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Environmental sustainability standards in EU Common Agricultural Policy:

A comparative analysis of the objectives of the EU *General Environment Action Programme* and the CAP direct payments scheme

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Abstract

This thesis offers research on the question: 'To what extend is the CAP's direct payment scheme supporting or undermining the intended increase of environmental sustainability standards of the European Union?". By using an inductive, systematic research design, the coherence between the EU's General Environment Action Programme objectives, and the eligibility and environmental standards for farmer income support will be studied. A comparative document analysis with a theoretical focus on the concepts of income support, greening and environmental sustainability as well as coherence and compliance with EU standards constitute the framework for this thesis. To answer the question a case study on the practices in a sector with high-income support dependency, the sugar farming sector will be conducted. The conclusion for this qualitative legal research will be supported by a set of agri-environmental indicators and will affirm that the policy frameworks objectives are coherent. However, there are differences found in the implementation and application of the sustainability strategy and the environmental standards of farmer income support.

List of Abbreviations

CAP -	Common Agricultural Policy
CEFS -	Comité Européen des Fabricants de Sucre, Committe of European Sugar Manufacturers
COP -	Conference of Parties
DG Agri -	Directorate-General for Agriculture and Rural Development
DPs -	Direct Payments
EAP -	Environmental Action Programme
EEA -	European Environmental Agency
EFSA -	European Food Safety Authority
EU -	European Union
EP -	European Parliament
GAECs -	Good Agricultural and Environmental Conditions
HLG -	High Level Group on Sugar
NGOs -	Non-Governmental Organization
OECD -	Organization Economic Co-operation and Development
PCD -	Policy coherence for development
SDGs -	Sustainable Development Goals
SMRs -	Statutory Management Requirements
TFEU -	Treaty of the Functioning of the European Union
WTO -	World Trade Organization

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Chapter 1: Introduction

1. Introduction:

European Agricultural Policy and with it the Common Agricultural Policy (CAP), which was established through Art. 40 TFEU has traditionally been a dominating resort in European Union governance. CAP expenditure remains the largest share of EU budget spending. In 2019 the CAP accounted for 36.1% of the total EU budget, around 58.4 billion EUR (Massot, 2020). According to the five-year budget plan (2015 - 2020) direct payments (DPs) makeup around 71.3% of the CAP budget. As the most significant expenditure of the EU budget the CAP has been a continuous focal point for policy researchers (Glebe 2007; Hart & Baldock 2011; Matthews, 2013) and the question of the CAP's direct payment scheme and farmer income support's legitimacy, is omnipresent.

The impact of the DP scheme is immense. In 2013 – 2017 the average share of DPs in farm income was 26% (DG Agri, 2019). The CAP is constantly being reformed (every three to seven years). At the latest in 2013, the process for a new CAP framework was completed. This reform included a re-definition of policy objectives, instruments, and budget distribution for a further seven years (2014–2020).

Most notably it also included restructuring the financing of the two pillars, which were first introduced through the Agenda 2000 reform, and incorporation of further environmental elements through cross-compliance into pillar one, the pillar of annual market price and income support for farmers. The selected approach (OECD, 2011) adds observance of environmental standards and practices as a condition for eligibility for DPs of pillar one. Farmers already have to follow Statutory Management Requirements (SMRs) and Good Agricultural and Environmental Conditions (GAECs) (Matthews, 2013).

All sectors of European agriculture are to some degree depending on DPs; however, this report presents a case study on the European sugar beet sector. The EU is the largest producer of beet sugar, growing, and processing around 50% of the global sugar beet harvest. Due to the abolition of the quota for sugar imports and the record high production in 2017/2018 (DG Agri, 2018) price levels significantly dropped below the minimum price per ton. This sector poses an excellent example of how EU direct aid and DPs are existential for farmers and can shape the practice and landscape of an agricultural sector. The case study of the sugar beet industry helps to develop this thesis as the practical application of agricultural and environmental regulations can be illustrated.

Over the last decades, farming has become more intense to increase food production and availability, meet the demands of consumers, and maximize the productivity of the land. This shift has had an environmental impact that could be lessened by a reformation of the CAP towards environmentally friendly and more sustainable efficient instruments. The EU continues to present improved overarching environmental legislation and objectives, like the General Union Environment Action Programme from 2013.
This leads to the question of whether or not the processes and conditions of the largest share of the EU expenditure are complying with the environmental pledges and commitment of the Union. With the new Commission's 2019 'Green New Deal' as an attempt to reform European environmental policy and the associated vast societal pressures erupting within the member states, EU policy-makers as well as academic researchers, have acknowledged the incentivizing power of DPs to forward sustainability agendas (Hart & Baldock 2011).

This paper will analyze the role of the EU's income support for farmers, specifically sugar beet farmers on the ground of increasing environmental ambitions and commitments on the part of the Union. An analysis of sustainability strategies with presently practiced income support and eligibility requirements for DPs will add a new perspective to the existing academic research. It will do so with a comparative document analysis of the November 2013 General Union Environment Action Program to 2020 'living well within the limits of our planet (Regulation 1386/2013) and Regulation 1307/2013 (modified by Regulation 2017/2393) definitions and eligibility conditions for DPs of the CAP.
Derived from this the formulated research question is:

'To what extend is the CAP's direct payment scheme supporting or undermining the intended increase of environmental sustainability standards of the European Union?'

2. Research Design and Methodology:

This thesis will follow a qualitative inductive methodology and examine the coherence of objectives of the EU's environmental sustainability agenda with the CAP's direct payment scheme or farmer income support policy. The basis for this will be a comparison of the two legal documents: The General Union Environment Action Program (2013-2020) and the income support regulation framework, specifically the definitions and eligibility conditions for income support for EU sugar beet farmers (Regulation 1307/2013 modified by Regulation 2017/2393).

The analysis will consider agri-environmental indicators related to the environmental sustainability commitments in the 7th Environment Action Programme. To answer the research, question a sector with high-income support dependency due to price fluctuations, the sugar farming sector, and its practices will function as an example. The study of this sector will help to understand these types of policy instruments and the frameworks for EU Agricultural instruments in general. This is embodied by the first sub-question:

1) What are the eligibility conditions and agricultural standards for European farmers to qualify for CAP income support?

To answer this descriptive sub-question the researcher will use a systematic approach due to the variety of policies that exist in the realm of income support standards. To analyze the legal documents for coherence this research will set focus on two legal spheres: European agricultural policy and European environmental policy as touched upon in two sub-questions:

2) What environmental conditions do European farmers have to comply with to qualify for CAP income support?

3) What environmental conditions do European farmers have to comply with to fit the General Union Environment Action Program to 2020?

2.2. Conceptualization

This section will define the core concepts of this research: income support for EU farmers, environmental sustainability or greening as well as coherence and, compliance. These concepts will be defined to answer the question of whether existing policy agendas are coherent.

i) Income support for farmers

Income supports for farmers are agricultural subsidies usually paid by a government to supplement agricultural businesses. Farm household incomes are chronically low, unsteady, and variable due to their dependency on natural distortions. This has been one of the main reasons for the policies supporting income (Gardner, 1992). This research focuses on the EU, where since its introduction in 1992 most income support has been provided through annual DPs that were intended to compensate for the negative impact of the reduction of price support (Severini & Tantari, 2013). This research targets the support the EU provides to farmers through pillar one of the CAP since 2013. EU DPs can be separated into two categories coupled and decoupled (delinked). The EU's

strategy of decoupling in favor of the first pillar of the CAP was intended to increase the market orientation of farmers and to reduce the distortions of coupled payments (OECD, 2011).

ii) Environmental sustainability or greening

According to the 'Encyclopedia of food and Security and Sustainability' (2019), environmental sustainability defines a boundary to satisfy our current needs without in whatever way compromising the quality of the environment or ecosystem so that it remains equally capable of supporting the future generations too. The European Commission has tried to mainstream sustainable development into EU policies and legislations via the EU Sustainable Development Strategy or through Union Environment Action Programmes. Greening in EU agriculture, refers to the adoption or maintaining of farming practices that help meet environmental and climate goals (European Commission, 2020 I). This research will be oriented on these definitions and goals and analyze their compatibility with agricultural environmental goals.

iii) Compliance/ Coherence

The CAP is an area in which competence is shared between the EU and the member states (Art 4 (2) TFEU). The CAP's major objectives are enshrined in Art 39 TFEU. The Treaty of Lisbon in 2007 has placed a major imperative on the process of achieving coherence between the Union's policies and activities. Today there is a legal obligation of the Union and the member states to ensure coherence (Duic, 2015). Although mostly discussed in the context of external action Coherence for Development (PCD) plays a role in internal policies as well. The Council reaffirmed PCD as a part of the EU's contribution to the 2030 Agenda and the Sustainable Development Goals (SDGs). The PCD aims at minimizing contradictions in different EU policies.

