

# **Best practice examples in the implementation of the new CAP on grassland with high natural value in selected EU member states**

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# 1 Introduction

## 1.1 Presentation of the report

The purpose of this report is to investigate examples of good practice in Common Agricultural Policy (CAP) implementation that may be relevant to Germany. Specifically the work aims to:

- Examine implementation of the spectrum of most relevant CAP (Pillar 1 and Pillar 2) measures, as they affect High Nature Value (HNV) grassland farming systems in a broad and representative range of Member States.
- Set out conceptual areas within which this good practice is being exhibited.
- Place best practice examples in the local context.

Section 1.2 introduces the concept of semi-natural pastures (essentially synonymous with HNV pastures), and summarises the main policy challenges as analysed in EFNCP reports of recent years.

Section 1.3 provides a short overview of the new elements of the post-2014 CAP (Pillars 1 and 2) and highlights major changes / developments in comparison to the preceding period, focusing on specific elements that affect HNV pastures.

In Sections 2-6 we look in more detail at particular aspects of the post-2014 CAP (both Pillars) and consider the EU framework and how the implementation of the measures in selected countries is relevant for the future of HNV pastures. Reference is made to specific best-practice examples gathered during the present study, and the combined lessons learned from these examples are summarised with respect to each measure.

In Section 7, the detailed examples of best practice are presented from the following countries:

- Belgium
- Bulgaria
- Estonia
- France
- Ireland
- Sweden
- United Kingdom (England and Scotland)

Each example of best practice is described using a standard list of descriptors/questions:

- What are the particular issues at stake for HNV pastures in the country, relating to this example (or overall for all the examples of this country)?
- What is the measure (or combination of measures) in question?
- What are the features that make it a "good practice" example for HNV pastures?
- What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?

Selected examples are further illustrated using photographs of local cases to show the practical effects of implementation for HNV pastures.

Brief conclusions are presented in Section 8.

## 1.2 Semi-natural / HNV pastures – what are the broad policy concerns?

A large part of Europe's permanent pasture is broadly "semi-natural", meaning that it has not been recently reseeded or heavily fertilised and has a composition similar to a natural habitat, often including woody species. These semi-natural permanent pastures are of exceptional biodiversity compared with intensively managed permanent pasture. They are also an extremely valuable carbon store. Reseeding and fertilisation result in more grass production, but cause biodiversity to be greatly reduced, and ploughing causes carbon storage to be reversed. Semi-natural pastures are essentially synonymous with HNV pastures.

Semi-natural permanent pastures are responsible for a major part of the environmental public goods produced by European farming, and in this sense they are fundamentally different from permanent pastures under more intensive agricultural use. In order to be efficient, a greener CAP focusing on public goods needs to recognise this difference, and not make the mistake of putting intensively managed and semi-natural permanent pastures in the same "policy box".

Semi-natural permanent pastures include a mix of vegetation types. Some are largely herbaceous (i.e. grass), while others are dominated by shrubs (e.g. heather moorland, alvar). Tree cover is present on many types of permanent pasture, and is often an integral part of the forage system, the leaves and fruits providing an important seasonal complement to herbaceous and shrub forage (e.g. Iberian dehesas, Nordic wooded meadows). Shrubs and trees have been an integral part of actively-farmed permanent pastures for centuries.

Semi-natural permanent pastures under active farming use cover many millions of hectares of EU farmland, often in more marginal farming situations. They are declining in some cases as a result of intensification (especially reseeded and heavy fertilisation of meadows) but abandonment and afforestation are the more widespread threats. A fundamental question for EU policy integration is whether the CAP can adequately address these threats to semi-natural pastures.

Halting the loss of semi-natural permanent pastures is a key action for halting the decline of biodiversity in Europe. The farmland habitats on Annex 1 of the Habitats Directive consist entirely of various types of semi-natural permanent pasture that require continued farming use for their conservation (these are approximately 20% of the habitats on Annex 1). Commission data show that these farmland habitats generally are in worse condition and are declining faster than other habitats types, such as forests and wetlands. They also extend far beyond designated Natura 2000 sites. The EU 2020 biodiversity targets include maintaining all of these habitats (not only within Natura 2000), as well as maintaining, enhancing and restoring ecosystem services.

Semi-natural pastures and meadows are typified by extensive farming using traditional breeds of livestock. They are central to the concept of High Nature Value (HNV) farming and are profoundly valuable for the large range of ecosystem services they provide. The key to a sustainable future for semi-natural farmland is the socio-economic viability of the systems which use it. However, measures to protect HNV pastures from damaging practices are also necessary, especially since the economic pressure on farmers to intensify is all the greater when their system is profitable.

A set of EU policy instruments has developed over the past 25 years that aims to protect and support grasslands for their environmental value, but at present these policies are widely criticised for being insufficiently effective and poorly coordinated. New measures under the CAP give an appearance of increased protection, but also impose more restrictions on the farming of semi-natural pastures. They provide no new incentives for continuing extensive farming activity on semi-natural pastures. In fact, the design of the CAP at EU level makes intensification or afforestation the more attractive options for a farmer with semi-natural pastures, and it is left to Member States to correct this negative situation through their implementation model.

The decoupling of CAP payments from production since 2005 has increased the abandonment threat for economically marginal farming types that have less opportunity to be viable from the market. Extensive livestock systems have gone into severe decline in many more marginal regions of the EU. At a farm and local landscape level, there is a clear tendency in many regions to abandon the semi-natural pastures (especially the least accessible) and to concentrate stock on more productive land, with increased intensification on this land. Coupled payments for livestock under the new CAP in theory could be used to support grazing activity, but the regulations do not propose any such targeting.

Certain countries make good use of agri-environment-climate and other RDP measures to address these challenges, although even in these exceptional countries the support often is only available on priority areas such as Natura 2000.

### **1.3 The new CAP – what has changed?**

The reforms introduced from 2014 do not significantly change the overall CAP architecture. There are still the 2 Pillars as before, but with a bit more interaction between them. Under both Pillars, there are more options than ever for MS/countries/regions to do things the way they want. Before 2014, there were already quite different CAP approaches in different countries, but now the differences are even more striking. While there is a common framework and some convergence in the level of direct payments, we see very different pictures on the ground when all payment options are considered, and certainly there is not a level playing field for farmers using HNV pastures in different MS/countries/regions.

However, at the same time the EC is taking a rigid approach to the interpretation of rules when it comes to some key issues, as with eligibility rules for permanent grasslands (PG), which are creating major problems for HNV pastures with a lot of trees and/or shrubs.

Key macro-level changes to the CAP include reduced budgets in both Pillars, with the possibility for MS to transfer up to 15% of their national envelopes in either direction between Pillars. Perhaps even more significant is the obligatory process of convergence of average Direct Payment rates per hectare of eligible farmland.

The EU convergence shown in Figure 1 is mirrored by internal convergence within the Member States. Payments will no longer be fixed on historical references of more than a decade ago but will move towards a converging per hectare payment at national or regional level. In practice, the degree of convergence can be controlled by Members States (MS) and regions, and it varies greatly between countries. Many MS already have a flat-rate direct payment per hectare of farmland, whether under SAPS or BPS; while some MS/regions are keeping as close as possible to historic patterns.



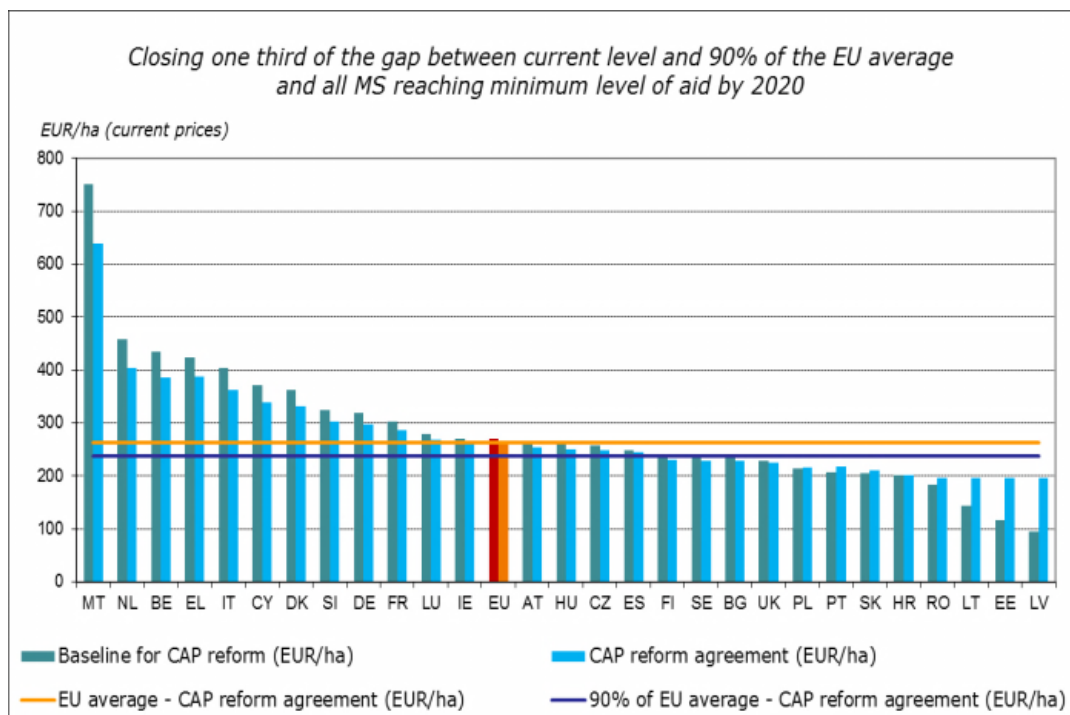



Figure 1: Convergence between MS: changes in the distribution of average national payments per hectare by 2020, compared to the status quo ("baseline"). EC (2013)

Member States have a range of options for implementing direct payments, including:

- Applying systems with flat-rate payments at MS level.
- Using "regionalisation" to differentiate payment rates between region and thus prevent or reduce changes to historic payment patterns.
- Implementing a Redistributive Payment to favour smaller holdings.
- Implementing Voluntary coupled support (VCS), for example headage payments for livestock.
- Implementing the Small farmers scheme (SFS)
- Implementing the additional ANC payment under Pillar 1

<b>Cross Compliance</b>	<b>**Coupled Support</b>	<b>**Natural constraint support</b>	<b>O</b> <b>R</b> 	<b>**Small Farmer Scheme</b>  up to 10%  max. 1250 EUR  simplified
	up to 10% or 15%	up to 5%		
	<b>**Redistributive Payment</b>			
	<ul style="list-style-type: none"> <li>○ up to 30%</li> <li>○ max 65% of average direct payments (first ha)</li> </ul>			
	<b>*Young Farmers Scheme</b>			
	<ul style="list-style-type: none"> <li>○ up to 2%</li> <li>○ +25% payments (max 5 years)</li> </ul>			
	<b>*Green Payment</b>			
	<ul style="list-style-type: none"> <li>○ mandatory 30%</li> <li>○ greening practices or equivalent</li> </ul>			
<b>*Basic Payment Scheme</b>				
<ul style="list-style-type: none"> <li>○ no fixed percentage</li> <li>○ 5% degressivity over 150 000 EUR</li> </ul>				

**\* Compulsory    \*\* Voluntary**

Figure 2: The new design of direct payments, including options for Member States. EC (2013)

Table 1: Overview of main MS decisions concerning Pillar 1 options. EC (2016)

	SAPS	Regionalised BPS in accordance with Article 23	Redistributive payment	No reduction of payment	Payment for areas with natural constraints	VCS	SFS
BE			✓ <sup>4</sup>	✓ <sup>5</sup>		✓	
BG	✓		✓			✓	✓
CZ	✓					✓	
DK					✓	✓	
DE		✓	✓	✓			✓
EE	✓					✓	✓
IE						✓	
EL		✓				✓	✓
ES		✓				✓	✓
FR		✓	✓	✓		✓	
HR			✓	✓		✓	✓
IT						✓	✓
CY	✓					✓	
LV	✓					✓	✓
LT	✓		✓	✓		✓	
LU						✓	
HU	✓					✓	✓
MT						✓	✓
NL						✓	
AT						✓	✓
PL	✓		✓			✓	✓
PT						✓	✓
RO	✓		✓	✓		✓	✓
SI						✓	✓
SK	✓					✓	
FI		✓				✓	
SE						✓	
UK		✓ <sup>6</sup>	✓ <sup>7</sup>			✓	
	<b>10</b>	<b>6</b>	<b>9</b>	<b>6</b>	<b>1</b>	<b>27</b>	<b>15</b>

<sup>4</sup> Wallonia only

<sup>5</sup> Wallonia only

<sup>6</sup> Except Northern Ireland and Wales

<sup>7</sup> Wales only

A notable change to the CAP since 2014 is the new definition of permanent grasslands/pastures, and adjustments to the eligibility rules for this land category, especially in the case of pastures with trees (and bushes) and landscape features. The new CAP definition for permanent pastures, applied from 2014, has been widened to include all types of grazable vegetation, but continues to discriminate against pastures with a high proportion of trees and/or shrubs. Combined with CAP rules on the eligibility of farmland for support payments, and their implementation in certain Member States, this has the effect of blocking the payment of CAP support on large areas of HNV pasture,

often those types of greatest environmental value. These rules have the highly perverse effect of driving damaging removal of vegetation to gain payment (while Greening rules aim to encourage farmers to keep patches of vegetation), but frequently just lead to abandonment - the opposite of what the CAP is meant to achieve.

The new eligibility rules are complex but really not very different from before. Perhaps the most significant developments are the new LPIS Guidance document that introduces new concepts, such as the rule that vegetation, such as a bush or tree, must be accessible for livestock to graze its whole area in order to be eligible; and there seems to be increased pressure from DG AGRI on MS to do things by the letter. So countries that had a flexible system before are now forced by financial penalties to be more restrictive, or to be very imaginative in using the optional exceptions to the rules.

Pillar 2 continues with fewer changes, implemented through national and/or regional rural development programmes (RDP's) which, for a seven-year period, set out the actions to be undertaken and the corresponding allocation of funding for these measures.

However, now Member States have to build their RDP's based upon at least four of the six common EU priorities (see below).

<i>1. Fostering knowledge transfer and innovation in agriculture, forestry, and rural areas</i>
<i>2. Enhancing farm viability and competitiveness of all types of agriculture in all regions and promoting innovative farm technologies and sustainable management of forests</i>
<i>3. Promoting food chain organisation, including processing and marketing of agricultural products, animal welfare and risk management in agriculture</i>
<i>4. Restoring, preserving and enhancing ecosystems related to agriculture and forestry</i>
<i>5. Promoting resource efficiency and supporting the shift towards a low carbon and climate resilient economy in agriculture, food and forestry sectors</i>
<i>6. Promoting social inclusion, poverty reduction and economic development in rural areas</i>

Figure 3: EU rural development priorities. EC (2013)

At least 30% of the budget of each Rural Development programme must be reserved for voluntary measures that are “beneficial for the environment and climate change”. These include agri–environmental-climate measures (AECM), organic farming, Areas of Natural Constraints (ANC), Natura 2000 areas, forestry measures and investments which are beneficial for the environment or climate. However, some of these are NOT always beneficial for the environment in practice, e.g. ANC payments in most countries are not targeted on particular farming systems and do not incentivise particular practices, so that the claim that these payments are beneficial for the environment is not objectively justifiable; afforestation is still a threat to semi-natural grasslands in some regions.

On a positive note, Pillar 2 has the new Co-operation measure that allows for innovative pilot projects and operational groups. An example of good-practice use of this measure in Ireland is presented below.

There is also a new CAP indicator for Farmland Habitats (grasslands), based on Habitats Directive Article 17 reporting, which seems well-intentioned but in practice suffers from very

inadequate monitoring in most MS, and does not add anything to the existing system under the Habitats Directive.

Overall, the European Commission (EC) presents the new CAP as a major reform. There are four key EC affirmations about how the CAP is improved. However, the improvements from the perspective of HNV pastures are very limited, and dependent on MS choices, as summarised below (bold added by the authors for emphasis):

“It represents another milestone in the CAP's history placing the joint provision of public and private goods at the core of policy. **Farmers should be rewarded for the services they deliver to the wider public, such as landscapes, farmland biodiversity,** climate stability even though they have no market value.”

**HNV pastures perspective:** The new CAP offers no mechanism under Pillar 1 for rewarding farmers for the delivery of public goods related to HNV pastures. As under the previous CAP, the main measure for rewarding such services is the agri-environment-climate measure, the first incarnation of which was introduced thirty years ago.

“The new CAP design is also **more efficient, targeted and coherent.** It is based on a more holistic approach to policy support through the maintenance of the existing two pillar structure but in a more targeted, integrated and complementary way. Both pillars of the CAP are aimed at meeting all three CAP objectives more effectively, with **better targeted instruments of the first pillar** complemented by regionally tailor-made and voluntary measures of the second pillar.”

**HNV pastures perspective:** There is no mechanism for improving the targeting of Pillar 1 support to HNV pastures. The “better targeted instruments” of the first Pillar presumably refers to optional measures such as Voluntary Coupled Support, Redistributive Payment and ANC payment. Potentially these could be used in a way that favours HNV pastures indirectly. The claim that the CAP design is more “coherent” seems unfounded in the case of rules for the eligibility of permanent pastures, where the bias against non-herbaceous vegetation is not coherent with biodiversity and climate goals.

