmes: thus making a link "across programmes" which gave rise to the term "cross-compliance" [3]. Cross compliance has been used in the US principally in an effort to control soil erosion, prevent the conversion of grassland to arable in areas with 'highly erodible' soils and to halt the loss of wetlands. The use of this term has since been extended to refer to linkages between environmental and agricultural policies in other parts of the world, especially Europe.

The discussion about the relevance of Cross compliance to European agriculture emerged during the 1990s, along with a growing commitment within the EU to integrating environmental considerations into agricultural policy. The introduction of direct payments for Common Market Regimes was a major element of the 1992 "MacSharry" reforms of the CAP [7]. A debate was prompted on the wider purpose of agricultural support policies and the possibility of requiring farmers to provide society with tangible social or environmental benefits (multifunctionality) in

return for such payments. The MacSharry reforms also introduced a modest measure of Cross-compliance on certain elements of the CAP such as the management of compulsory set-aside in arable cropping and gave member states scope to apply conditions to direct payments in certain Common Market Regimes.

Cross Compliance aims at ensuring the safe production of food, the welfare of animals, the sustainable use of land, the maintenance of natural resources and limiting climate change. Cross Compliance requirements are for beneficiaries (EU farmers) of the Basic Payments and other Area Based Schemes such as the Greening Payment, the Young Farmers Scheme, the Areas of Natural Constraints Scheme, the Green Low Carbon Agri Environment Scheme, the Agri-Environment Options Scheme, the Organic Farming Scheme and the Beef Data and Genomics Programme. Farmers must comply with, in respect of the 13 Statutory Management Requirements (SMRs) and the 7 Good Agricultural and Environmental Condition (GAEC) standards applicable from 1 January 2015, following the reform of the CAP (Figure). It is important to note that in the 2015 reform of the CAP no new or additional Cross Compliance requirements have been added and the number of SMRs has been reduced from 18 to 13. In addition some requirements have been simplified.

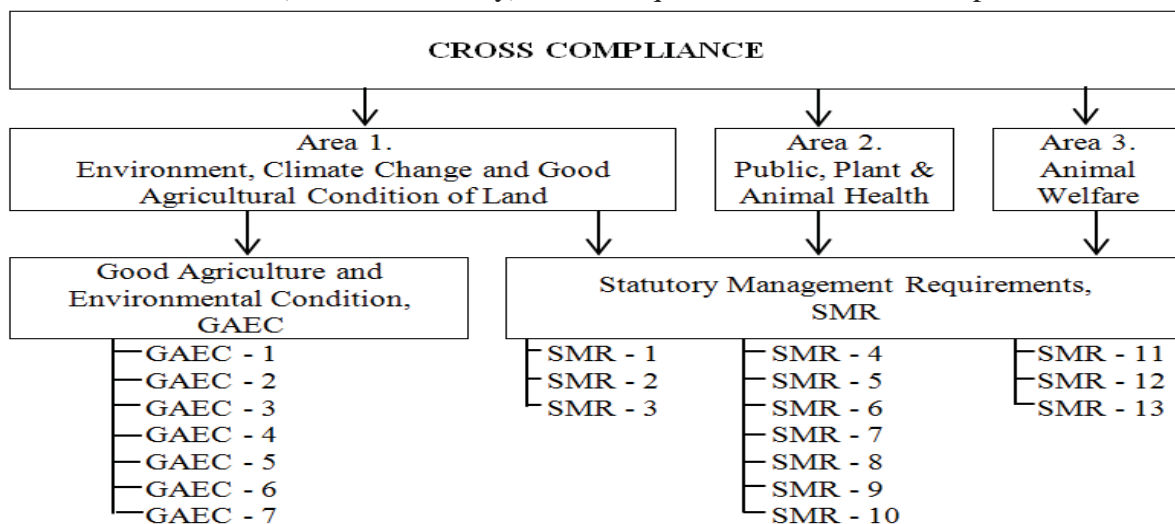


Figure. The general structure of Cross compliance requirements

Source: Developed by the author based on [4; 5; 9].

GAEC 1. - Establishment of Buffer Strips along Watercourses. The aim of this GAEC standard is to protect watercourses against pollution and run-off from agricultural sources by main-

taining buffer strips. These requirements restrict the application and storage of chemical and organic fertilisers along watercourses and beside wells and boreholes. Watercourses are all surface

waters, including coastal water, estuaries, lakes, ponds, rivers, streams, canals and field ditches/drains. It also includes temporarily dry drains.