The researcher is aware that this analysis cannot state the overall impact of the European environmental sustainability policy. Nonetheless, a legal comparison of policy objectives will offer a more comprehensive perspective and can contribute to a better understanding of income support policies.

This analysis will apply CAP Context Indicators directly related to the EU's environmental sustainability program and indicators by the European Environmental Agency. In this context, this might be less biased than choosing indicators from NGOs.

Overall, the thesis will follow a systematic approach because it examines the coherence of EU objectives of farmer income support policy and the EU's environmental sustainability agenda. The analysis will consider the position of the policies within the whole EU legal system and will refer to principles such as the principle of proportionality, in the context of environmental policy or the principle of conferral.

The conclusion of the study will be drawn by answering the sub-questions and evaluating the coherence of the EU's direct payment scheme with its intended goals for environmentally sustainable development. The conclusion will follow after the analysis of the documents that were chosen and the evaluation of the compliance with the set of selected indicators.

3. Theory Section:

As the EU's largest expenditure, farmer income support, the evolution of its objectives, and its policy outputs have concerned several researchers. Many studies (Hart & Baldock, 2011; Matthews, 2013) focus on the negative and positive environmental effects of the greater DP reforms and discuss the EU's strategy regarding the incorporation of environmental objectives, regulations, and budget distributions. These studies and theories support this research in the way, that they evaluate the CAP's environmental outputs and impacts and offer approaches of instruments, the EU used to increase the integration of environmental standards into the CAP.

A shared concern of academic studies was intensification. As a byproduct of highly efficient and competitive farming, it is not an objective of the CAPs income support per se, but the legal regulations and budgetary distributions are still characterized and legitimized by the Commission with a productivist position (Erjavec & Erjavec, 2015). Farmer support is being justified by their system-critical occupation as preservers of public goods (Declaration of Agricultural Economists, 2010; Hart & Baldock, 2011; Erjavec & Erjavec, 2015). Grand EU expenditures on the CAP promote increased competitiveness, efficiency, and therefore lead to intensification, one of the main causes of damage to the environment in the agricultural sector (Matthews, 2013).

The perspective of the farmer as the caretaker or preserver of public goods goes hand in hand with the notion of environmental sustainability. Together with taxpayer demands for efficient budgetary management, the growing demand of the public for the adaption of environmental standards is most notably institutionalized through environmental NGOs (European Commission, 2010). The incorporation of environmental measures into the cross-compliance or the DP scheme offers a way to legitimize the scheme in the eyes of the public. If, as the literature suggests, sustainability and environmental protection are used to legitimize the 2013 CAP reform, one might argue that actual measurable improvements of environmental standards

should be a consequence. Sustainable management of natural resources and climate action is one of the three main objectives of the post-2013 CAP reform. However, past EU agricultural sustainability agendas had to face claims of 'greenwashing' especially by NGO representatives (IEEP, 2013). This argumentation will be considered in the analysis.

As mentioned above, the academic debate focuses on the negative or positive effects of the ongoing reform of EU legal or policy frameworks. CAP reforms are complex, and the outcome is not always predictable as they depend on institutional mechanisms and their interactions (Erjavec & Erjavec, 2015). This procedure affects the definitions and eligibility requirements for DPs that are stated by Regulation 1307/2013 and Regulation 2017/2393.

Several academics that have discussed and evaluated EU cross-compliance since it became compulsory in 2003. Cross-compliance in agriculture originates from the 1970s United States, where US farmers had to comply with rules and follow obligations to receive support for commodities (Jongeneel, 2019). The term has since extended and in EU context is used to refer to connections between agricultural and environmental policies (Baldock & Mitchell 1995). Together with member state-level standards, they are to be complied with by farmers to receive income support in the form of DPs. Cross-compliance clearly is a factor for the increase of environmental sustainability in European agriculture.

This constitutes the theoretical framework for the thesis and allows an insight into factors that influence the mainstreaming of environmental policy into the income support scheme.

Chapter 2: Document Analysis - Definitions and eligibility conditions for income support for EU farmers

1. Introduction

This chapter takes an in-depth look at the definition and eligibility conditions for income support for European farmers and the practical application and tendencies of the environmental conditions related to CAP pillar 1. This is done by analyzing the current eligibility framework Regulation 1307/2103 and Regulation 2017/2393, which are partially defined by hard law agricultural and environmental minimum standards like SMRs and soft law policies like the GAECs.

The second chapter of the thesis will address sub-questions one and two. The outcome of the second chapter serves as one of the inputs to assess the coherence of the policy frameworks as a whole and though helps to answer the main research question.

2. The development of sustainable agriculture in the EU

The promotion of agricultural productivity in post-war Europe was already addressed in the Treaty of Rome from 1957. The CAP was introduced in 1962 based on three principles: market unity, community preference, and financial solidarity. Price support and quality standards for grain purchased by the member states were first set. The fixed price levels and direct subsidies for the domestic markets together with inflated levels of production quotas for milk, sugar, and starch led to overproduction in the 80ies and rapidly elevated the levels for CAP expenditure in the EU budget up to 70 percent of the total (BMEL, 2014). The need for reform and adaption was evident. In combination with increasing societal environmentalist pressures, this led to a shift away from solely production-oriented CAP. An interim to reform with a Green Paper on perspectives of the CAP was first indicated by the European Commission in 1985 (CEC, 1985). The paper was followed by the first agri-environmental measure Regulation 797/85/EEC (See Appendix 1).

In 1992 the so-called MacSharry reform cut unfit price support for the first time in nearly 30 years. This can be considered the starting point for the direct payment scheme. Primarily, grain and beef subsidies were cut by over 30 percent and for the first-time farmers were encouraged to leave certain agricultural areas uncultivated to lessen the strain on resources and fauna. As compensation farmers received subsidies in the form of direct payments (DPs), which were initially 100 percent of the calculated revenue paid under the abolished price support scheme (Jongeneel, 2019). In addition, extensification and reforestation measures were first introduced. The MacSharry-reform was the first approach to integrating environmental concerns into the production focused European agricultural sector (See Appendix 2).

In 1999 the domestic price support subsidies were once again cut (Agenda 2000). This was accompanied by increased direct payments and income support for farmers. Direct payments and income support were first acknowledged as policy instruments by allowing the member states to attach environmental production standards to them. The Agenda 2000 also established the CAPs second pillar which aimed at environmental and rural development through specialized targeted subsidies.

Three years later, with the 2003 Fischler Reform, the EU started to decouple DPs from pillar one and subsidies from production quotas, drastically changing existing patterns (Serverini & Tantari, 2013). The European Commission defines decoupling or delinking of payments as progressively removing specific payments for products (European Commission, 2019). The decoupling was supposed to further reduce overproduction by exposing farmers to market forces and increase the general market orientation (OECD, 2011). The EU here aimed at diminishing international trade distortions resulting from domestic market protection after already in 1994, the Uruguay Round Agreement on Agriculture first deemed domestic agricultural subsidies distortions (See Appendix 3).