“There is **new flexibility for Member States in the budgeting and implementation of first Pillar** instruments, acknowledging the wide diversity of agriculture, agronomic production potential and climatic, environmental as well as socio-economic conditions and needs across the EU. This flexibility will however be framed by well-defined regulatory and budgetary limits in order to ensure a level-playing field at European level and that common objectives are met.”

**HNV pastures perspective:** This presumably refers to flexibility to shift funds between the Pillars, and to choose different options for implementing Direct Payments, such as flat-rate or regionalised models. There is scope for such flexibility to favour HNV pastures, but it depends entirely on the choices made by Member States.

“Improved sustainability will be achieved by the combined and complementary effects of various instruments. Firstly, there is **a simplified and more targeted cross-compliance,** representing the compulsory basic layer of environmental requirements and obligations to be met in order to receive full CAP funding. On top of this, from 2015 onwards, the CAP introduces a new policy instrument in Pillar 1, **the Green Direct Payment.**”

**HNV pastures perspective:** Greening for „normal“ permanent grassland (PG) brings nothing new compared with pre-2014. Member States must ensure that the ratio of areas

of permanent grassland to the total agricultural area declared by the farmers does not decrease by more than 5 % compared to a reference ratio to be established by Member States in 2015. If the obligation is not met, then farmers who have converted permanent pasture to other uses will be obliged to recreate permanent pasture.

Land declared by farmers in the small farmers' regime or which is in organic production is excluded from the calculation.

As a control mechanism for preventing a decline in permanent pasture, the mechanism does not seem efficient. The mechanism would only affect a farmer's decision after the national trigger, i.e. after significant losses have already occurred. The obligation on the farmer would then be to sow new grassland to replace that which has been lost, but the environmental damage has already been done: a newly sown grassland is of minimal benefit compared with an ancient grassland that has been ploughed.

If the 5% threshold is breached, but the main cause has been abandonment rather than conversion to other uses such as cropping, it is not clear how the authorities should respond. There seems to be no mechanism for obliging farmers to restore abandoned permanent grassland.

The CAP defines PG as being over 5 years old, but the pasture can be reseeded within this period, even where this involves the destruction of the existing sward by ploughing or rotovating. This means that CAP measures (before and after 2014) aimed at preventing a reduction in the extent of permanent pasture at Member State level offer no protection at all to semi-natural pastures. These could all be converted to intensive annually-sown pastures, without triggering any corrective action. At the same time, the system imposes unnecessary controls on intensively farmed grassland of limited environmental value.

A new CAP measure aimed at banning the ploughing or conversion of so-called "environmentally sensitive permanent grasslands" or ESPG appears very "green" on paper, but is of limited practical use. In most Member States it applies only to certain grasslands within Natura 2000, that are already protected by this network, and it is of no use for preventing the main threat of abandonment. Reseeding of these ESPG grasslands may be permitted under the new CAP rule in some countries.

The difficulty of defining a baseline of ESPG is also a significant hindrance. Appropriate definition and identification of semi-natural pastures and meadows are essential preconditions for the targeting of both protection and support. This is a major weakness of EU policy, and has not improved under the recent reforms.

There has been a weakening of GAEC rules for habitat protection, as this theme has been removed from GAEC options. Minimum maintenance of land receiving CAP support is now part of the eligibility rules, not cross-compliance. GAEC7 is now very relevant to eligibility of landscape elements, as illustrated by the UK (England) approach to wood pastures (see 7.7).

Overall, then, the new CAP offers very few positive options for HNV pastures. The most significant potential continues to be found in Pillar 2, especially in the AECM, in Natura 2000 payments and in the new Co-operation measure (Art 35). In Pillar 1, the main areas of interest are rules for pasture eligibility (good practice in this case consists of reducing as far as possible the negative impacts of EU rules, by imaginative use of optional clauses); and the use of options for increasing support to extensive grazing systems, for example by redistribution of the Basic Payment (BPS) and by targeted use of coupled payments for

livestock. The opportunities presented by these measures, and others, are discussed in the following sections of this report.

## 2 Budget transfers between Pillars

### 2.1 EU framework

Member States have new options since 2014 to transfer funds between the two Pillars. Moving funds in either direction is not automatically “good” or “bad” for HNV pastures. It can be argued that Pillar 2 offers greater options for implementing positive measures for supporting their use and conservation, but of course there is no guarantee that funds moved to Pillar 2 will be used for this purpose.

The maximum annual transfer permitted from Pillar 1 to Pillar 2 is set at 15%. From Pillar 2 to Pillar 1 the maximum is also 15% for most MS, or 25% for Member States with average Pillar 1 payments/ha below 90% the EU average.

As shown in the table below, a total of 11 Member States transferred funds from Pillar 1 to Pillar 2, and the total amount to be transferred over 6 years from 2014 is 6.4 billion EUR.

Five Member States are implementing transfers from Pillar 2 to Pillar 1. The total amount to be transferred over 6 years from 2014 is 3.4 billion EUR.

Table 2: MS intended transfers from Direct Payments (DP) to Rural Development (RD), and vice versa. EC (2016)

From DP to RD in % of national ceilings (max percentage 15%)						
Financial year	2015	2016	2017	2018	2019	2020
Claim year	2014	2015	2016	2017	2018	2019
FR	3.0%	3.3%	3.3%	3.3%	3.3%	3.3%
LV	7.5%	7.5%	7.5%	7.5%	7.5%	7.5%
UK	10.8%	10.8%	10.8%	10.8%	10.8%	10.8%
BE		2.3%	3.5%	3.5%	4.6%	4.6%
CZ		3.4%	3.4%	3.4%	1.3%	1.3%
DK		5.0%	6.0%	7.0%	7.0%	7.0%
DE		4.5%	4.5%	4.5%	4.5%	4.5%
EE		6.1%	14.3%	15.0%	14.9%	15.0%
EL		5.0%	5.0%	5.0%	5.0%	5.0%
NL		4.0%	4.1%	4.2%	4.2%	4.3%
RO		1.8%	2.3%	2.2%	0.0%	0.0%

From RD to DP in % of national ceilings (max percentage 15% or 25% for some MS)						
Financial year	2015	2016	2017	2018	2019	2020
Claim year	2014	2015	2016	2017	2018	2019
HR	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%
MT	0.0%	0.8%	1.6%	2.4%	3.1%	3.8%
PL	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%
SK	21.3%	21.3%	21.3%	21.3%	21.3%	21.3%
HU		15.0%	15.0%	15.0%	15.0%	15.0%

### 2.2 Examples and lessons learned

UK and EE are the most notable MS in terms of % transfer. In England, this money is effectively being used to support agri-environment; in Scotland, Pillar 2 has large LFA and agri-environment elements. SE has made use of Pillar 1 transfers in the past and used this money specifically for agri-environment payments to semi-natural pastures (see SE



examples in section 7.6). It seems that since 2014, the only transfer in SE will be of money resulting from capping of Pillar 1 payments.

### **3 Pillar 1 payment options**

#### **3.1 Flat-rate payments, regionalised payments, convergence**

##### **3.1.1 EU framework**

The overall aim at EU level is to move towards a standard flat-rate Basic Payment (BPS) across the EU, but MS still have many options for slowing this process, especially by using the regional model with different payments differentiated by region.

Most EU12 countries and some EU15 have a flat-rate system for all farmland; some have a flat-rate system but with a lower payment specifically for certain types of land (e.g. for the poorest grazing land, in England); some have a regionalised system designed to maintain as far as possible the historic distribution of payments (generally keeping very low payments on permanent grasslands and much higher payments on irrigated cropland). As a consequence, similar types of pasture with similar livestock use have very different levels of payment across the EU under the new CAP, in spite of the attempt at convergence of average Pillar 1 payments.

The overall pattern for the options of most relevance to the present study is as follows:

- The 10 Member States currently applying the SAPS have decided to maintain this form of basic payment until the end of 2020. This also means that no Member State has opted for the possibility to differentiate the SAPS payment which was conditioned to the need to switch to BPS by 2018 at the latest.
- Amongst the 18 other Member States, 6 opted to avoid moving to a flat-rate payment by using the option to regionalise the BPS (Denmark, Finland, France, Greece, England and Scotland, and Spain).

##### **3.1.2 Examples and lessons learned**

Both England and Scotland use regionalised payments. In the case of England, there are de facto 2 payment regions – one for moorland and one for the rest of the country. The moorland region is a discrete zone. In Scotland, regionalisation (3 regions) is on a parcel by parcel basis, which in principle gives a better differentiation and avoids lumping in good land with the more marginal land, or less-productive land with more fertile land.

The real issues however are not with the regionalisation per se, but with what that implies for payment levels and for the scheme requirements. In both countries, the decision has been taken to allocate lower levels of payment to the poorer land. In England, this is further compounded by the very liberal approach to farming activity requirements – the only requirement is to control scrub.

In Scotland, the 2 regions covering poorer land have been used to target specific minimum activity rules which, as a default, refer explicitly to stocking density. These regions are also used to target the coupled payment for sheep to the very poorest region.

For England, the situation can be summarised as follows: the regionalisation of payments further disadvantages both the moorland (semi-natural) claimant compared to other farmers, while the active farmer rules also disadvantage the active moorland claimant relative to the inactive (since activity has a net cost).

In Scotland, things are more complex. The regionalisation in general disadvantages the marginal farmer relative to the more 'commercial'. The poorer the land, the tighter is the set of rules promoting activity, which on the one hand encourages the active versus the

inactive, but on the other hand also ties the marginal farmer to unprofitable work in a way which does not apply to claimants on the best land (who get the highest payments and don't have to do anything in practice).

## 3.2 Redistributive payment

### 3.2.1 EU framework

MS have the option to take up to 30% of the national envelope for direct payments and redistribute it to farmers on their first 30 hectares (or up to the average farm size if higher than 30ha). This would have a significant redistributive effect in favour of smaller farms. A further possible option is to apply a maximum payment per hectare.

A total of 9 Member States implement the redistributive payment: BE (Wallonia only), BG, DE, FR, HR, LT, PL, RO and UK (Wales only). The funds allocated to the redistributive payment are significantly lower than those potentially available for the scheme in accordance with the regulation (30%), with Member States having allocated between 0.5 and 15% of their national envelope to the scheme. The ceiling for the redistributive payment may be modified on a yearly basis; subject to a possible review, FR has already notified its intention to progressively increase the share of its budget it will dedicate to the scheme (5% in 2015, 10% in 2016, 15% in 2017 and 20% for the remaining years).

Three Member States opted for the possibility to establish a graduation in the amount of aid: DE (higher amount for the 1st to the 30th ha compared to the next 16 ha), PL (no payment for the first 3 ha), RO (lower amount for the first 5 ha). More detailed information about the redistributive payments is summarised in the table below.

Table 3: MS use of the redistributive payment. EC (2016)

MS	Units supported under the redistributive payment			Estimated unit rate of the redistributive payment (provisional data based on notifications)	
BE-Wallonia	The first	<b>30</b>	entitlements activated	<b>133</b>	EUR
BG	The first	<b>30</b>	eligible hectares declared	<b>77</b>	EUR
HR	The first	<b>20</b>	entitlements activated	<b>34</b>	EUR
FR	The first	<b>52</b>	entitlements activated	<b>25</b>	EUR
DE	The tranche of the first	<b>30</b>	entitlements activated	<b>50</b>	EUR
	The following tranche of	<b>30.01-46</b>	entitlements activated	<b>30</b>	EUR
LT	The first	<b>30</b>	eligible hectares declared	<b>50</b>	EUR
PL	The tranche of the first	<b>3</b>	eligible hectares declared	<b>0</b>	EUR
	The following tranche of	<b>3.01-30</b>	eligible hectares declared	<b>41</b>	EUR
RO	The tranche of the first	<b>5</b>	eligible hectares declared	<b>5</b>	EUR
	The following tranche of	<b>5.01-30</b>	eligible hectares declared	<b>45</b>	EUR
UK-Wales	The first	<b>54</b>	entitlements activated	<b>25.63</b>	EUR

### 3.2.2 Examples and lessons

Generally, there is no direct link in this measure to HNV pastures or the farming systems that use them. At EU level, there is no evidence to suggest a correlation between farm size and the presence of semi-natural pastures. For example, in Wales the payment benefits small farms (above the minimum claim size); but smallholding claimants with HNV pastures are not common, and in general small “commercial” farms are if anything more intensive than the norm (to generate enough income). Similarly, in Bulgaria, the measure is not considered „best practice“ for HNV pastures.

## 3.3 Voluntary Coupled Support (VCS)

### 3.3.1 EU framework

For pastures, this is a very significant policy option, as it allows for payments per head of livestock. The measure is intended for maintaining production in sectors that face difficulties and that are important for economic, social or environmental reasons.

MS have chosen a range of different payment models for livestock, including various combinations of payments for suckler and/or dairy cows, for male bovines, for calves, or for slaughtering adult and/or young bovines. Some countries implement only a suckler cow payment in the beef sector (Estonia, Portugal) but most countries implement a range of payments. In the sheep/goat sectors, payments are mostly for breeding mothers. The only MS implementing no livestock payments is Germany, while in the UK only Scotland uses these payments.

A total of 27 Member States implement the Voluntary Coupled Support (VCS), the only one not applying any VCS being Germany. The range of payments varies greatly, thus adding to the already large differences in BPS rates across the EU (see Excel overview annexed to this report). An overview of all VCS implemented by the MS is shown in the following note from the European Commission:

[https://ec.europa.eu/agriculture/sites/agriculture/files/direct-support/direct-payments/docs/voluntary-coupled-support-note\\_en.pdf](https://ec.europa.eu/agriculture/sites/agriculture/files/direct-support/direct-payments/docs/voluntary-coupled-support-note_en.pdf)

9 Member States have allocated less than 8% to the scheme for 2015 and 2016 (CY, DK, EE, EL, IE, LU, NL, AT, UK),

11 Member States have allocated the maximum percentage of 13% (BG, CZ, FR, HR, HU, LT, LV, PL, SE, SI, SK) with all of them but SE and SK also using all or part of the additional 2% available as they have dedicated at least 2% of their national envelope to supporting the protein crops sector,

3 Member States have allocated between 8 and 13% (ES, IT, RO) with ES and RO using a part of the additional 2% available as they have dedicated at least 2% of their national envelope to supporting the protein crops sector.

3 MS needed to obtain approval from the Commission in view of their decision to allocate more than 13% (+ 2%) to the VCS: BE, FI, PT

The total amount Member States are planning to spend is EUR 4.1 billion per year which is to be distributed among a total of 257 measures.

The most supported sectors are: beef and veal (42% of total amount), dairy products (20%), sheep and goat meat (12%), protein crops (10%) and fruit and vegetables (5%).

Ten Member States have decided to support the sugar sector for a total of 4% of the total envelope allocated to the scheme in the EU. These percentages take into account the sectors supported via the regional measures implemented in IT (olive oil, soya, protein crops, grain legumes, and durum wheat), PL (hops) and the UK (beef and veal and sheep and goat meat), SI (dairy products).

### **3.3.2 Examples and lessons learned**

In the EC note cited above, the only MS that indicate payments are targeted specifically on grazing livestock (rather than all livestock) are Austria and Netherlands.

In Scotland, the system of payments for sheep is presented as a good-practice example (see 7.7). The system is designed so that the coupled sheep payment is available only for holdings using the poorest rough grazing land. This generally can be considered HNV pasture, and is at high risk of abandonment. The coupled payment for sheep on this land needs to be seen in the context of the whole package of Pillar 1 and ANC support in Scotland, that works in a quite integrated way. Furthermore, the payment is designed in a way which prevents it from encouraging grazing at anything other than the lowest of grazing rates, so it has a minimal effect on the overall market.

In Estonia (see 7.3) the coupled payments for livestock are only available for smaller farms, up to a limit in the number of animals (100 dairy cows, 25 suckler cows or between 10-100 ewes or she-goats). There are no payments for calves and slaughtering. The measure aims to address the decrease in the number of these smaller farms. Also, there is little incentive for smaller farms to continue „real“ farming under Pillar 1 rules, since they can just top (cut) their fields and still be eligible for SAPS without keeping animals. Small family farms are in general extensively managed in Estonia, but although pastures are generally convenient to the animal housing, the trend is very much towards extended periods of housing and zero grazing; the payments do not address this issue.

However, in many MS there is no attempt to target VCS on particular livestock systems, such as grazing or extensive systems. In Spain, for example, the stated objectives of coupled payments in the State decree are purely to maintain current levels of production; no environmental or social objectives are stated (these are at least mentioned in the EU regulation). There are no stocking density requirements for the coupled payments, so intensive systems can get the payment as well as extensive systems. There is no targeting on particular areas or production systems.

This is a clear example of a measure with considerable potential for supporting HNV (or extensive, at least) livestock systems, and where the EU regulation mentions environmental objectives, but where the great majority of Member States have chosen not to target the measure in this way, or indeed to target it at all. The lesson is that HNV pastures and livestock need support measures that are explicitly for this purpose in the EU regulations, not just measures that could be used in this way if Member States choose to do it.