GAEC 2,3 are where use of water irrigation is subject to authorisation, compliance with authorisation procedure and protection of ground water against pollution. These standards protect ground water against pollution. Groundwater is defined as all water which is below the surface of the ground in the saturation zone and in direct contact with the soil/subsoil. Substances commonly found on a farm that may cause ground water pollution include: constituents of sheep dip; agri chemicals (fertilisers, pesticides, herbicides, fungicides, detergents); hydrocarbons (fuel oil, hydraulic fluids, lubricants, waste oils, batteries); metals; dairy detergents; substances that affect the taste/odour of groundwater.

Farmers must ensure that:

- ✓ agri-chemical stores are sited well away from drains, waterways and drinking water supplies;

- ✓ pesticides are stored in marked secure cabinets, sufficiently banded to contain the volume of pesticide stored in them;

- ✓ any spillages cannot escape to ground waters through drains, soak ways, wells, boreholes and watercourses;

- ✓ fuel tanks are correctly located and maintained with no evidence of discharge;

- ✓ waste oils and old batteries are properly disposed of;

- ✓ sheep dipping tanks are of sound construction and have no outlet pipe or valve at the base of the tank

- ✓ sheep dipping tanks are empty and securely covered when not in use

- ✓ where in exceptional circumstances a burial licence is granted to dispose of animals on farm, this should be done in a manner that prevents pollution.

GAEC 4. - Minimum Soil Cover. The aim of this GAEC standard is to protect soil from erosion by ensuring minimum soil cover. Activities such as inappropriate ploughing and land reclamation works could lead to the removal of soil over a prolonged period of time. Ploughing restrictions are the same as outlined in SMR 1. Farmers should make every effort to avoid practices that could lead to erosion and must

provide green cover from a sown crop within 4 months of the ploughing. GAEC 5-7 are minimum land management reflecting site specific conditions to limit erosion, maintenance of soil organic matter level through appropriate practices and retention of landscape features - minimum level of maintenance.

SMR 1. - Protection of Water against Pollution caused by Nitrates. This requirement is to reduce the pollution of waters caused by nitrates and phosphates occurring from agricultural land and farmyards. This SMR applies to all beneficiaries. SMR 2. Conservation of Wild Birds. It's aimed at protecting all wild birds, their eggs and nests. This SMR is applicable to all farmers and all land. There may be additional rules to comply with if farmers have land designated as a Special Protection Area. The removal of vegetation from a field, e.g. scrub that is beneficial to birds is not permitted during the bird nesting season (1st March to 31st August inclusive). As hedgerows are landscape features they cannot be removed at any time of the year. Trimming, cutting of trees and/or hedges during the bird nesting season is not permitted unless farmers are directed to do so by their Local Authority in the interests of health and safety. SMR 3. - Conservation of Natural Habitats and of Wild Flora and Fauna. This SMR is applicable only to farmers with land designated as a Special Area of Conservation to protect important habitats and species of flora and fauna (plants and animals).

SMR 4. - Food and Feed Hygiene - to all farmers both as food and feed business operators producing food or feed from plants and rearing animals for food or producing products of animal origin. The objects of inspections are:

- ✓ checks to verify that food and feed are produced and stored in a safe manner;

- ✓ checks on the maintenance of traceability systems e.g. records;

- ✓ checks that the dairy/milking parlour, equipment and cow housing is kept clean and in good repair and that the dairy is isolated from sources of contamination e.g. that screens and doors between the dairy and milking parlour and dairy and outside environment are in place and properly maintained;

- ✓ checks to verify the adequate control of vermin;

- ✓ checks on hygiene during milking;
- ✓ checks on the observation of withdrawal periods.

SMR 5 - Restrictions on the use of Substances having Hormonal or Thyrostatic Action and Beta - Agonists in Farm Animals. The aim of these requirements is to prohibit the illegal use of substances that have a hormonal or thyrostatic action and beta-agonists in animals, and to prevent the residues that these substances leave in meat and other foodstuffs from entering the human or animal food chain. This SMR applies to all farmers keeping animals. Farmers must: comply with the EU hormone ban; comply with withdrawal periods for animal remedies authorised under the exceptions to the hormone ban; make available all veterinary medical records relating to restricted substances on request. SMR 6. - Pig Identification and Registration (SMR 7 - cattle; SMR 8 - sheep/goat). The aim of these requirement are to maintain the system for the identification and registration of animals to facilitate their traceability and to reduce the risk of spreading disease. It is critical that traceability of animals is maintained at the highest level. SMR 9. - Prevention and Control of Certain Transmissible Spongiform Encephalopathies. This requirement is to minimise the risk posed to human and animal health by certain Transmissible Spongiform Encephalopathies (TSEs). These requirements apply to farmers if they keep farmed animals. SMR 10. - Plant Protection Products (Pesticides). It seeks to ensure that where pesticides are used, this use is necessary, and that they are used in a manner that minimises risk to the user, the environment and the food chain. All pesticides purchased and used must be registered with the Pesticide Control Division. This registration requirement ensures that companies placing such products on the market have them properly labelled and packaged, and that they bear a valid registration number.