With the Fischler Reform, cross-compliance requirements, the key element of CAP first pillar greening were first introduced. Cross-compliance is defined as the concept of linking payments to food safety, environmental protection, animal health, and welfare standards (European Commission, 2020 II) (See Appendix 4).

A reexamination of the 2003 policy reform led to the 2008 'Health Check' which first defined possible sanctions for noncompliance with cross-compliance requirements. Violation of the standards had effects on subsidies and direct payments. The legal basis for DPs being subject to cross-compliance was already given in Art 3 of the Common Rules Regulation (1259/1999). This article also requires the member states to take steps to ensure the compatibility of agricultural and environmental measures.

By 2011 around 85 percent of DPs granted could be considered decoupled. In 2013 the CAPs share of the entire EU budget had dropped to 39 percent, the desired effect of gradually removing price support had occurred (Serverini & Tantari, 2013).

The current 2014 – 2020 CAP policy framework includes the re-definition of policy objectives, instruments, and budget distribution and aimed for further integration of environmental standards through pillar one. It's agricultural and environmental framework will be outlined in the following sections.

2.1. Current agricultural Conditions and requirements to qualify for subsidies under CAP pillar one

In general DPs and income support are split two ways into obligatory direct payments (which includes basic payments, green payments, and young farmer payments) and optional direct payments (which includes redistributive payments, payments for areas with natural constraints, the small farmer scheme and voluntary coupled support). To receive any of these payments there are two eligibility requirements: holding the status of an 'active' farm and the compliance with a set of the minimum standards.

An active farmer as defined by Regulation 1307/2013 is a natural or legal person, or a group of natural or legal persons, whose holding is situated within the territory of the European Union and who exercises an agricultural activity. 'Active' is defined to prevent individuals or companies from receiving support although their business is not agricultural. Art 9(1) of Regulation 1307/2013 defines non-eligible areas as areas that don't need intervention to remain in a suitable state for cultivation or areas where there is not a minimum of agricultural activity. De facto the process to distinguish whether a farm is considered active is usually based on the fact that the farm was granted a certain sum of DPs the year before. Member states can decide on minimum amounts for farmers to not having to reapply yearly. Some minimums are as high as €5000 (EL, HR, IE, IT, RO, SI, (UK)).

Farms with less than 5 hectares of eligible area or where DPs would amount to less than €500 are usually not granted income support EU wide. As a guide to the member states until 2017 there was a negative activity and business list that declared disqualifying activity even if the land was previously declared farmland. Since the omnibus regulation (Procedure 2016/0282/COD) the negative list became optional for the member states, placing large competence on the member state level. As of 2018, each member can decide on the application of the list and test and eventually exclude marginal agricultural activity (Article 9(3) Regulation 1307/2013). Some member states like Italy and Romania only consider those farmers active that register in national fiscal or security register.

Furthermore, land must be suitable to produce agricultural products (Regulation 1307/2013 Art 4). For land to qualify as an agricultural area it has to be arable land, with permanent crops or permanent grassland and permanent pasture. Once again member states have a scope of decision as they can extend the definition concerning established local practices (e.g. tree areas or grazing area).

To be eligible as a farmer, they have to legally hold decision-making power and be the bearer of benefits and financial risks for the land for which DPs are requested. The farmer doesn't have to own the land but should have factual possession and autonomy over the area that is sufficient for carrying out an agricultural activity (Regulation 1307/2103 Art. 32(2)). Eligible hectares are not necessarily used for agricultural activity, but agricultural activity needs to be predominant in the enterprise. This has to be assessed by national administrators on a case-by-case basis.

There is a scope of what qualifies as an agricultural activity that is eligible for DPs (Regulation 1307/2013 Art 4 (1c)). These activities include i) production ii) maintaining or iii) carrying out a minimum activity defined by each member state (Regulation 639/2014 Art 5).

2.2.Environmental Conditions under CAP pillar one (SMRs and GAECs)

Through pillar one cross-compliance farmers are obliged to comply with a set of minimum standards for public, plant, and animal health and welfare. Cross-compliance is the key policy instrument for making European agriculture more sustainable (European Commission, 2020 II). As shown in section 2.1. its scope extended over time.

The concept of cross-compliance refers to two sets of standards: statutory management requirements (SMR), which apply to all farmers whether or not they receive income support or payments under the CAP and good agricultural and environmental conditions (GAEC), which apply to farms receiving income support or payments.

i) Statutory minimum requirements

The current set of SMRs is based on preexisting EU directives and regulations for example the Nitrates Directive from 1991. Since the 2013 CAP reform, there are 13 SMRs.

There are three subsets of SMRs: i) public, animal and plant health, ii) animal welfare and iii) environment (see Appendix 5). Due to the subject of this thesis, the focus will be set on environmental SMRs, which most importantly includes the nitrate's directive (Council Directive 91/676), the Natura 2000 directive on wild birds (Directive 2009/147/EC) and the natural habitats directive (Council Directive 92/43/EEC). These will be outlined and assessed in the following sections.

The oldest environmental SMR, the Nitrates Directive (Council Directive 91/676), aimed to reduce pollution of ground or surface bodies of water. The Nitrates Directive is a key instrument and integral part of the Water Framework Directive (Directive 2000/60/EC), as Nitrogen from agricultural use is the main cause of groundwater pollution in the EU.
The directive is composed of monitoring bodies of water regarding their nitrate levels, designating especially nitrate vulnerable zones, establishing compulsory limitations for these areas, and establishing guidelines for farmers to prevent nitrate pollution (See Appendix 6).

The second environmental SMR is the Natura 2000 directive on wild birds (Directive 2009/147/EC) the member states designate suitable Special Protection Areas, based on scientific criteria like a 1 percent population of a listed vulnerable species. The designated areas become a part of the Natura 2000 Network. Like in several other directives the member states have a margin to determine suitable criteria for the selection of areas (European Commission, 2019).

The third SMR, the Natura 2000 Habitats Directive (Council Directive 92/43/EEC), resembles the directive on wild birds and distinguishes Special Areas of Conversation. Member States propose areas, the Commission then assesses the suggested areas, considers relevant stakeholders (e.g. owners) and, composes an expert seminar on each proposed area to ensure the high-quality of the sites. Eventually, the areas can be declared to be 'of special community importance' and be protected under national law.

ii) Good Agricultural and Environmental Conditions

The GAEC framework (Annex II Council Regulation 1306/2013) applies to farmers benefitting from any form of direct payments by the CAP (see Section 2.1). As a policy instrument GAEC standards are therefore financially incentivized. The GAEC framework focuses on four main areas: water, soil, carbon stock, and landscape and constitutes seven corresponding standards (see Table 1). Minimum standards are set at a national or even regional level depending on the member states (Eurostat, 2020). This results in a variety of minimum requirements throughout the EU or even regional discrepancies within the member states.

The following Table 1 summarizes the GAEC standards under CAP pillar one cross-compliance.