## **3.4 Small farmers' scheme (SFS)**

### **3.4.1 EU framework**

SFS is a simplified direct payment scheme which replaces all other direct payments (including basic payment (BPS/SAPS), redistributive payment, greening, young farmer payment and coupled support) that a farmer could be entitled to. Participating farmers are

exempted from greening obligations and from cross-compliance penalties. The level of payments is limited to a maximum of EUR 1,250. The MS decide on the method to be applied to determine the payment level. Depending on the method the Member State opted for, the expenditure for the SFS may be limited to a maximum of 10% of the direct payments envelope in the MS. There is no fixed definition of „small farmer“ – the scheme is available to the farmers eligible under the basic payment scheme (BPS) or the SAPS and wishing to join the SFS in 2015.

For those farmers entering the small farmers scheme, there will no longer be any cross-compliance controls on removal of landscape features such as trees, hedges and semi-natural habitats, and also no greening requirements (including protection of grasslands) or active farmer rules.

### **3.4.2 Examples and lessons learned**

No examples of good practice are presented here. The implications of the measure are very negative for the environment generally. Especially in regions with significant areas of farmland in the small farmers scheme, the threat to HNV pastures and their landscape features is increased by its introduction as part of the 2014 reforms.

## 4 Pillar 1 accompanying rules

### 4.1 Eligibility rules for pastures with landscape features and trees

#### 4.1.1 EU framework

EC DELEGATED REGULATION 640/2014 on IACS sets out the options for MS to design eligibility rules for pastures with landscape features and trees. This is supplemented by the LPIS Guidance Document [DSCG/2014/33 – FINAL].

There is a key choice for MS on how to calculate a parcel's eligible area: either subtracting each ineligible feature, including a limit on the permitted number of trees per hectare; or applying a pro-rata reduction in proportion to the percentage of the parcel covered by ineligible features.

Some key points include:

- Pastures that consist of >50% trees and/or shrubs should be classified as PG-ELP (permanent grassland with established local practices), and should appear as such on the national LPIS. If the trees/shrubs are grazable "for their full area" (i.e. can be browsed for the whole extent of their canopy), then there is no upper limit on the number of trees/shrubs. In this case the pasture can consist predominantly of trees/shrubs, but it must be classed as PG-ELP on the LPIS.
- Trees and shrubs that are NOT grazable for their full area can be eligible only up to a limit of 100 trees per hectare. If there are more than 100 trees per hectare, then the whole parcel is ineligible.
- Alternatively, MS may apply a pro-rata system, designed to reduce the eligible area of a parcel in proportion to the presence of ineligible features. There should be no reductions for the presence of grazable trees and shrubs, which implies that the authorities must distinguish the grazable trees/shrubs from the non-grazable.
- Groups of trees that hamper agricultural activities should not be eligible; they should be classed as woods.
- Landscape features and groups of trees can be protected under MS implementation of GAEC7 (see below), this makes them automatically 100% eligible, even if they are not grazable. There seems to be a lack of definition for some elements. In particular, "isolated trees" are not defined, and it is not clear how to distinguish these from "non-isolated trees" in a wood pasture context.

The new category of PG-ELP is very important, as it provides the opportunity for pastures that are predominantly ligneous to be 100% eligible. Under the EU definition of PG-ELP, *established local practices shall be any or a combination of the following:*

- practices for areas for livestock grazing which are traditional in character and are commonly applied on the areas concerned;
- practices which are important for the conservation of habitats listed in Annex I to Council Directive 92/43/EEC (1) and of biotopes and habitats covered by Directive 2009/147/EC of the European Parliament and of the Council (2).

#### 4.1.2 Examples and lessons learned

Overall, the new Pillar 1 eligibility rules applied to pastures with trees, shrubs and/or other landscape features are a major issue in most countries studied. As the Swedish example (7.6) points out, the EU's approach remains problematic because it treats traditional

wooded pasture as an aberration – an agricultural field where trees and bushes threaten to hinder normal agricultural production – rather than as a production system in its own right. By basing eligibility for payments on the *absence* of elements such as trees and bushes, it forces both farmers and CAP administrators to focus on irrelevant aspects and does nothing to increase understanding of how pastoral production systems can and should function.

Consequently there are very large exclusions of semi-natural pastures from Pillar 1 support in some countries, such as Bulgaria, and major new exclusions in Spain as DG AGRI has demanded a much more restrictive system. Even where the system has improved, there are still considerable exclusions under the new CAP, as in Estonia and Sweden (see section 7).

Some countries have found ways to avoid exclusions or losses of eligibility for pastures. In section 7 we present three good-practice examples of implementation:

England and Scotland (7.7) have implemented flexible and pragmatic systems for pastures with trees, that allow eligibility so long as grazing can take place. There are no limits on tree numbers and the eligible area is only reduced for land that clearly cannot be grazed.

France (7.4) has implemented a pro-rata system that includes two designated areas of PG-ELP. Farmers themselves are given the tools with which to calculate a parcel's eligibility, using guidance published by the authorities and adapted to different geographical regions and landscapes.

Sweden (7.6) originally (pre-2008) had very interesting eligibility criteria, focusing on how production actually takes place in traditional systems, which provided a much better starting point for a long-term solution. A key difference is that it accepted the fact that the qualities of highly diverse and locally adapted production systems cannot be reduced to a set of objectively measurable standard criteria, but require an element of qualified judgment from a knowledgeable person. Decisions about eligibility for payments were on a case-by-case judgement, recognising that some pastures can accommodate several hundred trees without negative effects on production, while fifty might be a problem in another parcel. This best-practice implementation for HNV pastures was formally challenged by the European Commission, and in 2008 Sweden's eligibility criteria were radically changed to comply with Commission guidelines, creating major problems (widespread clearance of trees, big losses of eligibility). Since 2014, most of these problems have been addressed, but not all.

Overall, it seems that an implementation model that is reasonably adapted to HNV pastures is possible, if a Member State has the will and administrative resources to make use of all available exceptions and clauses, and can stand up to "conformist" pressure from European Commission auditors (DG AGRI). But such cases are the exceptions, not the norm.

## **4.2 “Maintenance” and “minimum activity” rules**

### **4.2.1 EU framework**

The key Regulation is DELEGATED REGULATION 639/2014 supplementing Regulation 1307/2013 establishing rules for direct payments to farmers.



The Regulation states that in order to fulfil the obligation to maintain the agricultural area in a state suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, MS must define:

- *at least one annual activity to be carried out by a farmer. Where justified for environmental reasons, Member States may decide to recognise also activities that are carried out only every second year;*
- *the characteristics to be met by an agricultural area in order to be deemed maintained in a state suitable for grazing or cultivation.*

*These criteria must not require production, rearing or growing of agricultural products. MS may distinguish between different types of agricultural areas.*

In other words, they must define a minimum level of activity, which can be just one action, such as cutting vegetation; and the criteria that will be used to judge if a piece of land is being sufficiently maintained. Note that these criteria are not to be confused with the „active farmer“ rules, that have an economic focus.

It seems as though this wording does not explicitly exclude MS from defining minimum grazing requirements, so long as this is not defined in terms of rearing livestock (production). However, the Commission has stated in several meetings that they do not want to see minimum LU/ha as a requirement, for fear of WTO complaints about incentivising production. They have recommended mechanical cutting as the minimum activity on grazing land.

There are several problems with this approach for HNV pastures. In the case of grasslands, there is a risk that claimants will simply cut the grass with machines, leaving the cuttings on the ground (an approach that has become known as „mulching“). The range of benefits that come from managing the land with animals would be lost, and the biodiversity value of grasslands will generally decline under this scenario. Managing grasslands without animals and using „mulching“ to justify CAP direct payments has become widespread in some Member States (e.g. Bulgaria, Estonia) although the extent of pastures concerned is not known. In the case of pastures with a mosaic of scrub, trees and grass, there is a risk on defining minimum activity as „clearing scrub and/or trees“, as such an approach can lead to the loss of the diversity of vegetation that makes these pastures so environmentally valuable.

So essentially, in order to maintain the values of HNV pastures, a way needs to be found to link CAP direct payments to continuation of livestock farming.

#### **4.2.2 Examples and lessons learned**

In Scotland (see 7.7), the rules have been designed in such a way that they effectively require farming activity on semi-natural land (Regions 1 and 2). On permanent grassland that is not semi-natural (Region 1), the farmers must be able to demonstrate maintenance of existing stock-proof boundaries and water sources for livestock, but the reality is that on such land, no active management is required.

On rough grazing land, the minimum agricultural activity is to undertake an average level of stocking of 0.05 livestock units (LU) per hectare on all hectares for 183 days in each scheme year. A lower stocking density, in terms of numbers or period, may be acceptable to the authorities. This must be justified by evidence, such as chronological records kept

for an extended period or other evidence in respect of the carrying capacity of the whole or part of the holding (e.g. flock records, herd registers).

Alternatively, the farmer can carry out an annual Environmental Assessment, consisting of:

- a map and description of the farm environment
- a breeding bird, mammal, butterfly survey
- monitoring of habitats including plant health survey

The farmer can choose to carry out a combination of minimum stocking and an annual Environmental Assessment, provided the minimum agricultural activity requirement can be met on all hectares (e.g. animal stocking or survey).

In England (see 7.7), the minimum activity required on grasslands generally is „keeping it clear of any scrub that can't be grazed (sometimes known as 'dense scrub')“ (according to the official guidance to farmers for 2016 ). There is no requirement for any more active management involving livestock. However, in the case of common land, the rules are more detailed. A farmer is considered to be 'using' a common, and thus able to claim BPS on the land used, if they:

- exercise their grazing rights by turning out stock on it, including grazing for conservation purposes
- participate in a relevant Environmental Stewardship or Countryside Stewardship agreement on it
- contribute to managing the common

'Contributing to managing the common', with appropriate consents and rights, includes:

- keeping some of it in a state suitable for grazing or cultivation by:
  - clearing scrub that can't be grazed
  - some other beneficial activity, for example treating bracken, maintaining internal walls, hedges or fences, or managed swaling (burning)

In Sweden (see 7.6) under animal welfare rules (so not minimum activity or maintenance rules, but the practical effects are similar), there is a requirement for all ruminants to have a minimum time of outdoor grazing. The rules specify a minimum grazing period for cattle, sheep and goats. The basic principle is that all animals should be kept outdoors for a minimum period of 2-4 months (the shorter requirements in northerly regions). Although there are general exceptions for bulls and for calves, the legislation creates a need for most livestock farmers to have enough grazing land to keep their animals on in summer.

In Spain, grazing was included as an option for minimum maintenance of pastures under Spanish implementation. However, the Commission has asked for the Spanish legislation to be modified, because they do not want to see grazing as an option, only mechanical interventions. They see a minimum grazing requirement as a production incentive, which is a very questionable view; how is it any different from requiring annual tillage of arable land - is this a production incentive? In both cases, there is no requirement to produce or harvest, only to maintain the land.

The challenge of minimum activity rules is to design a set of criteria which are both meaningful and enforceable, but which don't produce significant market distortions at the global level. Rules are most likely to be enforceable when the land in question dominates the holding (i.e. farmers have little choice but to use it).

## 4.3 Environmentally Sensitive Grasslands ESPG

### 4.3.1 EU framework

This new CAP measure, aimed at banning the ploughing or conversion of so-called "environmentally sensitive permanent grasslands" or ESPG, appears very "green" on paper, but is of limited practical use. In most Member States it applies only to certain grasslands within Natura 2000, that are already protected by this network, and it is of no use for preventing the main threat of abandonment. Even reseeded of these ESPG grasslands may be permitted in some countries.

Furthermore, the additional restrictions on management of ESPG as compared with "normal" permanent pastures (PG) are not compensated with an additional greening payment, and there is thus a disincentive for their continued use. The CAP thus fails to reward the special public goods generated by ESPG as compared with normal PG, as both receive the same greening payment.

The ESPG measure is introduced under Article 45 of the main Direct Payments Regulation 1307/2013:

- *Member States shall designate permanent grasslands which are environmentally sensitive in areas covered by Directives 92/43/EEC or 2009/147/EC, including in peat and wetlands situated in these areas, and which need strict protection in order to meet the objectives of those Directives.*
- *Member States may, in order to ensure the protection of environmentally valuable permanent grasslands, decide to designate further sensitive areas situated outside areas covered by Directives 92/43/EEC or 2009/147/EC, including permanent grasslands on carbon-rich soils.*
- *Farmers shall not convert or plough permanent grassland situated in areas designated by Member States under the first subparagraph and, where applicable, the second subparagraph.*

Any environmentally sensitive permanent grassland areas outside the areas covered by the Habitats and Birds Directives shall be designated on the basis of one or more of the following criteria:

- covering organic soils with a high percentage of organic carbon, such as peat land or wetlands;
- hosting habitats listed in Annex I to Directive 92/43/EEC or protected under national legislation;
- hosting plant species listed in Annex II to Directive 92/43/EEC or protected under national legislation;
- being of significant importance for wild bird species listed in Annex I to Directive 2009/147/EC;
- being of significant importance for wild animal species protected under Directive 92/43/EEC or protected under national legislation;
- covering permanent grassland of high nature value as defined by objective criteria to be established by the Member State;
- covering soils with a high risk of erosion;
- being located in a sensitive area designated within the river basin management plans pursuant to Directive 2000/60/EC.

- Member States may decide every year to add new designated areas and shall inform the farmers concerned of that decision in due time.

According to the table provided by the European Commission, there are apparently enormous differences in MS choices for the designation of ESPG. Some MS/countries (Austria, Estonia, Ireland, Portugal, Wallonia) have designated <10% of their Natura 2000 grasslands as ESPG, whereas several have designated 100%. A few have designated 100% of their Natura 2000 grasslands, plus a large additional area outside Natura 2000 (Czech Republic and Wales, although this latter figure seems to be incorrect). Latvia has designated only 6% of its Natura 2000 grasslands as ESPG, but a much larger area has been designated outside Natura 2000.

In response to EFNCP questions, the EC suggested some of this data may still not be entirely accurate (e.g. for Wales). However, the overall picture is of an absence of coherence across the EU. The ESPG measure appears on the one hand to be flawed in its conception, and on the other hand to be inconsistent in its implementation.

Table 4: MS implementation of ESPG – provisional data. EC (2016)

	Total area of permanent grassland (PG) in Natura 2000 (ha)	Total area of designated sensitive grassland in Natura 2000 (Art. 45(1) first paragraph) – ESPG in Natura 2000 (ha)	% ESPG in Natura 2000 / total area PG in Natura 2000 (per MS or region)	% ESPG in Natura 2000 / total area PG in Natura 2000 (per MS)	Total area of designated sensitive grassland outside Natura 2000 (Art. 45(1) second paragraph)	% further ESPG/ ESPG in Natura 2000
Belgium - Flanders	32,553.79	18,098.00	56%	36% (Belgium)		
Belgium - Wallonia	21,658.18	1,168.18	5%			
Bulgaria	426,348.00	426,348.00	100%	100%		
Czech Republic	137,384.00	137,384.00	100%	100%	273,211.05	199%
Denmark	53,544.00	10,218.00	19%	19%		
Germany	958,000.00	613,000.00	60%	60%		
Estonia	36,725.00	371.00	1%	1%		
Ireland	32,933.22	613.63	2%	2%		
Greece	443,996.00	443,996.00	100%	100%		
Spain	6,894,760.00	2,053,293.00	31%	31%		
France	1,780,000.00	1,111,000.00	63%	63%		
Croatia	73,126.38	60,420.02	83%	83%		
Italy	869,545.00	869,545.00	100%	100%		
Cyprus	776.68	557.83	72%	72%		
Latvia	62,634.00	1,797.00	6%	6%	7,088.00	394%
Lithuania	66,557.32	30,218.99	45%	45%		
Luxembourg	8,573.00	2,121.00	36%	36%	3,508.00	165%
Hungary	496,568.00	496,568.00	94%	94%		
Malta	No grassland	No grassland	N/A	N/A		
Netherlands	51,451.00	51,451.00	100%	100%		
Austria	269,414.00	15,276.00	9%	9%		
Poland	584,503.00	256,396.00	42%	42%		
Portugal	284,049.59	1,726.68	1%	1%		
Romania	789,100.00	601,265	78%	78%		
Slovenia	73,909.00	19,314.73	26%	26%		
Slovakia	142,424.94	142,424.94	95%	95%		
Finland	2,833.62	2,833.62	100%	100%		
Sweden	47,325.00	47,325.00	100%	100%		
UK England	265,162.00	265,162.00	100%	60% (UK)		
UK Northern Ireland	37,338.26	37,238.77	100%			
UK Scotland	812,178.00	332,702.00	41%			
UK Wales	83,968.00	83,968.00	100%		22,509.20	27%
Total	15,599,338.98	6,964,440	46%		306,316.25	

#### 4.3.2 Examples and lessons learned

No examples of good practice were encountered for this measure. We summarise here the main features of implementation in the UK, to illustrate the issues that arise.