SMR 11. Welfare of Calves (SMR 12 – pigs, SMR 13 - farm animals). The aim of these requirement are to ensure the welfare of animals by meeting minimum standards for their care and husbandry.

Beneficiaries must adhere to Cross compliance requirements for the entire calendar year. The beneficiary is the person responsible for ensuring the Cross Compliance rules are met and must make sure that the following people

also meet the rules: persons acting for them (or under their control) on their holding e.g. contractor/farm employee; persons with access to the holding under the terms of an agreement e.g. short-term rental agreement. For those requirements regarding the identification, registration and welfare of animals, it is the herd keeper/herd owner who is responsible for compliance. The rules apply to all the lands farmed by the beneficiary, including commonage.

There is a Farm Advisory System (FAS) in order to aid farmers in meeting their Cross Compliance obligations and to help farmers avoid financial reductions under Cross Compliance, in respect of SMRs and GAEC. A FAS advisor act as a 'general consultant', linking all of the different elements of farming, including the financial aspects with the various compliance requirements. The existence of FAS ensures that each farmer can seek and receive advice on Cross Compliance. The use of the FAS is voluntary.

Paying agency, in most countries it's Department of Agriculture, has to inspect Cross compliance requirements in association with others structures and local government. Cases selected for inspection are chosen by risk analysis, appropriate to that Cross ccompliance measure, supplemented by a randomly selected component:

- ✓ 1% of all beneficiaries are selected for full Cross compliance inspections;
- ✓ 3% of bovine herds are inspected for bovine identification and registration requirements;
- ✓ 3% of ovine/caprine flocks/herds are inspected for ovine/caprine identification and registration requirements which must include 5% of the national flock/herd.

If an applicant is found to be in breach of Cross compliance through negligence, a sanction of 3% of the support payment will generally apply but this can be increased to 5% or decreased to 1% depending on the extent, severity and permanence of the infringement. However, not every breach of the requirements or standards results in an automatic financial sanction. Where the breach is considered to be minor and remedial action is taken within the stipulated period, no sanction will apply. Where the non-compliance is deemed intentional, a reduction of 20% shall generally be applied. The sanction can be increased up to

100%, or reduced to 15%, depending on the seriousness of the non-compliance. In extreme cases, the sanction can extend beyond the year of the finding. In the case of an infringement of the same requirement, or standard occurring more than once, within a consecutive period of 3 calendar years, the sanction will be trebled and this is called Reoccurrence which was previously known as Repetition.

Local authorities and other competent control authorities are required under EU/National law to report breaches of these Regulations to the Basic Payment Unit. The Basic Payment Unit will then determine if a sanction under the Basic Payment Scheme and other area-based schemes is appropriate.

Conclusions. After years of continuous and progressive reform, the new measures introduced by the CAP 2014-20 may be seen as an attempt to offer member states more flexibility to adapt a common set of policies to their own conditions by using the choice elements of the CAP, while at the same time adding more uniformity through the internal and external convergence of per hectare payments. Member states have embraced to varying degrees the increased flexibility and at this point in time it is unclear how these measures are combined

and tailored to support CAP objectives as regards farm productivity and income.

Cross compliance is implemented under two main areas: Statutory Management Requirements (these SMRs refer to 13 legislative requirements in the field of the environment, food safety, animal and plant health and animal welfare) and Good Agricultural and Environmental Condition (this obligation of keeping land in good agricultural and environmental condition refers to a range of standards related to soil, the protection and maintenance of soil organic matter, avoiding the deterioration of habitats and water protection).

Cross compliance introduced measures which are important for society in general, such as nitrate limits in fertilisation practices, protecting NATURA 2000 areas, food safety, animal welfare and the traceability of food from animals, biodiversity and climate change. Cross compliance, through making a link between these rules and the CAP payments, makes the CAP more compatible with society expectations. Cross compliance helps make European farming more sustainable, in particular, through better awareness of CAP beneficiaries of the need to respect the statutory rules.

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