Table 1 Good Agricultural and Environmental Conditions for EU farmers benefitting from direct payments under CAP

Subject	Main Issue	Requirements and Standards
Environment, climate change, good agricultural condition of land	Water	**GAEC 1:** Establishment of buffer strips along watercourses **GAEC 2:** Where use of water for irrigation is subject to authorization, compliance with authorization procedures **GAEC 3:** Production of groundwater against pollution: prohibition of direct discharge into groundwater and measures to prevent indirect pollution of groundwater through discharge on the ground and percolation through the soil of dangerous substances, as listed in the Annex to Directive 80/68/EEC in its version in force on the last day of its validity, as far as it relates to agricultural activity
	Soil and carbon stock	**GAEC 4:** Minimum soil cover **GAEC 5:** Minimum land management reflecting site-specific conditions to limit erosion **GAEC 6:** Maintenance of soil organic matter level through appropriate practices including a ban on burning arable stubbles, except for plant health reasons
	Landscape, minimum level of maintenance	**GAEC 7:** Retention of landscape features, including where appropriate, hedges, ponds, ditches, trees in a line, in group or isolated, field margins and terraces, and including a ban on cutting hedges during the bird breeding and rearing season and, as an option, measures for avoiding invasive plant species

Data Source: Annex II of *Regulation. 1306/2013/EC*

2.3.Non-compliance and sanctions

To understand the steering effects of conditions like cross-compliance, one must know that they are not per se eligibility requirements but lead to penalties when they are not respected. If non-compliance is detected farmers will be sanctioned in the form of reduction of all direct payments received from the CAP (Regulation 1306/2013 Art. 91). The Commission set the level of sanction for first-time non-compliance at 5 percent of the total amount granted (Jongeneel, 2019; ECA, 2008). The rate can be altered at the national level with a range of 1 to 5 percent (or even suspended in certain instances) which leaves a large margin of discretion on the national level. If repeated non-compliance occurs the level can be raised to a maximum of 15 percent of the amount granted (Regulation 640/2014/EC Art. 38-41). Member states have to inspect at least 1 percent of their farms annually. The steering effects that cross-compliance standards establish are only effective if non-compliance is effectively monitored. Also, the relatively harmless sanctions possibly lead to the limited effectiveness of the policies (ECA, 2008).

3. General Practice and application

The benefits from the EU income support and direct payment scheme outweigh the possible inconveniences of complying with a high number of requirements and standards. A significant number of European farmers participating in support schemes applying criteria that go beyond the minimum standards of cross-compliance. Minimum standards like SMRs have in many instances long been integrated into the current production process and costs.

Basically, cross-compliance rules from pillar 1 which present lower standards combined with more targeted rural development measures from pillar 2 constitute a stable framework that has benefitted environmental and sustainability objectives over time (Volkov & Melnikiene, 2017).

However, the level of detail in farm inspection carried out by member states varies considerably, making an overall EU wide assessment of cross-compliance problematic (Matthews, 2013). For scale, in 2007, 240 898 on-farm inspections were carried out in the member states of which 11.9 percent showed varying degrees of non-compliance (European Commission, 2007). The old member states were inspected according to both SMRs and GAECs. Consequently, the non-compliance percentage of 16.4 percent was high. Most non-compliance was detected in the registration of animals and regarding the Nitrates Directive. There were legal infringement procedures against a few Member States relating to the violated Nitrates Directive, which indicated that not only farm-level non-compliance but member states non-compliance is problematic.

i) Tendencies and Stakeholder standpoints

A controversial debate accompanied the introduction of cross-compliance through the Fischler Reform. Cross-compliance and greening through pillar 1 can be considered a sort of universalist scattergun approach, while more targeted policy measures could be realized through pillar 2. Indeed, greening through pillar 2 was the recommended approach by the OECD agriculture ministers in the 1998 Communique in the OECD Report on Agricultural Policies (OECD, 2002).

This fundamental debate reopened with the debate over the 2013 CAP framework. The Commission was hesitant to move funds away from the universally accessible pillar 1 income support scheme. Thus, expenditure through pillar 1 remains more significant than the expenditure on agri-environmental measures from pillar 2. This could be considered an agriculture or farmer-friendly decision.

Environmental NGOs are not particularly fond of cross-compliance as an effective instrument for greening. There is continuous critique of the CAP as an inadequate response to the stressed state of Europe's natural environment. In 2011 Birdlife and others stated that 'Greening will survive as a concept but with very limited impact and limited environmental significance', also deeming that the outcome for the intended reform will be 'much less ambitious than what the Commission proposed' (Birdlife *et al*., 2011).

A further critique targets the additional Greening payment, as attaching ambitious environmental standards only to additional payments and not to the basic payments limits the penalty for non-compliance with higher standards to the loss of the former. CAP greening and sustainability agendas constantly face claims of greenwashing especially by NGO representatives (IEEP, 2013). The greening of income support through cross-compliance remains controversial.

ii) Indicator evaluation

Despite its shortcomings CAP environmental reforms have been found to have an overall positive effect on the environment. Standards like GAEC requirements made a positive contribution to biodiversity (Sterly et al. 2018), however, due to non-compliance the effects are diverted. Looking at some monitoring and studies targeted specifically at the application of the first CAP pillar confirms this (see Section 3 and 3.1). The European Commission collects over 45 so-called context indicators to evaluate the performance of agricultural policy and monitor the effects of CAP reform. These indicators can help assess the effects of environmental standards. There are several CAP context indicators from the environmental category whose collection and assessment can be directly related to the SMRs and GAECs under cross-

compliance (see Section 2.2). They are therefore worth accessing. All data is taken from the CAP context indicators 2014-2020 statistics.

The Land Cover Indicator measures a slight decrease in agricultural areas by -1.2 percent from 2000 to 2012. According to data the area under Natura 2000 has not increased since 2012, the percentage of agricultural land under protection remains consistent at 11 percent of the total land. The farmland birds index shows an ongoing alarming decrease in population (56 percent in total) but a slower decline than in the 90s and a stable population since 2015. In terms of the conservation status of agricultural land, the statistics show a mixed trend. A significant improvement in the 2007-2012 period is registered for Malta, Cyprus, Spain, and the Czech Republic. In other countries like Germany, Italy, Latvia, and Portugal the habitats assessed as favorable have decreased significantly (e.g. 48 percent in Italy).
The water quality indicators measure the potential pollution of water through agriculture by nitrates and phosphates. Generally, nutrient pollution through agriculture affects soil, air, and water quality and has a negative impact on the ecosystems (EEA, 2018). In the period from 2003 to 2013, the nitrogen surplus decreased by 7.4 percent from an average of 55kg N/ha to about 51 kg N/ha. Finally, the soil organic matter indicators estimate the total organic carbon content in arable soils. Grassland has a higher organic carbon content than cropland or cultivated land. The total organic carbon amount in the EU increased to 14 017 megatons in 2012. In that sense, the trend appears to be beneficial.

Clearly, the trends are mixed and due to the high variability between regional and national indicator assessments and the different frequencies of assessment evaluation is hard. This is indicated by the below selection (see Table 2).

Table 2: Selected CAP Context indicator trends liked to cross-compliance requirements

CAP Context Indicator	Linked cross-compliance (SMR or GAEC) requirement	Development tendency
31 Land Cover	GAEC 4,5,6	positive
34 Area under Natura 2000	SMR; Natura 2000 directive natural habitats (Directive 92/43/EEC)	neutral
35 Farmland Birds index	SMR; Natura 2000 directive on wild birds (Directive 2009/147/EC)	negative
36 Conservation status of agricultural habitats	SMR; Natura 2000 directive natural habitats (Directive 92/43/EEC).	neutral
40 Water quality	GAEC 1,2,3; SMR; Nitrate's directive (Directive 91/676)	positive
41 soil and organic matter	GAEC 4,5,6	positive

Data: CAP context indicators 2014-2020 statistics.

4. Conclusion

This chapter offered a descriptive analysis of the agricultural eligibility and environmental requirements for European farmers. On this basis sub-questions 1 and 2 can be answered. Section 2.1 outlined the agricultural conditions and offers the answer to question number 1): A farmer must qualify as active, he/she must legally hold decision making power, but must not own the land. The agricultural land must be a certain size to qualify for minimum payments and a minimum of agricultural activity and food production needs to be performed on the land, which must be located on EU territory.

Section 2.2 outlined the Environmental conditions and offers the answer to question number 2): It outlined and defined environmental SMRs, which apply to all EU farmers, whether they receive support or not and GAECs which are the basic requirements to qualify for CAP income support also possible sanctions in case of non-compliance were presented which are important for evaluating the policy. Overall the frameworks definitions and requirements seem sensible and the linkages between DPs and environmental standards appear to be useful steering

instruments, however, the analysis of the existing monitoring and sanctioning mechanisms and the glance at the stakeholder standpoints produce a mixed picture.