In the UK, implementation is exceedingly similar in all 4 countries, and a key consideration is the interplay with the EIA (Environmental Impact Assessment) Directive. The EIA Directive provides protection for „semi-natural land“ against intensification or conversion, and in UK it is linked in turn to GAEC (although the EU cross-compliance rules fail to make this connection). In each UK country it would seem that, although uncultivated and semi-

natural land is not strictly being considered as falling into the ESPG category, the protection being offered is superficially very similar. When compared to previous versions of cross-compliance which did not form a coherent system of protection with the EIA rules, the new approach in the UK would seem on paper to be a substantial improvement.

However, the flaws of the EIA rules remain a weakness in the system. Whether or not the evidence would be available to prove any breach outwith Natura or other well-recorded sites, the fact remains that the minimum area threshold which applies before an EIA is required is a major and fundamental weakness in the level of protection EIA offers, even on paper. This would be a particular weakness in areas where the remaining semi-natural areas or the ownership pattern or both are already fragmented (i.e. small fields). To quote the Art. 17 report for habitat 6210 in England, „protection for non-designated sites is provided for through implementation of the Environmental Impact Assessment (Agriculture) (England) (No. 2) Regulations 2006 for uncultivated/semi-natural habitats although its role in site protection has proved ineffective“ (JNCC, 2013). Whether inclusion in GAEC changes that is an interesting question – the situation should be monitored.

On the other hand, in areas where almost all farmland is permanent pasture, rules which completely prevent the ploughing up of even small areas of semi-natural grassland, no matter its quality and no matter what replaces it, would be regrettable and not something which conservation organisations would generally consider desirable.

To summarise the weaknesses:

- ‘Comprehensive’ protection is provided in Natura sites only (though whether this applies to grasslands other than the features of Community interest in England is not clear)
- Outwith Natura sites, EIA protection only, but this is handicapped by:
  - Lack of baseline data
  - Minimum size thresholds at which EIA rules apply
  - Need to show that conversion is linked to agricultural intensification

## 5 Pillar 2

### 5.1 Pillar 2 measures used to support HNV pastures

#### 5.1.1 EU framework

REGULATION (EU) No 1305/2013 on support for rural development establishes 6 priorities, of which the fourth is for restoring, preserving and enhancing ecosystems related to agriculture and forestry, with a focus on the following areas:

*restoring, preserving and enhancing biodiversity, including in Natura 2000 areas, and in areas facing natural or other specific constraints, and high nature value farming, as well as the state of European landscapes*

The most relevant measures for pursuing these objectives, especially in relation to HNV pastures, already existed in slightly different versions well before the 2014 CAP reforms, even since the 1970s (LFA/ANC) and 1980s (AEM/AECM). A small but notable new measure is the Co-operation measure (Art 35), potentially very interesting for HNV pastures but dependent entirely on whether MS choose to include this as a focus of implementation or not (the only example we are aware of is Ireland – see below).

**The AECM** comes under Article 28 of Regulation 1305/2013. According to the Regulation the purpose of the measure is to preserve, and promote the necessary changes to, agricultural practices that make a positive contribution to the environment and climate.

AECM payments shall be granted to farmers, groups of farmers or groups of farmers and other land-managers who undertake, on a voluntary basis, to carry out operations consisting of one or more agri-environment-climate commitments on agricultural land to be defined by Member States, including but not limited to the agricultural area defined under Article 2 of Regulation 1305/2013. Where duly justified to achieve environmental objectives, AECM payments may be granted to other land-managers or groups of other land-managers.

Payments shall be granted annually and shall compensate beneficiaries for all or part of the additional costs and income foregone resulting from the commitments made. Where necessary, they may also cover transaction costs up to a value of 20% of the premium paid for the agri-environment-climate commitments. Where commitments are undertaken by groups of farmers or groups of farmers and other land managers, the maximum level shall be 30%.

AECM payments cover only those commitments going beyond the relevant mandatory standards (cross-compliance) established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013, the relevant criteria and minimum activities as established pursuant to points (c)(ii) and (c)(iii) of Article 4(1) of Regulation (EU) No 1307/2013, and relevant minimum requirements for fertiliser and plant protection products use as well as other relevant mandatory requirements established by national law.

**The Natura 2000 (and Water Framework Directive) payments** measure comes under Article 30 of Regulation 1305/2013. The purpose of the measure is to compensate beneficiaries for additional costs and income foregone resulting from disadvantages in the areas concerned, related to the implementation of Directives 92/43/EEC (Habitats Directive) and Directive 2009/147/EC (Birds Directive) and the Water Framework Directive.

Support shall be granted to farmers and to private forest holders and associations of private forest holders. In duly justified cases it may also be granted to other land managers.

Support under this measure shall be granted annually per hectare of agricultural area or per hectare of forest in relation to disadvantages resulting from Natura 2000 or WFD requirements that go beyond the good agricultural and environmental condition provided for in Article 94 and Annex II of Council Regulation (EU) No 1306/2013 and the relevant criteria and minimum activities established pursuant to points (c)(ii) and (c)(iii) of Article 4(1) of point (c) of Article 4(1) of Regulation (EU) No 1307/2013.

**The Areas of Natural Constraints (ANC) measure** comes under Article 31 of Regulation 1305/2013. Payments to farmers in mountain areas and other areas facing natural or other specific constraints shall be granted annually per hectare of agricultural area in order to compensate farmers for all or part of the additional costs and income foregone related to the constraints for agricultural production in the area concerned. The aim of the measure is to encourage continued use of agricultural land, and thus contribute to maintaining the countryside as well as to maintaining and promoting sustainable farming systems. However, there is no requirement to target the payments on sustainable farming systems, nor to apply particular sustainability conditions in return for the payments (in fact the requirements are the same as for Pillar 1 basic payments).

**The Co-operation measure** is established under Article 35 of Regulation 1305/2013. It provide for a wide range of co-operation actions involving at least 2 entities to promote EU rural development priorities, including:

- Operational Groups under the European Innovation Partnership (EIP)
- Pilot projects
- Joint approaches to environmental projects and ongoing environmental practices, including efficient water management, the use of renewable energy and the preservation of agricultural landscapes.

There is no explicit reference in the lists of potential actors to nature conservation bodies, nor to HNV farming as a focus for co-operation, but there is also no exclusion of such actors and themes.

### 5.1.2 Examples and lessons learned

There are good practice examples from all the MS that we looked at. The majority are examples of AECM implementation, but with several different elements of good practice. These include:

- Long-term continuity and financial stability of AECM for semi-natural pastures (Belgium and Sweden)
- Well-funded training and information programmes directly linked to AECM (Sweden)
- Special AECM designed for groups of pastoralists using common grazings (France)
- Locally targeted Burren scheme, where payments are based on a results-based scoring system supported by capital grants (Ireland)
- AECM implemented with extra local flexibility through a pilot scheme (England)
- Specific AECM for HNV grasslands, with implementation targeted through a national map of these grasslands (Bulgaria)
- Use of AECM to provide support for HNV grasslands that have been excluded from Pillar 1 support (Sweden, Bulgaria, Estonia)

The other most notable example of best-practice use of Pillar 2 measures is the way the Co-operation measure is being applied in Ireland to fund the development by farmers' groups of locally-led schemes similar to the Burren results-based agri-environment programme.

The examples illustrate the enormous potential of Pillar 2 measures to be used in support of HNV pastures, including innovative approaches such as supporting pastoral groups, targeting HNV pastures at national level, using results-based payment schemes, piloting locally-led projects, and filling the gaps left by the restrictive rules on pasture eligibility under Pillar 1. The problem is that nothing in the EU regulatory or governance frameworks has the effect of steering Member States towards such positive implementation models. It is left almost entirely to the choice of national and regional authorities, with the result that certain regions do a lot to support HNV pastures through the available measures, while many regions do very little.

## **5.2 Eligibility issues for Pillar 2 payments on pastures**

### **5.2.1 EU framework**

This issue is relevant mainly for measures providing area payments under Pillar 2, most notably AECM and ANC. According to Article 28 of Regulation 1305/2013, AECM payments can be made to farmers, but also to other land-managers; and on agricultural land as defined under the Pillar 1 rules, but also on other agricultural land not covered by the CAP definitions. In other words, it is up to MS authorities to decide which types of farmers/land managers, and which types of agricultural land, can receive AECM payments.

### **5.2.2 Examples and lessons learned**

As explained in the previous section, in some countries AEM are used to provide support for HNV pastures that have been excluded from Pillar 1 support, e.g. Bulgaria, Estonia, Sweden.

However, in some other countries, ONLY land that is eligible for Pillar 1 direct payments can receive AEM and ANC payments. This is the case in Spain, where new eligibility rules have led to the exclusion of large areas of HNV pastures from Pillar 1 support, and by extension also from AEM and ANC.

This is a very stark example of how combinations of EC and MS decisions have a huge influence, in determining whether the CAP as a whole has positive or negative effects for HNV pastures.



## 6 Training and advice

The CAP regulations emphasise the importance of information, advice and training. For example, under the AECM Article 28 (Reg 1305/2013), paragraph 4 states that:

Member States shall endeavour to ensure that persons undertaking to carry out operations under this measure are provided with the knowledge and information required to implement such operations. They may do so through, inter alia, commitment-related expert advice and/or by making support under this measure conditional on obtaining relevant training.

The wider question is whether such limited advice provision is the only type needed by farmers, often in marginal areas, who use semi-natural grasslands. And whether these fields of advice provision are the only ones where market failure is likely. Experience suggests that a wider view of advice is needed, one which treats a farm which has an integrated environmentally-benign but economically challenging system in a different way to how it deals with an intensive and possibly profitable enterprise where environmental benefits are marginal to the system and a lot of the issues are to do with the prevention of damage.

The Scottish system of advice, available throughout the country, even in the most marginal areas, has a lot of benefits and has been supported by the taxpayer over the years. However, these benefits have been somewhat under-recognised and the trend, informed by the same narrative as the Regulation, is towards free advice on public goods (narrowly defined) and increased commercialisation of all other assistance (i.e. unsubsidised hourly rates for consultancy work).

There are also possibilities in the Rural Development Regulation to provide a training and information component linked to agri-environment payments, but most programmes make little use of this. Sweden is one of very few member states that have used these provisions on a large scale, already from the first version of its agri-environmental programme in 1996. It was argued that competence building not only had a value in itself, as "a long-term investment" in the environmental consciousness of the farming community, but was also necessary to ensure the intended effect of the agri-environment payments.

The budget for competence building related to semi-natural grassland management was originally quite substantial, corresponding to some 6-7 per cent of what was paid in per-hectare support. Typical activities that have been financed:

- Shorter and longer courses on a variety of subjects, often a mixture of theory and practice – how to manage grazing animals in semi-natural pasture, how to restore degraded pastures, how to use a scythe.
- Several national awareness-raising campaigns on biological diversity.
- Individual management plans for a farmer's grassland (compulsory for some types of per-hectare support).
- Shorter and longer study visits and trips
- Farmer field days.

Much of this has been carried out by national or regional government agencies, but funding has also been available to other actors such as advisory services or farmer organisations. Most farmers receiving per-hectare support for semi-natural grassland have participated in one or more of these activities, even though participation with a few exceptions has been

non-compulsory. Programme evaluations indicate that both farmers and the responsible government agencies have found the competence building useful and effective.

After 2007, however, Sweden has gradually reduced the training and information component in its RDP, and particularly – despite protests from both government agencies and environmental organisations – the competence building linked to agri-environment payments.

## 7 Examples of best practice

### 7.1 Belgium

#### 7.1.1 A tailored agri-environment measure for HNV pastures

**What are the particular issues at stake for HNV pastures in the country, relating to this example?**

After decades under the paradigm of intensification and productivity, the positive role of farming to maintain high nature values has decreased dramatically in Belgium. Even in areas with higher proportions of semi-natural elements, like much of Wallonia, HNV pastures such as calcareous grasslands, humid pastures, or grazed high-stem orchards have a very patchy distribution, only covering about 5% of the Utilized Agricultural Area in Belgium.

Main farming drivers could lead to the abandonment of grazing in many of these pastures, or to grazing being applied without taking into account biodiversity conservation needs. There is also some risk of conversion into improved grasslands, or for a change of land use (to forestry).

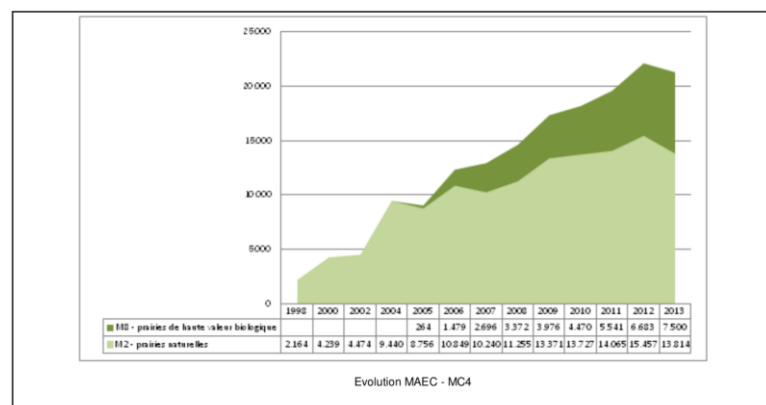
**What is the measure (or combination of measures) in question?**

Agri-environment-climate measure MC4, called “Prairie de haute valeur biologique” (High Biological Value pasture), has become the key measure for sustaining the conservation, maintenance and restoration of habitats with a high natural and heritage value in Wallonia (Belgium). The main characteristics of this measure are:

- It is one of the five targeted agri-environment measures available in Wallonia. Being a higher-level measure implies that an external expert funded by the regional government advises the farmer on the management measures to be adopted, planned in accordance with specificities of the farm.
- The payment rate is 450 €/ha and there are 8,000 ha (of which 2/3 in Natura 2000 areas) benefitting of the measure. If requested in combination with the Natura 2000 measure, the rate can go up to 550-690 €/ha.
- There are some general commitments, like: i) no fertilisation or pesticides of any kind, ii) no on-site livestock feeding with concentrates or fodder, iii) if mowed, 10% of the surface area must be left untouched to act as a refuge.

Further specific commitments will depend on the expert assessment performed when entering the scheme, which takes into account the ecological features of the farm and how farm management can be adapted to boost the biological value of prairies. For instance, to protect *Genciana* pastures, which flower in September, grazing will be prescribed early in the year; and vice versa in pastures with spring-flowering orchids.

Since its introduction in 2004, this AECM has been increasingly adopted by farmers (see dark green trend in figure), and is generally considered to be a very successful measure. Compared to the



current ca. 8,000 ha under this measure, the RDP2014-2020 targets 11,500 ha by 2017 and 13,200 ha by 2020, with an overall budget of 24 M€ for the programming period.

**What are the features that make it a "good practice" example for HNV pastures?**

Continuity is one of the best characteristics of this AECM: it has existed since 2004, adding up to three consecutive programming periods with some adaptations but no major changes, which contributes to building confidence among farmers.

It is the largest AECM in the Wallonian RDP, and it has a relatively high payment rate, which has proven to be enough to encourage HNV pasture management among farmers in Wallonia, even those with the rest of the farm under intensive practices. In some cases, it provides enough support for low intensity livestock farms without direct payments, such as those recently established for both production and environmental purposes.

A positive feature is the fact that the eligible surface area is larger than that for direct payments and the RDP Natura 2000 and organic measures. This has prevented many HNV pastures from becoming fully excluded from CAP payments.

The advice provided by the Wallonian government, through a group of 25 experts, to farmers participating in this and other high-level targeted AECMs, is key. This expert assessment is a condition to enter the programme and it is also provided on farmer's request and in the one or two monitoring visits during the 5 year engagement. Stricter supervision is applied if things seem not to be progressing adequately.

**What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

The flexibility and monitoring of the management prescriptions, supported by expert assessments based on carefully elaborated guidelines, make MC4 a robust measure, with low risks of misuse. Nevertheless, there may be cases of farmers who are not environmentally aware but who take part in the scheme just for the subsidy offered. In these cases, beyond the specific results at the parcel level, the farm may have poor environmental standards.

To improve overall environmental performance in farms participating in the scheme, additional support could be granted for extended commitments. This need is partly met by another AECM, called Agri-Environment Action Planning (MC10), but it is currently aimed at few farms and has a very limited budget. It would be desirable to extend this measure to support full environmental assessments of most farms taking part in MC4, who would have to establish further environmental goals and a calendar of action to achieve them.



In the *Réserve Naturelle Domaniale de Bènâ Bwès* (Wallonia, Belgium) an abandoned pasture and new pastures originating from a clear-cut spruce stand are being managed again with livestock since 2011. Spring grazing by Fjord ponies is carefully applied by Marc Philippot, a recently established farmer without CAP direct payments but who receives support from the MC4 and MC10 agri-environment-climate measures. (Photo: Marc Philippot, [www.paturage.be](http://www.paturage.be))



The butterfly *Melitaea diamina* (left) and the protected orchid *Dactylorisa maculata* (right) are some of the species observed regularly in the HNV pastures of *Moulin de la Fosse*, managed with Fjord ponies thanks to the support of the Wallonian agri-environment-climate measure MC4. (Photo: Marc Philippot, [www.paturage.be](http://www.paturage.be))

## 7.2 Bulgaria

Very large areas of less-productive grasslands were excluded from Pillar 1 eligibility when the LPIS was first implemented in Bulgaria, putting them at a high risk of abandonment. Then with the application of strict rules on trees and bushes (the “50 tree rule”), the area of grasslands eligible for Pillar I support was reduced further, reaching as low as 436,000 ha in 2009, compared with the total area of grasslands in Bulgaria of 1,842,141 ha (2007 data).