Chapter 3: Document Analysis ‘‘2013 General Union Environment Action Programme to 2020 living well within the limits of our planet“

1. Introduction

This chapter takes an in-depth look at definitions and objectives of the European sustainability agenda by analyzing and contextualizing the 7th Environment Action Programme (EAP) also referred to as the 2013 General Union Environment Action Programme to 2020 ‘living well within the limits of our plant (Decision 1386/2013).

The current EAP framework will be analyzed regarding its objectives for EU agriculture. The tendencies in the application of the 7the EAP will be evaluated via stakeholder standpoints and looking at indicators directly monitoring the objectives of the EAP. An interim conclusion will be drawn on the sub-question *3) What environmental conditions do European farmers have to comply with to fit the General Union Environment Action Programme to 2020?*

2. Development of EU Environmental Action Programmes

In the realm of EU environmental law, the EAPs have a rather special role and legislative procedure. Since the Treaty of Lisbon, the legal basis is defined in Art 192 (3) TFEU which states that general action programmes are adopted by the ordinary legislative procedure. Environment Action Programmes are proposed by the Commission and according to Art 192 (3) TFEU established by the EP and the Council. Consequently, these programs are formal legislative acts and legally binding. Therefore, they qualify as hard law (Epiney, 2013). This means that the objectives of the program have to be adopted in the form of directives and regulations. The adoption of measure is regulated by Art 192 (1) and (2) TFEU.

Environmental Action Programmes originated in 1972 at the Stockholm Conference of Heads of States and Governments. This conference first deemed Common Environmental Policy a necessity and activated the Commission to install the first EAP in 1973. EU environmental law and policy were a considerable instrument to further integrate the single market and advance the level-playing field. Driven by pioneer member states the peak for the introduction of environmental policy was the 1980s and 1990s (Burns et al. 2020). Since 1972 seven successive EAPs have been issued ranging in terms of 3 to 10 years. The fifth EAP was the first to be given a duration of 7 years (1993 to 2000). The 7th EAP followed this duration period and lasted from 2014 to 2020.

3. The current framework

The present 7th Environmental Action Programme (2014 - 2020) was adopted in November 2013. It is an overarching strategic framework for EU environmental policy planning and

implementation (EEA, 2018). It offers nine priority objectives: three thematic priority objectives, that aim to i) protect, conserve and enhance the Unions natural capital, ii) turn the Union into a resource-efficient, green and competitive low carbon economy and; iii) safeguard the Unions citizens from environmental-related pressures and risks to health and well-being. Moreover, there are four horizontals enabling measures and two additional spatial measures. Although it does not contain specific actions, the details of the priority objectives are established in the Annex of the EAP.

The first priority objective (protection, conservation, and enhancement of natural capital) (Art 1 (a)) is the objective with the most latent relation to agriculture policy. Reference is made to existing agri-environmental legislation like the Water Framework Directive (Directive 2000/60/EC) and the Habitats and Birds Directives (Directive 2009/147/EC). Additionally, soil protection, sustainable use of land, and management of forest resources are mentioned.
The second thematic priority objectives (resource-efficiency and pursuing a low-carbon economy (Art 1 (b)) relates to the systematic prevention of resource scarcity and the creation of a circular economy. For effective implementation, the European Commission presented the Circular Economy Action Plan (COM (2015) 614) in 2015.
The third key sectoral objective (public health and environment-related pressures to EU citizens (Art 1 (c))) specifies that existing legislation relating to public health e.g. EU waste legislation like the Waste framework directive (Directive 2008/98/EC) have not been fully implemented and are therefore hindering the increase of annual turnover in the sector (Art 1. (d)).
In addition to the three sectoral priorities, four horizontal enabling objectives are outlined by the framework. Firstly, better implementation of existing legislation and improving scientific research (Art 1 (e)). The Commission emphasized that the assessment of the 6th EAP came up with shortcomings in legislative implementation, as a certain number of measures had not been adopted (COM (2011) 531). Secondly, monitoring and reporting on environmental developments to policymakers as well as to citizens. Here the EAP affirms the precautionary principle (Decision 1386/2013 (27)), which helps to ensure a higher level of environmental protection through preventative decision-taking in case of risk. The third horizontal objective is the encouragement of environment and climate-friendly investment from the public and private sectors. The EAP sets a minimum of 20 percent of the EU 2014 – 2020 budget to be spent on environmental adaption and climate change mitigation. Related to this the 7th EAP also suggests shifting taxes from labor to pollution and decreasing harmful subsidies, while also affirming the role of the existing polluter-pays principle (Art 2 (2)).

The last enabling horizontal measure relates to the coherence with other policy areas and aims at full and multilevel (regional, national, EU) integration of environmental requirements into policy sectors like transport, energy, and agriculture. Two additional spatial objectives complete the program: making EU cities more sustainable (1386/2013 Art 1(1h))) and helping the EU to navigate internationally with more assertiveness in regard to environmental and climate regimes (1386/2013 (31)).

The program is in force since January 2014. Although the action programmes themselves do not give rise to concrete legal obligation they are formal legislative acts, legally binding to EU institutions (Epiney, 2013). The program's objectives have to be adopted as directives and regulations (Art 192 (1) and (2) TFEU) in order to be executed and implemented by the member states.

4. The current framework on agriculture

With the agricultural sector being one of the biggest polluters, the high attention that is given to the sector in the framework is vital. Agricultural policy and the CAP are referenced in multiple objectives of the 7th EAP but most prominent in the first key objective (protection, conservation and enhancement of natural capital (Art 1 (a)), and in the seventh horizontal enabling objective (integration and coherence of environmental policy with other policy areas). The existing body of agricultural environmental legislation is considered the basis for achieving the first key sectoral objective and the main legal instruments (Art 2 (1 h) and Annex 17)[1]. They are considered the environmental acquis by the 7th EAP

The framework generally acknowledges the special role of agriculture and forestry in maintaining natural resources, good air and water quality, biodiversity, and diverse cultural landscapes as they together represent 78 percent of land cover in the EU (Annex No. 20). Therefore, the EAP Annex specifies the need for further greening of the CAP by supporting beneficial practices such as crop diversification, the protection of permanent grassland and grazing land, and sustainable agroforestry, maintenance of ecologically valuable farmland and forest areas.

The CAP is also directly referenced in Annex No. 5 and No. 12. The CAPs 2003 reform establishing cross-compliance is put forth as a positive example for the integration of environmental objectives into other policy sectors and activities, as it links direct payments and

[1] Water Framework Directive (Directive 2000/60/EC), the Marine Strategy Framework Directive (Directive 2008/56/EC), the Nitrates Directive (Council Directive 91/676/EEC 1991), the Floods Directive (Directive 2007/60/EC), the Priority Substances Directive (Directive 2008/105/EC), the Air Quality Directive and related directives (Directive 2008/50/EC and Directive (2004/107/EC) and the Habitats and Birds Directives (Directive 2009/147/EC).

GAECs. Annex No. 12 of the 7th EAP calls for the reform of existing policies and legislation to deliver environmental benefits, like protection of vulnerable ecosystems (water bodies, soil, and habitats for species).

5. General practice and application

In the last four decades, the EU has sought to develop a role as an environmental pioneer, most recently further motivated through the US withdrawal from the Kyoto Protocol and the Paris agreement (Bruns et al. 2020). However, there have always been internal challenges to this agenda, like member states pushing for deregulation, in favor of certain industries (e.g. UK) or the Eastern EU enlargement, adding arguably poorer member states that did not have environmental policies as their first priority (Bruns et al. 2020).

In line with article 4.2 of the 7th EAP Decision, an evaluation of the Action Programme was carried out. The Evaluation took place in May 2019 and came to the conclusion that most progress was achieved relating to the second key objective of the framework (resource-efficient, low carbon economy), while the least progress was made in actions related to nature protection, environment and health, and integration (of environmental policies) (COM/2019/233). The EEA assessment drew the conclusion that the progress is still lagging behind in many areas and that it appears unlikely that the objectives linked to the protection of nature will be met (see Section 3.1.). This evaluation was also shared by the European Economic and social committee and the Committee of the regions (Krämer, 2020). In the realm of environmental legislation and policy, it is inherently difficult to measure long-term policy benefits. Also attributing environmental progress to a particular EAP is difficult, as most developments take longer than five years to marginalize (COM/2019/233 1, III).

Environmental regulations are generally very vulnerable to being dismantled. They are long-term policies associated with hindering economic interests, which creates skepticism of increased environmental standards. These tendencies have also been acknowledged by the European Commission on many occasions: In 2007 the Commission stated that the state of the environment is still worsening and that environmental law and action programmes had not been sufficiently effective over the last decades (COM (2007) 225) (See Appendix 7).

The 7th EAP called for full implementation of existing agri-environmental legislation in order to achieve significant environmental improvements in the agricultural sector. The realization of this depends on the member states and EU institutions. The Commission published overviews of member state implementation performance in 2017 and 2019 highlighting the non-

compliance of several member states (Krämer, 2020; Commission, COM (2017) 63 and COM (2019) 149).

i) Indicator evaluation

The evaluation report of the action programme (COM/2019/233) from May 2019 generally confirms the importance of the EAP as a strategic framework to guide policy-makers and offer commonly agreed priorities.

Progress and regress of objectives were assessed by indicators from the annual environmental indicator reports by the EEA (2016 – 2018 for the 7th EAP). The annual report evaluates 29 indicators categorized by the three key environmental policy objectives in support of the 7th EAP. Each indicator in the EEA report either directly references the 7th EAP or statements related to the EAP objectives.

Agricultural policies were particularly prominent in the first key objectives of the 7th EAP. This also becomes evident when looking at the indicators selected by the EEA for the progress evaluation like nitrogen balance in agricultural land or EU protected species data were used for measuring effects of the first priority objective.

As already mentioned in chapter 2 Section 3.2. the nitrogen pollution in the period from 2003 to 2013 decreased by 7.4 percent. However, the EEA report states that there was no further reduction from 2010 to 2015. Therefore, the EEA marks the indicative outlook as not meeting the objective. Also referencing chapter 2 further negative development can be detected in the abundance of common birds species. The 2020 objective to halt the loss of biodiversity is highly unlikely to be met, as the trends stagnated. Along the same lines the indicator on species of European interest, which includes an assessment of the conservation status of species under the habitats and birds directive, shows a negative trend and, according to the EEA, is not likely to be met by 2020. The indicator on Habitats of European Interest shows limited improvement in the conservation status of protected habitats, as was stated in Chapter 2. The 7th EAP called for a significant improvement in good conservation status the EEA also deems this objective as not met by 2020. A similar trend can be seen with the status of surface waters indicator. The EAP called for a good status of surface waters, and although the EEA European Waters assessment showed a slight improvement a large portion of surface waters still fail to achieve the good status defined by the Water framework directive (Directive 2000/60/EC).

The only indicator that shows a clear positive trend according to the EEA and will meet the 2020 goal is the indicator on forests. It shows a positive trend and according to the EEA will meet the 2020 goal. 65 percent of annual forest growth is harvested, which indicates a

sustainable use of resources. In summary, the EEA report concludes that for the first priority progress is not yet in line with the ambitions of the 7th EAP put forth.

Table 3: Selected EEA Indicators evaluating EAP objectives linked to the agricultural sector

EEA Indicator 7th EAP	Indicator Trend	Outlook for meeting the selected objective by 2020
Terrestrial ecosystem eutrophication	positive	negative
Nitrogen balance	positive	negative
Land take	positive	negative
forests	neutral	positive
Status of marine fish and in European seas	positive	negative
Selected species, common birds and butterflies	negative	negative
Species of European interests	negative	negative
Habitats of European interest	negative	negative
Status of surface waters	neutral	negative

Data Source: EEA Report No 19/2018

Looking at the evaluation report on the 7th EAP issued by the Commission (COM/2019/233) and the picture the EEA annual environmental indicators report offers on agriculture environmental indicators a regress or stagnation in terms of environmental effects becomes clear. The overall negative picture the EEA indicator report draws, is partly rooted in the high ambition objectives the program aimed at. Even if slight improvement can be detected or the recorded trend is neutral the high target set by the EAP can easily be missed. While CAP context indicators that were utilized in Chapter 2 simply show trends and tendencies and compare current assessment periods with earlier periods, the EEA Environmental indicator report draws a negative picture, due to its focus on the EAP objectives.

6. Conclusion

This chapter offered a descriptive analysis of the general environmental objectives of the 7th EAP and targeted objectives relating to the agricultural sector and the CAP in the framework. To answer the third sub-question application tendencies were assessed by looking at EEA indicators and stakeholder standpoints. Based on this, question the *What environmental conditions do European farmers have to comply with to fit the General Union Environment Action Programme to 2020?* can be answered.

The analysis of the 7th EAP identifies several objectives relating to the agricultural sector, the CAP, and cross-compliance. The CAP is most prominent in the first and seventh objective. The core conditions the 7th EAP designates for farmers and the agricultural sector is the existing body of agricultural environmental legislation (see Section 2.2). Regarding the integration of environmental policy in other policy areas cross-compliance is commended as a positive example. The Evaluation of the framework (see Section 3) through the commission and independent institutions like the EEA concluded that although some progress was made and the 7th EAP fulfilled its role as a guiding framework for environmental policy makers, the objectives were set very high and especially agri-environmental objectives were almost all not meeting the target.

In order to comply with the General Union Environmental Action Programme or the 7th EAP European Farmers would have to fully implement the agri-environmental acquis, which would in return deliver environmental improvements and positive indicators trends. However, actual legislation and environmental standards for farming are implemented by the member states and are lagging behind the ambitious goals of the EAPs.

Chapter 4: Case Study: Environmental conditions in the European Sugar Farming Sector

1. Introduction

All sectors of European agriculture are to some degree depending on DPs under the CAP. The sugar cultivation sector was chosen as it offers an excellent example of how CAP DPs are existential for certain agricultural sectors and could shape the practice and landscape of a sector regarding environmental policy.

The EU is the world's largest producer of beet sugar, growing, and processing around 50 percent of the global sugar beet harvest. Not least because the sector has received attention over the last decade when the abolition of the quota through the 2006 sugar reform, the decoupling of prices form production caused a 'sugar crisis'. Today there are about 140 000 sugar beet farmers left compared to 300 000 in 2006. They are located in 19 different member states with around 28 000 additional jobs related to the processing sector (HLG Report, 2019).

The following chapter will explain how the crisis in the sugar sector can be partially explained by EU agricultural and market measures and which positive or negative effects the sector renovations had.

2. The Case of the European Sugar Sector

Sugar - together with milk and starch - producers, were guaranteed to received price support by means of a set price as early as 1968. Production quotas for each member state were set and the export surplus was undercut to protect the internal market. In 1995 the EU eventually pledged to decrease its subsidies for exports at the Uruguay Round. Domestic sugar production was regulated through the Sugar Common Market organization in accordance with import levels. This price-supporting-system made more or less cost-efficient sugar cultivation lucrative all over the EU. The imbalance of the existing quotas became conspicuously evident with the Balkan countries joining the EU and was subsequently addressed at the WTO Sugar Panel in 2005.

This build-up to the 2006 sugar regime reform, that aimed at protecting international competition and making EU sugar producers more competitive, resulting in a concentration of producers predominantly in France, Germany, and Poland (60 percent of total) (HLG Report 2019). A further intention was to assure coherence with the 2003 Fischler CAP Reform. The intend was to finally remove the costly production quota system in the realm of decoupling subsidies to specified production and remove the quota regime until 2015 (postponed to 2017). All of this contributed to the present low EU sugar price levels. Immediately after the removal of the costly EU supporting prices, the sugar price decreased by 36 percent within two marketing years. In 2017/2018 the European sugar crisis peaked because of decreased import

taxation and a record high home production (DG Agri, 2018). Price levels per ton significantly dropped below the minimum price set by the EU. The all-time low EU price within the EU was reached in January 2019 with 312 EUR per ton.