Abandonment is a major problem, and by 2014 the total area of grasslands had fallen by 26%, to 1,363,984 ha. The “50 trees rule” also encouraged farmers to undertake excessive clearance of woody habitats in order to avoid penalties. For more details of policy in Bulgaria, see Stefanova and Kazakova (2015).

### 7.2.1 Restoration and management of HNV grasslands scheme under the agri-environment-climate measure (AECM)

#### **What are the particular issues at stake for HNV pastures in the country, relating to this example?**

In an attempt to address these problems, an HNV grasslands AE scheme was designed to support all semi-natural and High Nature Value grasslands in Bulgaria, which in 2007 were estimated to be around 951,000 ha. A targeted LPIS layer for High Nature Value Farmland (HNVF layer) was developed specifically for this scheme before the “50-tree-rule” was implemented. Thus, the HNVF layer and the corresponding AE scheme includes approximately half a million hectares of grasslands that are excluded from the LPIS eligibility layer for Pillar 1 (SAPS).

Since 2014, grasslands in Natura 2000 areas are not eligible under this scheme in order to avoid double payment with the Natura 2000 measure on agricultural land.

#### **What is the measure (or combination of measures) in question?**

The Restoration and Maintenance of HNV Grasslands AECM scheme is applicable to all grasslands in the HNVF layer throughout the country. Farmers’ commitments are for a minimum period of 5 years and every year they declare whether the grassland parcels will be mown or grazed.

The payment rate for mowing is €113.15/ha and the management requirements comprise prohibition on the use of mineral fertilisers and plant protection materials; restrictions on the timing for the first mowing in lowlands and in mountainous areas; restrictions on the mowing approach – it must be by hand or by a slow mowing machine from the centre to the edge of the parcel, or from one side to the other; as well as a requirement for removing mown grass from the field or for gathering it in haystacks.

The payment rate for grazing is higher – at €126.8/ha - and the management requirements comprise prohibition on the use of mineral fertilisers and plant protection materials; as well as a recommended grazing density between 0.3 -1 LU/ha.

#### **What are the features that make it a "good practice" example for HNV pastures?**

The HNVF layer and the designated HNV farmland physical blocks, which were initially developed only for the AE scheme, are now used in two beneficial ways for HNV grasslands:

1) For providing support to all grasslands in the HNVF layer, irrespective of their eligibility for Pillar 1 SAPS. This is an important step for the conservation of the valuable grassland habitats, especially in the non-designated Natura 2000 sites. However, the higher Pillar 1 payments provided a much stronger incentive for farmers and they were mostly willing to remove the “excess trees/bushes” to become eligible for support by both Pillar 1 and Pillar 2.

2) For implementing less restrictive LPIS land eligibility requirements for permanent grasslands for Pillar I support.

In the 2007 – 2013 period, SAPS ‘eligibility rule’ for permanent grasslands in Bulgaria was a maximum of 50 trees/shrubs per ha. However, this rule was modified for the grasslands in Natura 2000 zones and HNV farmland (as delineated in the HNVF layer) and increased to 75 trees and/or shrubs per hectare. The dispersed buildings, equipment, rocks, rocky areas, eroded or bare areas could be up to 20% of the total area of the pasture (10% on ‘ordinary’ agriculture land).

Other benefits of this scheme include:

- The targeted agri-environment support for HNV grasslands is preventing the abandonment/encroachment of many valuable semi-natural habitats. The measure continues in the 2014-2020 period without any significant changes.
- The creation of an HNVF GIS layer in the LPIS, even though it needs to be improved, is an important step for HNV grasslands conservation. It helped to build an understanding in the public administration responsible not only for the agri-environmental measure but also for the Land Parcel Identification System.

**What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

When the measure was introduced in 2007, the HNV pastures, *meri* (common grasslands) and meadows were estimated to be around 951,000ha. Due to the 50-tree-rule in the previous programming period, the grasslands eligible for Pillar I support were reduced to 436,000 ha in 2009. It was only in 2010, that the rule was modified to become the 75-tree-rule in HNVF layer. As a result, most of the farmers that applied for agri-environmental measure and Pillar I support in the 2008-2010, were penalized for over-declaration of land. This process prompted massive clearance of “unwanted vegetation” which in many cases resulted in clear-cutting fields and destroying the landscape. An additional motivation for this is that the payment level for Pillar I support is higher, and most farmers are willing to receive both payments.

One potential field of improvement is to re-assess whether clear-cut open grasslands where habitats have been significantly changed or damaged should still receive agri-environmental money.

In the 2007-2013 programming period, the equal payment rates for mowed and for grazed HNV grasslands, in some cases, led to the so-called “subsidy farmers” that were only topping the grasslands without removing the hay. It was easier to manage the grasslands by mowing than by grazing. In the 2014-2020 period, the payments were differentiated and a new requirement that the mown grass has to be removed from the grassland or dried and gathered in haystacks was introduced.

In the first programming period 2007-2013, farmers applying under the agri-environmental measure had access to free advisory services but only for filling in the application forms. What lacked and is still lacking is an advisory support on biodiversity conservation and farm management issues in HNV farming systems. This specific advisory competence is still missing in the national advisory system.

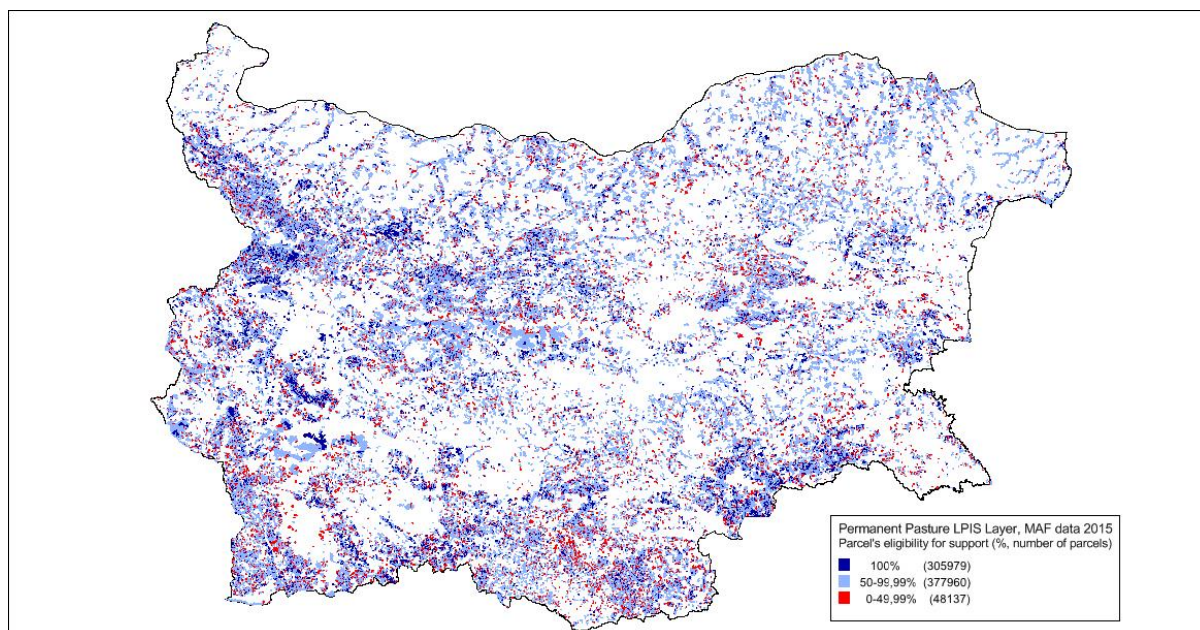


Figure 4: Eligibility of Permanent Grasslands in LPIS 2015: Grasslands eligibility issues are dispersed throughout the country. Map produced by Yanka Kazakova on the basis of MAF LPIS 2015 data

### 7.2.2 Traditional practices for seasonal grazing under the agri-environment-climate measure

#### **What are the particular issues at stake for HNV pastures in the country, relating to this example?**

Prior to the implementation of this scheme alpine grasslands experienced significant abandonment. Livestock breeders used mostly the abandoned arable fields near to villages, and had no need to go further for grazing. In the national parks, the issue was even stronger since farmers were unwilling or unaware how to obtain grazing permits in the protected areas. With the accession to the EU, the abandoned arable fields were put back into cultivation, thus grazing resources became restricted. The first management plans of national parks developed in early 2000s acknowledged that grazing is necessary for grasslands habitats and aimed to restore extensive grazing. This is where the needs of biodiversity conservation and livestock breeding met, and the seasonal grazing scheme was welcomed by both sectors.

#### **What is the measure (or combination of measures) in question?**

The “Traditional practices for seasonal grazing” scheme supports the traditional seasonal grazing of alpine grasslands in the three national parks Rila, Pirin and Central Balkan. RDP 2014-2020 envisages enlarging the scope to include also alpine pastures in nature parks and Natura 2000 areas with enforced management plans, but this is still not implemented.

The scheme was introduced in 2007-2013 programming period, first in two national parks- Pirin and Central Balkan. After the Mid-Term Review of the RDP it was extended to Rila National Park. The management requirements comprise grazing of at least 10 cows or 50 sheep or a mixed herd of 10 LU (sheep and cows); a minimum grazing period of three months in the period May – October; and compliance with the recommended grazing density in the management plan for the respective national park.



The commitment for the grazed areas is for minimum 5 years, but the grassland parcels can be changed as long as the total area does not decrease by more than 10%. The payment rates reflect the pastoral practice in use: for seasonal grazing without herd dogs - €179/ha, and when herd dogs are used, the rate is increased to €182/ha.

**What are the features that make it a "good practice" example for HNV pastures?**

The measure provided a significant incentive for livestock breeders to start taking their stock up in the mountains again. Prior to the measure's introduction, many of the grasslands in the national parks were abandoned and succession (mostly with juniper) had started. The scheme promotes the use of grasslands in national parks and other protected areas. Many of these grazed areas are not eligible for support under Pillar 1, so the only support they receive is under this measure.

It is also a good practice of collaboration between the agriculture and nature conservation authorities to solve a problem related to both sectors on important territories.

The seasonal grazing scheme was introduced in 2008. In 2013, 10,200 ha of grasslands and 256 farmers were supported. It is extended in the new programming period with a plan to increase the protected territories in which it is applied. The initial data for 2015 shows an increased interest from farmers in the three national parks to 375 applications for 26,100 ha. It is still not implemented in new areas.

**What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

The scheme quickly became very attractive to livestock breeders as in the first programming period they received very little other support – no coupled payments for the livestock, limited SAPS payments because of the grasslands eligibility issue. In this AECM scheme they received an area-based payment which was calculated on the number of their livestock units, so it is a de facto indirect coupled payment. The national park directorates were under significant pressure to issue the maximum number of grazing permits on all potentially grazing territories. Thus, in some park regions, the grazing intensity was significantly increased. A study by Nikolov and Gogushev in 2013, reports overgrazing problems and habitats deterioration due to intensive grazing (Nikolov and Gogushev, 2013). In the 2007-2013 period, the seasonal grazing scheme supported also grazing by horses. The uncontrolled grazing by horses led to destruction of some valuable habitats and was excluded from the measure in the 2014-2020 period.

What improvements could be proposed?

- The calculation formula for the grazing permits should be revised and a lower grazing density should be enforced.
- The scheme has to be complemented with specific on-the-spot advisory support to the farmers for the best way of maintaining the HNV grasslands.
- A requirement to have a shepherd accompanying the herds should be introduced in the Seasonal grazing scheme to avoid animals ranging freely in strictly protected territories in the parks.



Before the introduction of the Seasonal Grazing AECM, many grasslands in protected areas were suffering widespread scrub invasion (juniper) and loss of habitat quality, such as here in the Central Balkan National Park. Photo: Yanka Kazakova, 2016



Species-rich grasslands dependent on grazing, in Central Balkan National Park. Photo: Yanka Kazakova, 2016



Livestock supported under the Seasonal Grazing AECM, in Central Balkan National Park.  
Photo: Yanka Kazakova, 2016

### 7.2.3 Recent legislative changes for the use of the municipal (common) grasslands in favour of farmers with grazing animals

**What are the particular issues at stake for HNV pastures in the country, relating to this example?**

Municipal pastures in LPIS cover 417,748 ha, making up almost half of all permanent pastures in LPIS; 74% were eligible for CAP Pillar 1 support in 2015.

Prior to 2007 the use of these pastures was informal and based on historical regulations. Each village or municipality owned and used commonly forests, mountain pastures and village *meri* where livestock grazed in summer months. CAP implementation led to significant changes in the municipal (common) land distribution and use: it introduced a levy for the use of this land, provided for the establishment of associations of land users, and requested compliance with GAEC.

The users of common land, whether collective (associations) or individual, needed to have a legal right to use the grasslands in order to be eligible for CAP area-based payments. In the 2007-2014 period, the municipal councils were responsible for deciding on the use of municipal pastures. Firstly, the pastures for common use were defined based on the livestock grazing needs of "small farms". Then the individual use was decided by a tender procedure. This legal framework did not work well, because any farmer in the country with or without livestock had legal rights to participate in the tender and apply for the management of the municipal pastures. Local livestock farmers were in an unfavourable situation: In many cases they did not have any, or had limited access to, grasslands regardless of the number of grazing animals they reared. The land could be used by claimants from outside the district to claim SAPS without grazing.

### **What is the measure (or combination of measures) in question?**

In 2014, the legal framework was changed again and gave a right to the livestock breeders in each settlement to use the grasslands individually without a tender procedure but depending on their stock. Currently the following procedure is applied in Bulgaria:

1. Municipal grasslands and meadows are leased to livestock farmers, whose farm is registered in the settlement and the grazing livestock (cattle, sheep, goats or horses) is registered in the Integrated Information System of the Food Safety Agency;
2. Farmers have to submit a written request to the mayor of the settlement for the municipal grasslands they want to use until 10<sup>th</sup> of March each year. The information for the available grasslands in the settlement is published in the municipal hall (including the municipality website) before 1<sup>st</sup> of March each year;
3. The distribution rights of municipal grasslands are in addition to the grasslands already owned and/or used by the farmer, following the ratio: 1 ha per LU if the grasslands are on good soil quality (land category 1 to 7) and 2 ha per LU if the grasslands are on poor soil quality (land category 8 to 10). For suckler cows and native breeds the ratio is 1.5 ha per LU or 3 ha per LU depending again on the land category;
4. The distribution of the grasslands starts with the ones in the settlement where the farm is registered. If the grassland area is not sufficient within the borders of the settlement, then grasslands from the adjacent settlements in the municipality are offered to the farmers until 1<sup>st</sup> of June each year. The final distribution and the agreements are signed before 1<sup>st</sup> of July for a period of minimum 5 years;
5. The remaining grasslands are tendered out only to livestock breeders for a period of 1 year. If there is again excess of grasslands, a second tender could be launched for all farmers. Farmers without livestock can apply only in this tender. The agreements for the tendered grasslands are again for 1 year.

### **What are the features that make it a "good practice" example for HNV pastures?**

There are two very important provisions aimed to support grazing practices and to contribute to improving the pastures' use and management:

1. It is directed to livestock breeders and gives priority to local farmers.
2. If grasslands outside the SAPS eligibility layer are contracted, farmers do not pay any levy for the first year;
3. All farmers that have an ongoing contract for using municipal grasslands had the right to buy grazing animals until 1<sup>st</sup> of February 2016 if they wanted to continue using municipal grasslands.
4. It is too early to make an assessment how these provisions will work and what their effects will be, but for sure it is a step forward for reducing the number of the so called 'subsidy farmers' e.g. the ones that only use the grasslands for claiming SAPS, not for grazing. For example, in Godech municipality the grazing livestock registered in the Integrated information system of the Food Safety Agency has increased significantly over a period of only 2-3 years.

Table 5: Grazing animals in Godech municipality

Grazing animals	Number in 2014	Number in 2016
Cattle	401	1422
Sheep	706	3825
Goats	130	342
Horses	162	269

## 7.3 Estonia

Estonia traditionally used its best land for arable crops, using outfield semi-natural vegetation of various types for pasture. Partly as a result of the changes during Communist times, and partly to the subsequent collapse of agriculture, there has been a strong trend towards the abandonment and loss of such pastures and indeed to systems of production where animals are indoors all year. Policy has had to respond to the loss of pastures, at least in the case of Annex 1 habitats on Natura 2000 sites. For more details of policy in Estonia, see Lepmets (2015).

### 7.3.1 Use of agri-environment to make up for the deficiencies of direct payments

#### **What are the particular issues at stake for HNV pastures in the country in relation to this example?**

In common with other Boreal countries, a high proportion of Estonia's best land is in arable. Grazing animals were formerly highly dependent on semi-natural vegetation – not only meadows, but wood pastures, alvars, floodplain grasslands, juniper pastures and the like.