In November 2018 the Commissioner for Agriculture Phil Hogan addressed the prevailing restructuring problems in the sugar regime policy by creating the High-Level Group (HLG) on sugar. In January 2019 the High-Level group on sugar presented its evaluation report on existing policy and market measures in the sector and proposed a summary of recommendations (HLG Report, 2019). The transitional policies and exceptions that were taken for the sector highlight the actual implementation of agri-environmental policies and standards in the face of crisis.

3. Formal Agricultural and Environmental conditions and their exceptions and limitations in the sugar sector

The restructuring reform has largely been implemented and led to the decoupling of most DPs granted to the sector (EU28 average 90 percent decoupled) (HLG Report, 2019). Minimum requirements for direct payments in the 2020 sugar sector mostly follow the same lines as in other agricultural sectors. (Regulation 1307/2013 and Regulation 2017/2393). However, member states are still allowed to allocate targeted aid meaning voluntary coupled support, if they consider the sector to be in difficulties (Regulation 1307/2013 Art 52; European Commission, 2020 III). There are special provisions in place for the national ceiling directed to coupled support (BU, RO, CR) (Regulation 1307/2013 Art 6, 7, & 6-20). Coupled support is independent of the universal DP Scheme. 11 member states make use of these exceptions.

Beet sugar cultivation has an environmental impact through emissions to soil through fertilizer use, plant protection products, and fossil fuel-driven machinery (CFES, 2018). There are overall directives in place, like training for professional users of plant protection products (Directive 2009/128). However, the special volatility in the sector has effectively led to exceptions not only from cross-compliance through granting additional coupled support. An example is the 'emergency authorization' (Regulation 1107/2009) of neonicotinoids. Since 2013 the European Commission severely restricted the use of plant protection products that contain neonicotinoids. However, member states can under Art 53 of Regulation 1107/2009 give emergency authorization. Of the total 40 emergency authorizations since 2013, 23 were given to sugar beet farmers due to the lack of alternative products (HLG Report Table 5, 2019). In 2017, the European Commission asked the European Food Safety Authority (EFSA) to assess whether the repeated authorizations granted up to 2017 fulfilled the requirements of Article 53. EFSA concluded that this was not the case for about one-third of the authorizations (HLG Report,

2019). Consequently, the European Commission appealed to the countries, but only half reacted positively. The Commission acknowledged that legally binding measures were necessary to prevent repetition. For the European Commission, there are no effective instruments to sanction this behavior. This illustrates that member state competences regularly undermine high EU environmental standards and legislation.

4. Stakeholder Standpoints and Conclusion

The case of the sugar sector highlights the priorities of EU agricultural policy. Even after the intended end of the price support, 11 member states decided to continue to grant additional coupled support to the decoupled income support to sugar beet producers. (HLG Report, 2019). These EU Countries stated that they need to stabilize farmer's income and the production levels in the sector. The six member states that don't grant coupled price support (DE, AT, SE, NL, DK, UK) highlighted the distortions and artificially maintaining of the sector (HGL, 2019).
The report of the High-Level-Group interestingly focuses on the member states protesting the authorization of coupled support and restricted plant protection products not in view of their environmental consequences but regarding distorting competition on the EU market.

Clearly, the EU sugar sector needs to continue adapting to the post-quota and price support environment, this includes better adjustments to a highly volatile market through the existing direct payment scheme under cross-compliance requirements. The EU's objectives in this specific case and time appear notably different from the EAP or cross-compliance objectives.

Chapter 5: Coherence of the CAP direct payment scheme and the intended increase of the environmental sustainability standards of the EU

1. Introduction

To return to my overall research question, this last chapter analyzes the coherence between the previously outlined policy objectives of the CAP Income support and the Environmental policy. The findings from Chapters two and three, the answers of the sub-questions help assess the level and reasons for the integration of environmental policy objectives into EU agricultural policy. The limitations of competence and implementation of EU legislation towards integrating environmental standards into the CAP were already touched upon and will be restated for a comprehensive conclusion. Finally, the current state of implementation and coherence of the policy objectives of the two frameworks that were analyzed will be assessed. The practical application of agricultural and environmental conditions observed in the case study will help to illustrate existing constrains on a coherent application of the two frameworks.

2. The observed level of integration of environmental policy into the CAP

Chapters two and three as well as the case study outline the integration and incentivization of environmental objectives through CAP DPs. However, the question remains whether the extent of integration of environmental standards observed in Chapter two is supporting or undermining the objectives of the EAP.

Since 1992, the scope of application of sustainability standards and environmental legislation in EU agriculture has extended immensely. Cross-compliance is the key agricultural policy instrument for greening the CAP specifically DPs under the first pillar (European Commission, 2020 II). SMRs apply to all EU farmers. GAECs are monetarily incentivized and long integrated into the production process. An existing body of environmental legislation (e.g. Nitrates Directive 91/676) constitutes the basis of cross-compliance standards. This can be considered a stable framework that has supported environmental and sustainability objectives over time. The shift from price support and decoupling from production quotas has increased the possibility of environmental policy alterations from the EU side and has had measurable benefits for the EU environment (see Ch 2 Section 3.2).

3. Observed points of non-coherence and limitations in the implementation of environmental standards in the CAP

As previously stated, the level of farm inspections and audits when applying standards varies between the member states. There have been legal infringement procedures against member states in connection to the violated Nitrates Directive, which indicates that not only farm-level non-compliance but also non-compliance by the member states is problematic. This highlights the central limitation of the integration of environmental policy. Namely that agricultural policy

falls within the shared competences of the EU and its member states (Art 4 (2) TFEU). This prevents the comprehensive universal application of the law due to the wider scope of competence at the national level. The effectiveness of cross-compliance and the EAPs are affected by discrepancies in or changes to sanctions for violations at member state level, such as postponing reforms as the case study has shown or the alterations of sanctions.

The instances where the commission sets limits, such as the maximum reduction of 15 percent on all payments granted in the case of non-compliance, cannot be considered too ambitious (Regulation 640/2014 Art 38-41). Although the greening of CAP continues and has had measurable effects, the universalist, scattergun approach of greening through income support instead of a more targeted approach through CAP pillar 2 remains controversial. The decision to focus most of the EU budget on supporting universalist income support with a limited scope on EU level and at different levels of national implementation is undoubtedly geared towards stability and is beneficial to producers.

4. Legal basis and reasons for constraints of implementation of environmental policy in the CAP

All areas of shared competence (Art 4 (2) TFEU) between EU and the member states must comply with the principle of proportionality (Art. 5 TEU) and must be in line with the principle of conferral, which limits the union to only act if the Treaties confer competence in a policy area to the EU (Art. 5 TFEU). The extent to which exemptions such as in the case study or the application of sanctions have been made is directly related to the wide member states competence in the application of the frameworks. The member states are not restricted from taking independent actions and agri-environmental standards on the national levels often differ from EU guidelines. Regarding the findings from Chapters two and three, the EU seems to aim to guide the member states with overarching policy or even set high standards through regulations where it holds competence, but it does not act outside of its competences or even sets high standards through regulations where it holds the competence. As most agri-environmental standards set on the EU level are in the form of directives, not regulations, it is upon the member states national administrations to choose the form and method of application. Although overarching action plans like the EAPs do have a special legal role (Art 192 (3) TFEU), which make the objectives of the program's compulsory for EU institutions, the operationalization of the objectives is up to each member states.