It is estimated that there are approximately 100,000ha of semi-natural habitats in Estonia, as determined by ecological criteria; most of these are listed in Annex 1 of the Habitats Directive and are known to be suffering reductions of conservation status due to the abandonment of traditional management practices, with many areas being lost altogether to the forest (since they are semi-natural, their conservation status will decline without active farming management). About 73,000ha are covered by the Natura 2000 network .

In the previous programming period, EC rules ('guidelines') put into question the eligibility of certain pasture habitats for support. The so-called '50 trees rule' was estimated to mean that in Estonia:

- Wooded pastures (Annex 1 biotope 9070) and meadows with junipers (including 4030, 5130, 6120 or 6280) would not for the most part receive Pillar 1 payments, as the tree density is generally >50 stems/ha in Estonia.
- Habitats 9070 and 5130 would be ineligible for SAPS.
- More than half of the area of habitat 4030 would be eligible, but the rest would either be too dense or the herbaceous forage would not be dominant.
- Less than half of the area of 6280 would be eligible, but the rest would have too high a coverage of juniper.
- While most 6210 should be eligible, it was estimated that perhaps 25% would not be.

Possible solutions using the Pillar 1 rules were evaluated and either rejected or abandoned. A regional solution of derogation for the westernmost 4 counties was not continued as the message from the EC seemed to be that it had to be justified through inventories, although this is not reflected in CAP rules. Similar limitations on the availability of data (and of staff to collect the data within the timescale available) meant that using the pro rata rules was not thought to be appropriate. The 'relaxing' of the rule to 100 trees/ha was not thought to make much difference, since most of the habitats would have tree densities in excess of the new threshold.

#### **What is the measure (or combination of measures) in question?**

Estonia decided that for a number of reasons, not least simplicity, it would support these pasture habitats using Natura 2000 payments. In the current programming period, this has changed into a more appropriate AECM. See PRIA (2017).

The AECM scheme is targeted solely at land in Natura 2000 sites - this is registered in a separate Environmental Register. The following habitat types are eligible: 6530, 9070, 4030, 5130, 6210, 6280, 1630, 4030, 6210, 6270, 6280, 6410, 6430, 6450, 6510, 7230 or 8240.

Land eligible for this scheme should be in a condition that allows active management and mostly covered with meadow-type vegetation, being mowable or grazable. If it has been recently restored, there should be reasonable conditions established in which such vegetation can develop. The diameter of branches cut and left on the ground should not exceed 5 cm nor should their length exceed 50 cm; stumps should be cut as low as possible but not higher than 15 cm; in alvars the canopy cover of trees should not exceed 30% and in wooded meadows and wooded pastures 40%; the canopy cover of bushes should not exceed 10%. The area should be grazed or mown and the grass collected.

Land with junipers is only eligible for this AECM scheme if the canopy cover is less than 50%. If the area with junipers and trees has meadow-type vegetation and all the land could be mown or grazed, it is possible for the canopy cover to exceed 50%, in which case there are more precise rules for determining the eligible area. In this case 'meadow-type' vegetation should be present under the junipers. Patches where the canopy cover exceeds 50% should not be larger than 0.05 ha and the canopy cover in the whole area (within which such patches lie) should still not exceed 50%.

The requirements of the measure depend on the maintenance method – if the applicant is maintaining the habitat through grazing or mowing – and on the type of habitat.

For the coastal areas specified by experts, where higher maintenance quality is required, the applicant may choose to fulfil an additional requirement.

The following are also considered part of the eligible land for the AE semi-natural habitat measure:

- GAEC landscape elements;
- other traditional landscape elements, such as stone fences, hay barns and animal shelters;
- up to 2 m wide linear landscape features;
- areas partially covered with trees and bushes but also with the meadow-type vegetation, which are related to traditional agricultural activities or achievement of environmental targets, which are not larger than 0.05 ha;
- up to 0.05 ha large waterbodies and areas without the vegetation;
- patches in the coastal grassland without the vegetation, except the sandy and rocky areas next to the sea;
- reedbeds mown or grazed during the previous year;
- temporarily flooded areas.

Support is paid for an area of semi-natural habitat extending to at least 0.10 hectares, which is entered in the environmental register.

Requirements for all habitats:

- Habitat should be mown or grazed according to the rules set in the general support regulation or the more specific management plan of the habitat or the protection and control plan of the species. There are separate rules established for mown areas (for example not to mow before 10 July) and those to be grazed, with the rules depending

on the habitat type or the particular Natura site. Management practices should be approved beforehand by the Environmental Board, which has also the right to set more specific rules or derogations;

- A semi-natural habitat which is the object of an application must have a visually detectable border;
- To get the support, the applicant must participate in obligatory 6-hour training on the maintenance of a semi-natural habitat;
- The applicant must keep a field book.

Payment rates:

- wooded meadow if mown 450 €/ha;
- wooded pasture if grazed 250 €/ha;
- meadows with junipers if mown 250 €/ha;
- meadows with junipers if grazed 185 €/ha;
- grazing of other meadow 150 €/ha;
- mowing of other meadow 85 €/ha
- Optional higher management commitments on coastal sites 232 €/ha.

Areas paid at the full rate under this measure are not eligible for SAPS. However, in the case of areas with less dense scrub, a combined approach is also possible. For example, if 7 ha of a 10 ha pasture is SAPS-eligible, the applicant can choose

- either to apply for the whole 10 ha under AE support, with a higher payment rate
- or choose to claim SAPS for the 7 ha and a lower payment rate of AE payment for the whole 10 ha.

### **What are the features that make it a "good practice" example for HNV pastures?**

Estonia has made considerable efforts to use Pillar 2 area-based payment to support the continued management of a range of semi-natural habitats in the Natura 2000 network. Strengths of the scheme are:

- Use of agri-environment only means freedom from all of the eligibility issue associated with BPS, though the eligibility rules of the AECM scheme itself are far from trivial
- Use of agri-environment only (because the land is not considered eligible for Pillar 1) means that issue of avoiding double funding between AECM and BPS are avoided
- Payment can be very closely targeted; 'wastage' should be minimal

What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?

These measures are not available for all habitually-grazed semi-natural habitats - due to the restrictions of budget and administrative capacity (perceived need for additional inventories), it has not been possible to extend the eligibility for this measure to land outwith Natura 2000 sites. Weaknesses of the scheme are:

- Extreme targeting criteria mean no habitat management payments for any semi-natural habitats outwith Natura sites (even the Annex 1 habitats targeted by the measure), nor for any semi-natural habitats not on the list within Natura sites.
- Creation of extreme black and white dichotomy between 'nature conservation land' and other farmland. Potential ghettoisation of 'conservation farming', with complete



freedom/lack of support for even beneficial management on relatively valuable habitats elsewhere. The lack of an ANC or a broad and shallow AE measure makes this dichotomy all the sharper.

- Can provide an 'acceptable' excuse for avoiding engagement with potential difficulties caused by eligibility rules for non-Natura farmers (dealing with which might involve significant resource issues for national payment administrations).

Overall, the Estonian approach can be seen as an extreme version of the targeting issues found in England and Scotland, for example – Natura sites are apparently well-catered-for, at least in principle; other areas are neglected, and direct payments/ANC are proving unable to make up the deficiencies, either in terms of the scale of the payments available or the subtlety of the criteria for payment. It was a good solution to an urgent problem, but now it seems all too embedded, with non-Natura farmers on semi-natural habitats seemingly forgotten and certainly not encouraged.

The obvious improvement would be to open the measure to non-Natura semi-natural habitats. However, the authorities believe they need an inventory of such land before they can do this, even though the EU rules do not demand this; their most recent inventory is regarded as very out of date.

### 7.3.2 Voluntary Coupled Support

#### **What are the particular issues at stake for HNV pastures in the country in relation to this example?**

The issue is the very high proportion of livestock which never leave the sheds, let alone graze semi-natural pastures. In addition, there is precious little incentive for smaller farms to continue in agriculture, especially since they can just top (cut) their fields and still be eligible for SAPS. Small family farms are in general extensively managed in Estonia and structured in a way which facilitates outdoor systems (e.g. pastures conveniently close to the animal housing). Ironically, the situation is worse for farming in Natura sites, as claimants can opt to top every other year, rather than annually, to fulfil the acceptable minimum management requirement.

#### **What is the measure in question?**

Through VCS, headage payments are available for dairy cows, suckler cows, goats and sheep. The payment per head is €131 for dairy cows, 91 for suckler cows and €16 for goats and sheep. (PRIA, 2017a)

#### **What are the features that make it a "good practice" example for HNV pastures?**

Headage payments are payable only to smaller farms with up to 100 dairy cows, 25 suckler cows or between 10-100 ewes or she-goats, since the decrease in the number of both farmers and animals has been highest for this size of farm.

#### **What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

The 'success' of the measure could be ascertained, by monitoring the total number of claimants (or of potentially-eligible small farms). However, there are no specific conditions in the rules of the scheme which would exclude intensive or indoor farming systems.

It is a largely „stand-alone“ measure – outwith Natura sites especially, almost no other measures' rules support it.

## 7.4 France

For more details of policy in France, see Poux (2015).

### 7.4.1 Empowering farmers to determine their pastures eligibility for direct payments

**What are the particular issues at stake for HNV pastures in the country, relating to this example?**

With the latest reform of the CAP, the new “eligibility rules for pastures with landscape features and trees” being applied across Europe has put many HNV pastures under threat of exclusion from direct payments. In France, large surfaces of extensively grazed semi-natural vegetation could have been excluded for a number of reasons, like having a too dense tree canopy (e.g., grazed woodlands), or if the eligibility system did not consider the forage value of woody species in pastures (e.g., leguminous shrubs).

**What is the measure (or combination of measures) in question?**

The procedure of application of the “eligibility rules for pastures with landscape features and trees” in France can be considered good practice for improving the eligibility for direct payments of HNV pastures. Instead of the drastic 100 tree/ha threshold, which has no ecological grounds, France opted for a pro-rata system with five levels of eligibility (100, 80, 60, 35 and 0%).

Rather than using remote sensing or other top-down approaches to implement this pro rata system, the singularity of France has been that farmers have been provided with detailed official guidelines (including photographic references) so they can assess eligibility of pastures themselves, rather than accepting an evaluation based on aerial photos. As it is a compulsory procedure, all livestock farmers in France have assessed their pastures to claim their direct payments on pastures under the Basic Payment Scheme in 2015 and 2016.




Using the aerial photo option, this pasture could have zero eligibility, due to >80% aerial coverage of trees and shrubs. However, by making his own evaluation using the tools provided, the farmer could demonstrate the presence of pasture below the canopy, and put the parcel in the <10% tree/shrub coverage category, thus achieving 100% eligibility of the parcel. Photo: from French Guide National Admissibilité

**What are the features that make it a "good practice" example for HNV pastures?**

It is a system that empowers farmers with clear guidelines and relies on their local knowledge and use of the territory.

It allows assessment of the understory of woodlands, which otherwise remains invisible to aerial photography and other remote sensing methods.

It provides criteria to assess how accessible shrubs and trees are for livestock, and provides also a list of (non-eligible) woody species rejected by livestock; this helps to reinforce the eligibility of browsed woody plants, by fully respecting EU regulations.

<small>BIOTOPES NATURELS</small> <b>Plaine, plateaux et collines secs</b>	<small>UNITE DE PASTORAL</small> <b>Bois avec sous-bois de landes</b>	<small>CATÉGORIE DE LA GRILLE</small> <b>30-50% (60% admissible)</b>
		
<small>Éléments admissibles</small> Garrigue à chêne vert, autres arbustes comestibles, herbacées.		
<small>Éléments non admissibles, pour lesquels le prorata est utilisé</small> Bouquets denses et hauts de chêne vert, sol nu, résidants de coupe, ciste cotonneux ( <i>Cistus albidus</i> ).		
<small>Date</small> Juin 2013	<small>Localisation de la prise de vue</small> Oyon / Provence-Alpes Côte d'Azur	

**What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

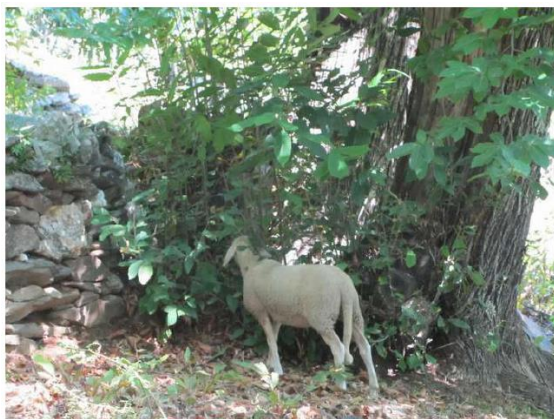
Even with the flexibility granted to farmers with this system, there are situations where pasture eligibility remains very low for HNV farmers.

The limited number of verified photos that have been made available in the guidelines do not include all potential situations, which could lead to misinterpretations. This could be corrected with more extensive photographic references, so as to take into account regional variations in livestock systems and pasture types.

Using a single list of non-eligible species at national level is a risk: certain species like *Ilex* sp. (in the list) or *Rhododendron* sp. (not in the list) may be browsed in some areas and livestock systems but not in others. A more flexible list could be preferable.

The assessment of accessibility does not take into account the type of livestock using the pastures, which may be crucial in certain situations (e.g., very thick shrublands used by goats only). This criterion should be integrated in the process of assessment, and recognised by authorities as an important element.

Quick controls were programmed to verify farmers' assessments in the first year of application. As these have not taken place on a large scale, numerous farmers may be controlled late in the programming period, and may face penalties for several years of improper (unverified) assessments. A longer period of adaptation without penalties is a common demand among farmers' organisations.



Controls need to take place in the period of the year where vegetation is actually grazed, as relatively abundant pastures in a chestnut wood (left) can “disappear” at the end of winter.

#### 7.4.2 Continued support to “pastoral groups” through agri-environment schemes

##### **What are the particular issues at stake for HNV pastures in the country, relating to this example?**

The French pastoral law, passed in 1972, established a unique legal framework supporting the creation of pastoral groups (*groupements pastoraux*) for the users of pastures, as well as of pastoral associations of land holders (owners of pastures). This has resulted in modernised and improved collective use of (common and private) pastures, in a context where land abandonment and intensification of grassland use are important threats to HNV pastures like mountain grasslands.

##### **What is the measure (or combination of measures) in question?**

Overall, the good policy practice is that several consecutive Rural Development Programmes have included one or several measures targeting pastoral groups, which has helped sustain them over time and ensure appropriate collective management of pastures.

The current AECM for Grassland and Pastoral Livestock Systems (*Systèmes Herbagers et Pastoraux*, SHP) is the new French RDP measure which provides support to pastoral groups. Annual payment rates vary between 57€/ha for poor grasslands at risk of abandonment, and 115 €/ha for grasslands with high agronomic potential, at risk of intensification and transformation into cereal cropland.

The engagement under SHP is relatively simple: grazing management needs to respect agro-ecological principles, avoiding both under- and over-grazing (stocking rates never above 1.4 LU/ha). In poor grasslands, the proportion of farmland under SHP is usually higher than in more productive farms.

Both individual and groups of livestock farmers can apply; in the latter case, it is the pastoral group who receives the payments (rather than the individual farmers) and this money is typically used to hire a shepherd and/or improve livestock infrastructure in the grazed areas (water troughs, fences, etc.).

Pastoral groups can also apply for other “localised” AECM targeting key issues related to pastoralism (namely, biodiversity and wildfire prevention), but these are usually more attractive for individual farmers.

## What are the features that make it a "good practice" example for HNV pastures?

This measure (as well as past measures for pastoral groups) gives crucial support to collective grazing management, frequently in HNV mountain pastures. Individual farmers rarely can afford to hire a shepherd for a few months or other major investments, but things change when 3-4 farmers form a pastoral group and can apply for funds under this AECM, which is currently capped at 10,000 € per year and pastoral group.

With a shepherd taking care of the livestock of several owners, grazing in mountain pastures is planned and implemented more carefully, ensuring an even distribution of the desired stocking rate and avoiding most issues related to poor livestock management. Besides, these shepherds can undertake further improvements in pastures (e.g. mobile fencing to control shrub encroachment), even though no commitment exists in this regard.

It must be noted that part of the success is due to the fact that pastoral groups are frequently facilitated by third parties, like Pastoralist Services (*Chambres d'agriculture*, *CERPAM*, etc.), National Park staff, local authorities, etc. These facilitators play an important role in maintaining the pastoral groups together and helping with application for subsidies, etc.

In 2012 there were nearly 1,000 pastoral groups including more than 5,500 farmers; and 350 Pastoral Associations of Land Holders, including 33,000 owners and 205,000 ha of land, mainly in mountain areas of South and East France. The SHP has worked very well for pastoral groups, though it depends largely on the region. In Provence-Alpes-Côte d'Azur, the majority of pastoral groups have contracts (but with relatively low payment rates); Languedoc-Roussillon: half of the pastoral groups benefitted from AECM contracts in 2015; Midi-Pyrénées: no contracts as the SHP measure not allowed for common pastures; Aquitaine: nearly all the collective pastures benefit from schemes.

## What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?

There are two main types of issues. Firstly, it sometimes happens that some larger farmers gain control over pastoral groups, which lose the "collective benefit" approach that should characterise them. Even if some restrictions apply when creating the group (size of flock, maximum "share" per farmer, etc.), it would be necessary to maintain some monitoring over the evolution of the group, to avoid allocating SHP funds to pastoral groups which no longer act as a group of farmers seeking shared investments and benefits.

To some extent this already happens with the basic payments claimed on that same land, which go directly to the individual farmers, rather than to the group. This is significant because new farmers (or incomers) are currently encountering difficulties for accessing common pastures: admitting a new member in the groups of farmers using a certain stretch of land means reducing the surface area claimed by each one of them, thus reducing their direct payments.

Secondly, the SHP AECM has been criticised for requiring a parcel-level type of engagement, even if this engagement is relatively simple and easy to meet. Pastoral

Document titled "Diagnostic Opération Collective Systèmes Herbagers et Pastoraux MAEC SHP 02 2015-2020". It contains sections for "Présentation du collectif" and "Les unités de gestion".

**Présentation du collectif**

Nom de l'association	
Type de structure	<input type="checkbox"/> Association <input type="checkbox"/> Syndicat
Nombre de parcelles	
Nombre d'éleveurs	
Date d'engagement	

**Les unités de gestion**

Nom de l'unité de gestion	Superficie	Nbre d'USP (ha)	Nbre de têtes équivalentes

services supporting extensive farmers would have preferred to have one or several measures offering generic support to certain farming systems, including many HNV livestock farms.

## **7.5 Ireland**

Ireland is dominated by medium to small farms, but with large disparities in land productivity between different parts of the country. Due to the generally small farm size, mechanisms which try to overcome diseconomies of scale are common. Although direct payments have until recently been historically based and uncapped, a tradition has arisen of both capping other measures (ANC, agri-environment) and trying to ensure that the same payment is available to as many farmers as possible in the country. As it has become clear that direct payments will be subject to redistribution following the 2014 reforms, a tendency to exclude marginal land from payment has become a significant political issue. For more details on policy in Ireland, see Gallagher et al. (2015).

### **7.5.1 Burren local agri-environment scheme**

**What are the particular issues at stake for HNV pastures in the country in relation to this example?**

Support for the maintenance and enhancement of HNV pastures has traditionally taken two forms – direct payment and LFA/ANC support, which demand little of the farmer beyond meeting minimum standards; and agri-environment support which, where it is targeted at specific objectives at all, tends to work through detailed prescriptive approaches. The result has been generally unsatisfactory, both for the intended objectives of the policy and for the participating farmers.

Recently, attention has focussed on another approach to agri-environment, namely the outcomes-based or results-based approach. One of the pioneers in this has been Ireland, in the form of the various incarnations of the Burren Programme.

**What is the measure in question?**

The Burren is an area of karst scenery in County Clare in the west of Ireland. It is characterised by large expanses of bare rock and a unique flora combining Mediterranean and Alpine elements. Hazel scrub is kept at bay by grazing; unusually, this happens in winter – something which was not compatible with early Irish agri-environment schemes.

At present the Burren Programme is a local agri-environment measure in the mainstream Irish RDP (DAFM, 2017). Previously it has been an Art. 69 (Art. 68) measure funded from an underspend in direct payments and before that it was an experimental measure funded under the LIFE programme.

The measure arose in the early years of Ireland's old mainstream agri-environment scheme, REPS. The specific REPS option which should have applied to the Burren was not suitable and eventually funding was secured to develop a new measure locally. Two habitats were targeted, hay/silage meadows and limestone pavement, with the issues being tackled ranging from gradual scrub encroachment to more immediate issues with pollution, inappropriate feeding practices and the like.

The measure is administered locally by a team contracted to the National Parks and Wildlife Service. Farmers usually avail themselves of the services of one of a panel of accredited advisors (on a commercial basis) when drawing up their plan and scoring their parcels. They are paid to reflect the quality of their results as assessed by these scores

and can avail themselves of a % grant on capital works which are likely to increase these scores.

### What are the features that make it a "good practice" example for HNV pastures?

As the Burren Programme website says (Burren Programme, 2017):

The following principles are central to how Burren Programme goes about meeting its objectives of conserving the heritage, environment and communities of the Burren:

Burren Programme is farmer-led. Farmers nominate and co-fund conservation actions on their own farms and are generally free to manage the land as they see fit (within the law). We minimise the bureaucratic burden (e.g. via a simple farm plan and support for securing permissions) so that farmers can concentrate on what they do best — farming!

Burren Programme is results-based. Simply put, we reward those farmers who deliver the highest environmental benefits. Conservation becomes as much a product for the farmer as the livestock produced.

Burren Programme is flexible and adaptable. Farmers are given the freedom to deliver the required outputs using their own skills, experiences and resources, as best fits their own farms and circumstances. This flexibility means that Burren Programme is capable of responding to the different needs and situations which invariably arise, from farm to farm, and from year to year.

Burren Programme is local and practical, focusing on works which address real needs in the Burren and which will yield real agricultural and environmental benefits.

The Programme shows improvement in the overall scores over its lifetime (Figure 5).

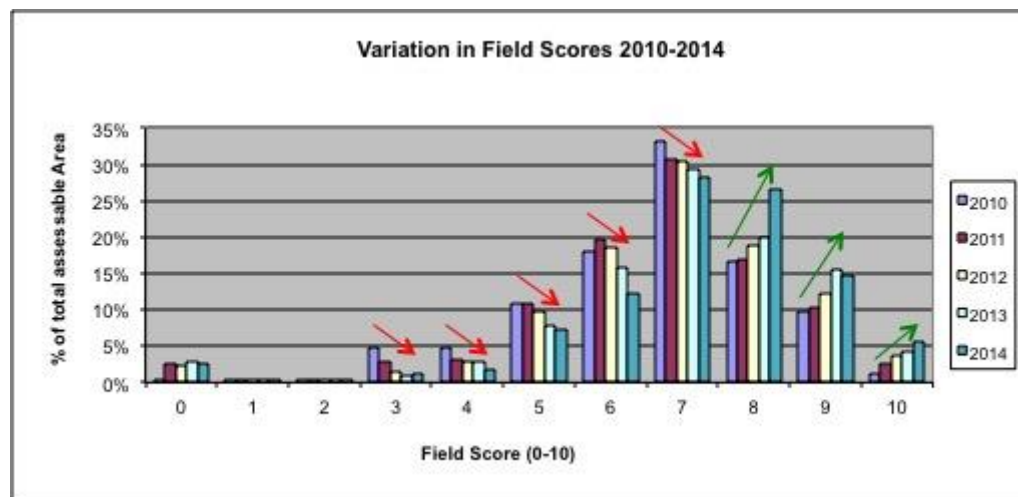


Figure 5. Change in parcel scores over the lifetime of the Burren projects. Burren Programme website

More difficult to measure, but clear when anyone visits a Burren farm or attends an event there, is the impact on mindsets and on the sense of 'ownership' of the project by the farmers.

**What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

One aspect which is difficult to determine is the impact of the programme on the mandatory reporting of condition for the SAC and its habitats/species. This may be because of limitations in the methodology demanded by the Directive, that perhaps is not able to show the impact of the programme in the summary data. This is an important question and one which should be addressed by the team and NPWS in the medium term.

**7.5.2 Locally-led article 35 schemes**

**What are the particular issues at stake for HNV pastures in the country in relation to this example?**

(See Burren above for general intro.). Ireland has had a very centralised, one size fits all, approach to agri-environment over the years, with a heavy stress on as many farmers as possible being able to access the maximum funding available. Measures have been undemanding and/or poorly targeted, to the detriment of farmers who might be managing HNV pastures well, but in socio-economically marginal conditions.

So poorly-designed have the AECM been that the state conservation agency, NPWS, has felt obliged to fund parallel State Aid schemes for a number of key areas/species, including corncrake, breeding waders, the freshwater pearl mussel, the hen harrier and wintering geese and swans.

EFNCP has called for many years for there to be at least a complementary set of locally-tailored schemes, of the Burren type, and latterly we have also been pushing the merits of outcome-based approaches to agri-environment issues.

Funding for the State Aid schemes has come to an end; that and wider political interest in the Burren Programme (and follow-up AranLife Project) has been such as to push the Government into incorporating some locally-led measures into the 2014-20 RDP.

**What is the measure in question?**

The measure has only just been announced in its final form (DAFM, 2017a). It will be run as a series of cooperation measures (i.e. part of the EIP) under Art.35 of the EU Rural Development Regulation. Contracts have been awarded for the hen harrier programme and are soon to be awarded for the freshwater pearl mussel initiative, with the objectives for the hen harrier scheme (the other is similar) being:

- The sustainable management of High Nature Value farmland in the most important Hen Harrier areas with special emphasis on providing quality habitat for the Hen Harrier and the various other species of wildlife that share the same landscape.
- To foster positive relations between the people who have managed this landscape for generations and the special biodiversity that exists there.
- To secure the future of the bird and stimulate wider socio-economic benefits for the community
- To develop an effective locally-led model for future sustainable management of Hen Harrier areas

In both these cases, there is expected to be a national management team under a project steering committee which includes representatives of the State and a series of local teams in the various SPAs/catchments targeted by the measure, with strong farmer involvement at all levels. A call will go out for these two projects soon.



Alongside that will be a general call for locally-led environment and climate projects under the same mechanism, with the Dept anticipating funding at least one project targeted at upland peatlands. A two-stage call process will be carried out, with the first being very simple. A short-list of candidate projects has by now (June 2017) been selected, with 23 projects short-listed, 14 of which are under the environment strand, with funding offered to help develop the main application over the subsequent 6 months, with a view to selecting the successful schemes (~10) and having them ready for implementation at the end of 2017.

**What are the features that make it a "good practice" example for HNV pastures?**

This scheme has only just been announced; the issues are yet to become clear. It is clear however that the responsible policy staff in the Department believe in and are fully behind the measure. As for the likely benefits for HNV pastures, this depends on the groups which come forward – it is possible that there will be groups of intensive dairy farmers wanting to work on effluent control etc., but the likelihood remains that most applicants will come from more marginal areas, and particularly from mountain areas where the current agri-environment scheme is considered to have major issues.

**What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

One issue which may emerge is how to avoid the lowest common denominator if many local groups have to develop a scheme quickly and with low capacity – common issues will undoubtedly arise, but there seems to be no mechanism for addressing these centrally or through (funded) collaboration. The Department will provide some funding for the process of completing the Phase 2 application, but whether this addresses the issue remains to be seen. That being said, this whole exercise is experimental and the need for some means of identifying good ideas and then supporting their development in a way which is not overly bureaucratic and centralised may turn out to be one of its main findings.

### 7.5.3 Capping of ANC payments

#### What are the particular issues at stake for HNV pastures in the country in relation to this example?

Diseconomies of scale are a major issue for smaller holdings. On the other hand, economies of scale can mean that marginal increments in payment for the largest holdings go straight to the bottom line. In the case of ANC payments, designed to make up for the extra costs imposed by geography, it means that they cease to compensate for anything.

#### What is the measure in question?

Ireland has a tradition of capping payments to make them go further. While this is not always a good policy, their choices in the current ANC measure (DAFM, 2017b) seem sound, despite the differential in rates being possibly rather low (Table 6).

The payments are structured as follows:

Table 6. ANC payment rates in Ireland

Area Designation	Payable Area	Payment Rate/ha
Mountain Type Land	First 10 ha or part thereof*	€109.71
	Remaining ha up to maximum of 34 ha**	€95.99
More Severely Handicapped Lowland	30 ha or part thereof subject to an overall maximum of 30 ha.	€95.99
Less Severely Handicapped Lowland	30 ha or part thereof subject to an overall maximum of 30 ha.	€82.27

\* The top-up of €13.72 on the first 10 hectares of Mountain Type Land will only be paid to beneficiaries who maintain a sheep, cattle or goat enterprise or a combination of these enterprises.

\*\* Applicants maintaining a combination of Mountain Type Land, More Severely Handicapped Lowland and/or Less Severely Handicapped Lowland, will be paid up to a maximum of 30 hectares except where the area of Mountain Type Land declared is between 30 and 34 hectares. In these cases, the payment will be based on the number of hectares of Mountain Type Land declared.

#### What are the features that make it a "good practice" example for HNV pastures?

The measure is a 'curate's egg' – good in parts. ANC budgets tend to be very high, so any call to increase rates has serious consequences. Recognising the diseconomies of small farms enables the money to be targeted to the claimants that should need it most.

#### What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?

The down side of the measure is that while it definitely supports the most HNV farms in Ireland, and gives a moderate amount of encouragement to the maintenance of a mosaic of small farms, the signal it gives as regard the management of those farms is minimal, and it gives no specific reward for the management of semi-natural pastures. There is no maximum intensity supported, and the minimum has in the past been rather high for some

of the most marginal farmland. Thus intensive small farms managing *Lolium* pastures can avail themselves of this support, as long as they fall within the ANC boundary

#### 7.5.4 Classification of islands as Areas with Specific Constraints

##### **What are the particular issues at stake for HNV pastures in the country in relation to this example?**

Islands suffer specific extra handicaps as a result of the literal isolation. While in many countries this includes higher transport cost, it may be possible to reduce this to a 'road equivalent tariff'. However, costs are still incurred – the effects of being cut off by storms, of the extra transport costs of dangerous goods such as fuel, and of rules on things such as driver work hours and animal welfare in transport all add to the cost and the uncertainties of running an island farm.

Some Member States lump islands in the same schemes as other areas when it comes to support payments. Even when they try to treat islands separately within the scheme, this inevitably makes the issue of funding them adequately more 'political' (the money clearly comes from the potential payments of other claimants) and requires the use of the same calculation methods. Being able to decide politically at an early stage to fund them through a separate measure thus has considerable potential benefits.

##### **What is the measure in question?**

Ireland treats islands as Areas of Specific Constraints, separate from the main ANC measure, though implemented through the same guidance notes and paperwork. The rates are as follows:

Table 7. Ireland's Areas of Specific Constraints measure for offshore islands

Area Designation	Payable Area	Payment rate/ha
Area of Specific Constraint (Islands)	Up to and including the first 20ha of Area of Specific Constraints or part thereof.	€250
	Greater than 20ha or less than or equal to 34ha of Area of Specific Constraint.	€150
	Greater than 34 ha or less than or equal to 40 ha of Areas of Specific Constraint.	€70

Note how the amount of payments, the pattern of payments and the threshold values are different from the main ANC scheme.

The big unanswered question is whether the package of measures and other approaches to island farming is sufficient to achieve public policy goals on those islands. It is far from clear what these are – is it maintaining the status quo, maintaining current farms but adjusting their practices, or is it perhaps regenerating farming and increasing the number of farmers?

##### **What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

As with the main ANC measure, there is no further targetting to semi-natural land or the more extensive farms, nor any limitation on production intensity for claimants.

## 7.6 Sweden

Historically, livestock has been the mainstay of Swedish agriculture. Until the 1950s, virtually all farms kept cattle, often in combination with other farm animals. Since then, the regions with the best soils have largely converted to specialised cereal farming based on artificial fertilizer.

But outside the cereal regions, cattle farming remains the norm. Grass-clover ley is the most common crop in Sweden, covering some 40 % of the utilised agricultural area. An additional 15 % is semi-natural pasture, much of it wooded to a smaller or larger extent.

Wooded pastures have a long history of agricultural use, but most were originally natural meadows. Some became grazing land already when fodder production moved to arable land during the 19th century, others more recently after first being ploughed up and used for some time in an arable rotation.

### **What are the particular issues at stake for HNV pastures in the country?**

Although semi-natural pastures have remained in use to a considerable extent, there was a constant decline in area from the 1950s to the 1990s, due primarily to the general intensification of agriculture. With increasing yields, less farmland is needed, and the least productive land becomes superfluous. When arable land is available for grazing, it is usually economically preferable, as it both feeds more animals per hectare and requires less work than semi-natural pasture.

This development was identified as a problem by Swedish nature conservationists already in the 1950s (Selander, 1955). As considerable areas of pasture were converted back into forest during the 1960s and 1970s, it also reached the public eye and became a political issue. The wooded pasture is a signature landscape type in Sweden, and its decline came to symbolise all the downsides of industrialised farming.

The emerging science of biodiversity added weight to the arguments, as it could be shown that these pastures are also uniquely biodiverse habitats in a region dominated by boreal forest. By the 1980s, defending the remaining wooded pastures had become a priority in Swedish environmental policy, with consensus support across the political spectrum.

### **What are the measures in question?**

Sweden has used several different approaches to counteract further decline of semi-natural pastures. Since the early 1980s, there is legislation that requires respect for environmental and cultural values in the management of farmland, including restrictions on fertilization and ploughing of pastures. In 1988, Swedish animal welfare legislation was amended to require access to grazing for most categories of ruminants. While still not in the EU, a system of agri-environment landscape management payments to farmers was introduced on a limited scale in 1986, together with some supporting advisory services (STATENS JORDBRUKSVERK, 2000). The combination of approaches that has been implemented since joining the EU is summarised below, and the best-practice features are then discussed.