5. The coherence of the two frameworks

Chapters two and three showed how closely connected the EAP and the CAP cross-compliance frameworks are regarding objectives. The EAP even stresses and affirms existing CAP environmental legislation (see Ch 3 Section 2.2). This chapter showed how the observed integration and application of environmental standards into the CAP direct payment scheme respects the scope of shared competence, the principle of conferral, and the principle of proportionality. Nonetheless, there are considerable differences in the legal nature of the frameworks, which explains their levels of application. Their objectives although aligned vary in ambition and implementation. Ultimately, environmental minimum standards in EU agriculture policy are integrated through cross-compliance. However, the different scope of application of standards on the member state level, the limited standards of the European Commission, and the suspension of these policies in the face of crisis (see Ch 4 Section 4) lead to inconsistent policy results or varying degrees of effectiveness of environmental policies. It is obvious that CAP income support although additionally legitimized through greening does not deviate from its core intention of stabilization of the agricultural sector. The environmental standards of the CAP's DP scheme and the environmental objectives of the 7th EAP are not contradictory but the Union should seek to achieve greater coherence between the levels of implementation and application in agricultural and environmental policy. That way, the coherence between Union policies as imperatively affirmed in the Treaty of Lisbon might eventually be given.

Chapter 6: Conclusion

Finally, this chapter will answer the overarching research question *'To what extend is the CAP's direct payment scheme supporting or undermining the intended increase of environmental sustainability standards of the European Union?*'. It will restate the findings from the previous Chapters and with the analysis from Chapter 5 hereby answer the question of the coherence of the objectives of the framework.

This thesis followed a qualitative inductive methodology. Chapter two outlined the fundamental agricultural conditions and standards for EU farmers under the CAP and the extent to which environmental requirements are integrated into the income support scheme under the CAP. The environmental eligibility requirements for CAP, the Objectives of CAP greening, and the related legislation were identified (see Ch 2 Section 2.1 and 2.2). As observed in the practical application and indicator evaluation (see Ch 2 Section 3 and 3.1), the CAP is an area in which competence is shared between the EU and the member states (Art 4 (2) TFEU), which is why the degree of integration of environmental policy and the way in which non-compliance with minimum standards is sanctioned, vary widely between member states (see Ch 2 Section 2.3). Some practical reasons for this discrepancy have been given. Monetary incentivization to integrate environmental standards has measurably improved standards across the EU (see Ch 2 Section 3.2). In that sense, DPs have demonstrably supported the intended increase of environmental sustainability.

In chapter three the constitution of the overarching EU environmental strategy was analyzed and the extent to which agriculture plays a role in the framework observed. Objectives and related legislation were identified. Due to their legal nature as hard law policies, they are legally binding and their objectives have to be adopted in the form of directives and regulations by EU institutions. However, as was found in the analysis of general practice and indicators (see Ch 3 Section 3 and 3.1), although objectives are set and legislation is adopted, independent monitoring and assessment show that the ambitious objectives set by the framework are not met. This hurts the legitimacy of the EAPs and subsequently the entire EU environmental policy. The EAPs set high environmental standards for EU farmers but the ambitious objectives fail as institutionalized processes fail to implement and monitor them and sanction non-compliance effectively. In that sense, the implementation process of environmental standards through EAPs is politically symbolic but lags behind the ambitious objectives.

The case study of the sugar beet sector helped to analyze the application of income support and what priorities are set in the restructuring of certain agricultural sectors. The caste study helped to illustrate that the main goal of EU granted DPs is still the stabilization and reliability of production as well as compensation for removed price support (see Ch 4 Section 2 and 2.2). As shown by the example of the sugar beet sector, high environmental ambitions will be cast aside in the face of crisis and unconditional payments granted in the face of possible profit losses. The EU's objectives in this specific case differ strongly from the EAP and cross-compliance objectives. The way in which DPs are granted many times prevents positive policy effects and synergies. Although the measures in the observed case comply with EU agricultural legislation, the scope and discrepancy in the application that was observed in the case study certainly do not promote environmental sustainability standards. The margin of competence that was given to the member states (see Ch 4 Section 2.2 and 3) also intensified this effect. In this case, the instrumentalization of CAP direct payments has undermined the intended increase in environmental sustainability standards.

The overall analysis of the coherence of the objectives of the two policy frameworks helped to answer the main research question. The objectives and intended standards are coherent. The EAP and direct payment scheme under cross-compliance aim at similar objectives and affirm the same existing body of agri-environmental legislation (see Ch 5 Section 5). However, the level of implementation and application is quite different due to the different legal natures and shared competences between the EU and the member states. Therefore, the policy frameworks support and affirm each other politically and legally.
The CAP direct payments scheme supports and affirms the increases in environmental sustainability standards through cross-compliance and financial incentives. The way cross-compliance standards are applied however is undermining the high standards set by the overarching EU Environmental Action Programme.

Future research that does not take a legal perspective might perform an in-depth analysis of discrepancies in environmental policy application in the member states. The scope of this research was limited, the choice to analyze the 7th EAP as an overarching framework for the environmental policy was reasonable but the framework doesn’t cover all 27 EU national environmental policies comprehensively. Neither does CAP cross-compliance illustrate all national agri-environmental standards but it is a good choice for evaluating overall EU

standards. And evidently, this thesis could only be devoted to one case study in one sector. Also, the limited word count posed a challenge.

For the new Commission led by von der Leyen reforming of European Environmental Policy has been a core objective. The new European Green Deal was presented on December 11th, 2019, and the plan passed the EP and on January 15th, 2020. The Green Deal is a comprehensive policy framework that touches all areas of agricultural and industrial production in the EU. It includes multiple new policy approaches like the ‚Farm to Fork' and ‚Biodiversity strategy' to achieve sustainable agricultural practice while also promoting stability and food security. There are also specific targets in a place such as a 25 percent soil quota dedicated to organic farming and a 50 percent reduction in pesticides and fertilizers. Clearly, the deal represents a new era of agri-environmental policy and for that reason has been received controversial. Currently, the ongoing health crisis has shifted priorities and is likely to affect the planned 2020 reform and strategic implementation of the new framework.

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Chapter 8: Appendix

1) Since the Maastricht Treaty (1992) most decisions on agriculture are made by the ordinary legislative procedure, established through Art 42(1) and 43 (2) TFEU.
2) Corresponding to Europe's domestic environmental policy alterations 1992 also saw the first international Convention of Biological Diversity (CBD) (also known as the COP conventions), where the European Community first determined the objective of protection of species and natural habitats (CBD, Rio 1992). Subsequently, the EU also introduced the Natura 2000 agenda based on Council Directive 92/43/EEC.
3) All WTO member states pledged to move towards more decoupled income support. Decoupled payments are exempt from WTO discipline and are therefore an important steering instrument for industrialized countries (Bhaskar and John C. B 2009).
4) The three main objectives of cross-compliance were to i) contribute to the development of sustainable agriculture ii) make CAP more compatible with societal expectations iii) increase awareness in farmers to respect legislative regulations.
5) These categories include Regulations on general food law (EU Reg 178/2002), hormones (Council Directive 96/22/EC), registration of animals (EU Reg 1760/2000), Council Directive 2008/71/EC, EU Reg 21/2004), Regulation on transmissible plant diseases EU regulation 999/2001) and regulations on plant protection products (EU regulation 1107/2009). The second set of directives included minimum requirements on animal protection (Council Directive 2008/119/EC, Council Directive 2008/120/EC, Council Directive 98/58/EC)
6) There are also compulsory limitations for nitrogen from manure and a national monitoring and reporting system that supports the 4-yearly reports by the Commission on the application of the directive.
7) *[t]he EU is not yet on the path of sustainable environmental development. There has only been limited progress with the fundamental issues of integrating environmental concerns into other policy areas and improving the enforcement of EU legislation. Many environmental pressures are actually increasing: global emissions of greenhouse gasses are rising, the loss of biodiversity is accelerating, pollution still has a major effect on public health, the amount of waste produced inside the EU continues to increase, and our ecological footprint is steadily growing.*COM (2007) 225 nal, part 6.)