*Agri-environment:* The land management payments were supplanted by more substantial measures when Sweden became an EU member in 1995, with a large envelope of agri-environment funding as part of the accession agreement. Sweden used a sizeable part of this envelope for a basic payment to all semi-natural pasture, with supplements available

for areas with higher nature value, and for specific management activities such as pollarding. This payment has continued with minor adjustments since then, and remains in force in the current Swedish RDP.

To complement the pasture payments, additional agri-environment funding was used to provide training and information to farmers about pasture management.

*LFA/ANC:* The Less Favoured Area support was also designed to contribute to the economic viability of pasture grazing.

*Pillar 1 direct payments:* When Pillar 1 hectare payments were introduced in 2005, Sweden included semi-natural pastures within the eligible area for these, in addition to the existing agri-environment payments. As explained below, Commission pressure resulted in more restrictive approaches to eligibility from 2007 that were problematic for woody pastures in particular, although since 2014 these problems have been partially addressed.

### **What are the features that make these measures a "good practice" example for HNV pastures?**

Although statistical sources cannot provide exact figures, there is broad consensus that the long-term decline in utilized pasture area reached bottom in the late 1980s or early 1990s (STATENS JORDBRUKSVERK, 2008 and Palmgren, 2010). Since then, both the area and the quality of management have increased. While the introduction of direct agri-environment payments to farmers was no doubt the primary factor behind this turnaround, some more specific features of the support system were important to ensure their effectiveness.

#### **Continuity:**

Continuity is a key factor for the effectiveness of agri-environmental support schemes. As noted in a Swedish evaluation report (STATENS JORDBRUKSVERK, 1999) even if support is available, farmers will be reluctant to accept it unless they trust that it will continue to be offered long enough to warrant the necessary investments in their production system (land, animals, buildings, equipment). As agricultural policies typically have a shorter lifespan than farm investments, this will often be a factor that limits uptake.

This insight appears to have informed Sweden's implementation of agri-environment support to semi-natural grassland, which has shown a remarkable stability. Although payment levels and eligibility criteria have been periodically adjusted, the basic design of the scheme has been unchanged since it was first introduced in 1996. The payments have also been offered continuously every single year, without any interruptions between budget periods or due to overspending of funds.

The results seem to confirm the value of continuity. After a cautious start with 175 000 qualifying hectares in 1996 and a slow increase during the next few years, uptake expanded rapidly from 2001 and has remained above 400 000 hectares since then. Much of this was previously more or less degraded pastureland which required investments in new fencing, shrub and tree clearing, and additional or more suitable livestock.

#### **Integration between support schemes:**

The ability and willingness of farmers to keep using semi-natural grassland is not only influenced by the level of specifically targeted support, but by several other support schemes as well.

A study based on mathematical modelling of the whole farming sector in Sweden indicated that animal payments, regional support (LFA/ANC), and agri-environment support to temporary grass on arable land were all positive factors making it more economically feasible for farmers to use semi-natural pasture, while Pillar 1 area payments to arable crops were a negative factor (STATENS JORDBRUKSVERK, 1999).

The study was made before the single payment reform, so the specific results are no longer applicable. But it illustrates the point that the complete set of agricultural support schemes needs to be considered as a whole, as there are always synergies, which can sometimes be counter-intuitive.

For example, the Swedish study authors noted with some surprise that they found no competitive relationship between support to leys (temporary grass on arable land) and to semi-natural pasture. It has often been assumed that support to leys would cause farmers to use less pasture, but this study showed the opposite.

The explanation is in the bigger picture. Support to leys means that their economic value improves relative to grains and other arable crops. In turn, it improves the overall economy of grass-based meat production relative to intensive meat production using a high proportion of grain-based feedstuffs. Thus, more farmers opt for the grass-based alternative, which leads to increasing areas of *both* ley and pasture.

The same mechanism in reverse explains why area payments to arable crops reduces the area of both leys and pasture. Support to grain production translates into cheaper feed grain, benefiting intensive meat production and putting grass-based meat at a disadvantage.

Thinking along these lines has influenced Swedish agricultural policy to some extent. The interactions between different support schemes have been considered in the RDP and there has been some success in balancing the various components. For example, through several versions of the RDP, support schemes for leys and semi-natural pastures and LFA/ANC support were designed to work together as a unit.

The present Swedish RDP on the other hand provides an example of the opposite, with a new design of the LFA/ANC support which for many farmers creates a direct incentive to reduce their permanent pasture area.

Role of other policy instruments:

The fact that protection of semi-natural pasture is a high-profile policy goal of the Swedish government, and enjoys strong support among the general public, has likely influenced farmers' decisions. The wooded pastures in particular have an informal status as national heritage, and there is plenty of anecdotal evidence that farmers get a sense of both pride and responsibility from managing a part of them.

A formally unrelated policy instrument (it currently is not part of GAEC, although it was previously) which has had a direct influence is the animal welfare legislation, which requires a minimum grazing period for cattle, sheep and goats (STATENS JORDBRUKSVERK, 2010). The basic principle is that all animals should be kept outdoors for a period of at least 2-4 months (the shorter requirements in northerly regions). There are general exceptions for bulls and for calves, but for all other ruminants farmers need to have enough grazing land (e.g. trampling must be avoided). Grazing can be either on semi-natural pasture or on

arable land, but where possible, most farmers would tend to save their arable land for cropping and use permanent pasture to the extent possible.

Training and information:

Management of semi-natural grassland is a complex activity, and the associated traditional knowledge has been partly lost in the present generation of farmers. Thus, there is a substantial need for competence building, both in terms of biological and historical knowledge, and of practical management skills.

There are excellent possibilities in the Rural Development Regulation to provide a training and information component linked to agri-environment payments, but most programmes make little use of this. Sweden is one of very few member states that have used these provisions on a large scale, already from the first version of its agri-environmental programme in 1996. It was argued that competence building not only had a value in itself, as "a long-term investment" in the environmental consciousness of the farming community, but was also necessary to ensure the intended effect of the agri-environment payments. (MILJÖPROGRAMUTREDNINGEN, 1999 and Wramner, 2003).

The budget for competence building related to semi-natural grassland management was originally quite substantial, corresponding to some 6-7 per cent of what was paid in per-hectare support. Typical activities that have been financed:

- Shorter and longer courses on a variety of subjects, often a mixture of theory and practice – how to manage grazing animals in semi-natural pasture, how to restore degraded pastures, how to use a scythe.
- Several national awareness-raising campaigns on biological diversity.
- Individual management plans for a farmer's grassland (compulsory for some types of per-hectare support).
- Shorter and longer study visits and trips
- Farmer field days.

Much of this has been carried out by national or regional government agencies, but funding has also been available to other actors such as advisory services or farmer organisations.

Most farmers receiving per-hectare support for semi-natural grassland have participated in one or more of these activities, even though participation with a few exceptions has been non-compulsory (Andersson, 2008). Programme evaluations indicate that both farmers and the responsible government agencies have found the competence building useful and effective (Wramner, 2003 and Andersson, 2008], but that it is virtually impossible to quantify its impact (SVERIGES LANTBRUKSUNIVERSITET, 2010).

After 2007 however, Sweden has gradually reduced the training and information component in its RDP, and particularly – despite protests from both government agencies and environmental organisations – the competence building linked to agri-environment payments (STATENS JORDBRUKSVERK, 2009 and EKOLOGISKA LANTBRUKARNA & NATURSKYDDSFÖRENINGEN, 2009). In the current programme, the exact amount of funding for competence building related to semi-natural grassland is left for regional authorities to decide, but it will likely be less than one quarter of the pre-2007 level, or some 1-2 % of the amount paid in per-hectare support.



**What problems arise with the measures (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

Eligibility criteria for area payments (agri-environment and direct payments):

From the start, the eligibility criteria for Sweden's pasture payments centered on ensuring productivity through traditional management methods. This was the case both for the national system introduced in the 1980s and the EU agri-environment scheme from 1996 onwards.

In the case of wooded pastures, traditional management requires a relatively high level of skill and judgment in deciding how much woody vegetation to keep and where it should be placed, in order to optimize pasture production. It also calls for individual treatment of each parcel, as no two pastures are identical in terms of vegetation, topography, soil, drainage and other natural factors.

Decisions about eligibility for payments likewise require a case-by-case judgment. A key criterion used in the various Swedish agri-environment programmes is that trees and bushes "of an encroachment character" (*av igenväxningskaraktär*) should be removed. What constitutes encroachment is not simply an issue of numbers, size or species. A group of birches can have encroachment character if they come up in an open space and create excessive shade, but not in another placement in the same pasture. An oak sapling can be a valuable addition to a pasture where oaks are rare, but an encroachment problem where oak saplings proliferate. Some pastures can accommodate several hundred trees without negative effects on production, while fifty might be a problem in another parcel.

When semi-natural pastures were admitted into the Pillar 1 payments in 2005, Sweden first used an adapted version of these already well-established agri-environment eligibility criteria, applying them to Pillar 1 payments. This was in conflict with EU guidelines, which did not allow for case-by-case judgment but required strictly objective standard measurements such as a fixed number of trees per hectare. Sweden's implementation was soon formally challenged by the EU Commission, and in 2008 the eligibility criteria were radically changed to comply with Commission guidelines. The Swedish government could have chosen to stand by its own interpretation, as the guidelines were not legally binding, but did not want to risk a possible escalation to the European Court of Justice.

The new criteria, introduced at very short notice, prompted many farmers to perform panic clearing of trees and shrubs to ensure compliance with the new limits of 50 trees per hectare and 100 m<sup>2</sup> patches of bush cover. In many cases, trees were cut indiscriminately without proper knowledge of traditional management principles. The problems were compounded by the fact that large areas of degraded pasture had come into the system with the single payment reform in 2005, when farmers were actively encouraged to register parcels which had previously not been classified as farmland.

For some traditional types of pasture, such as forest and alvar grazing lands, the new criteria meant complete exclusion from Pillar 1 payments, as tree or bush cover are an integral part of those biotopes, and clearing would destroy them. Sweden chose to provisionally compensate those areas with increased Pillar 2 payments.

After severe criticism from Sweden and a number of other Member States, the current CAP has a more flexible approach to eligibility criteria for wooded pasture. Sweden has chosen to use the pro-rata model, where tree and bush cover under 10% does not lead to any

reduction in payments, and larger areas up to 50% trigger a standardized percentage deduction. Preliminary results from the first year of implementation indicate that this has considerably reduced the non-eligible areas within wood pasture parcels (Beaufoy, 2015).

For some types of pasture, where the pro-rata model has not been possible to implement, Sweden has chosen instead to provide support with Pillar 2 funding only, increasing the payments to compensate for the loss of Pillar 1 eligibility. These include some of the most unique grazing-dependent biotopes in Scandinavia, partly with Natura 2000 status.

- *Mosaic pastures*. High proportion of bare rock and bush vegetation.
- *Alvar pastures*. Thin soil on limestone, bare rock, sparse vegetation.
- *Forest grazing*. Forests with grazed understorey vegetation.

The cost of supporting these areas only through Pillar 2 schemes is covered by a transfer of funds from Sweden's Pillar 1 envelope. Transferred funds do not require Member State co-financing, so for the national budget there is no additional cost compared to providing support through Pillar 1 (see EU regulations 1307/2013 Art 14.1 and 1305/2013 Art 59.4.e).

Even though the current framework is an improvement on the pre-2015 CAP, it remains problematic because it treats traditional wooded pasture as an aberration – an agricultural field where trees and bushes threaten to hinder normal agricultural production – rather than as a production system in its own right. By basing eligibility for payments on the *absence* of elements such as trees and bushes, it forces both farmers and CAP administrators to focus on irrelevant aspects and does nothing to increase understanding of how pastoral production systems can and should function.

The original Swedish eligibility criteria, focusing on how production actually takes place in traditional systems, provide a much better starting point for a long-term solution. A key difference is that it accepts the fact that the qualities of highly diverse and locally adapted production systems cannot be reduced to a set of objectively measurable standard criteria, but will require an element of qualified judgment from a knowledgeable person.

## United Kingdom

Agriculture is a power that is devolved to the governments of Scotland, Wales and Northern Ireland; English agricultural matters are run by an England-only administration (Defra and the Rural Payments Agency) but under the control of UK Ministers and the UK parliament.

The agricultural mix is rather different in the 4 countries, both in terms of types of farming and farm structure, and the importance of farming in the economy also varies considerably, resulting in very different approaches to and priorities in agricultural policy.

England is dominated by lowland intensive farming and government is rather unenthusiastic about agricultural spending and keen to promote simplification of policy. Wales and Northern Ireland are dominated by medium to small farms, with significant areas of ANC/LFA but also quite significant intensive small farm landscapes in the lowlands. This is especially the case in Northern Ireland, where there is an additional political aspect to the question of allocating resources between ANC and non-ANC. Scotland has a very large ANC and a very large range of holding sizes, with many of the most marginal areas dominated by part-time smallholdings (20% or more of claimants). A large proportion of the rough grazing land is not currently used for agriculture and keeping CAP payments from being 'wasted' on such land is a major political imperative, as is supporting the very significant Scotch Beef sector.

The examples are from England and Scotland. For more information on policy in these countries, see Jones (2015).

## 7.7 England

### 7.7.1 Pillar 1 eligibility for wooded pastures allowing unlimited tree numbers

**What are the particular issues at stake for HNV pastures in the country in relation to this example?**

Wood pastures are a valued element of the cultural landscape and of some farmers' systems in England, with extremely high levels of biodiversity and a European significance for some species. The issue is whether such grassland areas can receive the same CAP payments as other pastures, and whether this can happen with no extra bureaucracy and risks for the farmer and no additional burden for the authorities.

**What is the measure in question and how is it potentially beneficial for HNV grasslands?**

In England, land with trees is eligible if the trees (RPA, 2017):

- are scattered within an agricultural land parcel
- allow agricultural activity to be carried out in the same way as in parcels without trees

They are not eligible if they prevent the growth of vegetative under-storey (plants growing beneath the canopy of the trees) that is suitable for grazing. Farmers don't need to reduce the area of land they claim for if they have eligible trees on it (they don't need to deduct the area taken up by tree trunks or tree canopy).

There is no statutory limit on tree numbers and no system of pro-rata reductions in eligibility.

This very liberal English implementation is related to the wording of their GAEC standards (DEFRA, 2017). Trees are counted as "eligible area" because they are protected by

GAEC7, which sets out a number of existing regulatory requirements (regarding felling licences, protected trees etc.). However, the only GAEC-specific protection is a ban on cutting or trimming a tree on the farm between 1 March and 31 August (inclusive), except in certain limited circumstances or with prior written permission from the authorities. In reality, these are really quite unexceptional requirements, whereas the consequences Defra sees as flowing from them are truly exceptional and noteworthy (and can be seen as a strictly correct interpretation of the Commission's eligibility rules).

Ironically, all it means in practice is that the trees are ignored – their trunk area is not calculated and subtracted from the eligible area, for example. Other rules will still apply (see Figure 6). For example, 'dense scrub' is not eligible, but bracken, saltmarshes, reedbeds and scrub, including gorse bushes and briar are eligible as permanent grassland if they are managed so that:

- grasses and other herbaceous forage remain predominant, and
- it's suitable for grazing.

Heather is also fully eligible if kept in a condition suitable for grazing, with no requirement for grass to be dominant. There is no mention in the English rules of a PG-ELP category in the case of heather making up more than 50% of the vegetation, this complication seems to have been sensibly ignored.

The stress in the English rules is on 'grazing' – woods which have a lower ground layer cover but ample browse should still be subject to a reduction in eligible area, it seems. This is the wording used in the guidance to farmers – the precise approach used to calculate the ineligible area is not set out more clearly than this. We understand it to mean that area of land to be excluded from the claim as ineligible must be determined for each parcel (i.e. no % bands) on a case-by-case basis.

**What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

The short answer is that it remains very unclear, 2 years into the measure. Reports from the New Forest (England's most significant area of wood pastures) suggest that at present *all* of the land under trees is being considered *ineligible*, which, if true, raises the question of what the point of such a daring interpretation of the rules was in the first place.

It should be noted that there is concern in other administrations that England's implementation is unlawful and prone to challenge from the Commission at some point in the future.



Image: Andrew Smith under Creative Commons Licences

The whole of this parcel of parkland should be eligible under the rules applied in England



Image: Mike Smith under Creative Commons Licences

This area of grazed woodland is unlikely to be wholly eligible because the grazing is patchy, but is treated as if the trees themselves are not present

Figure 6. Treatment of trees in assessing pasture eligibility in England

## 7.7.2 Method of allocating common land area and determining active farmers on common land

### **What are the particular issues at stake for HNV pastures in the country in relation to this example?**

Common land is a significant proportion of Europe's semi-natural vegetation, often surviving for socio-economic reasons where other formerly semi-natural areas in similar locations have succumbed to destruction by improvement. A shift to area payments raises particular difficulties for common land, since a fair mechanism needs to be found for the allocation of the area – who should be taken into consideration, and how is the area divided amongst them? Unintended consequences of poor decision-making can be freeloading by the inactive claimants and/or failure to pay on all the area utilised (in addition to more widespread problems, such as increasing the level of inertia in land transfers between generations). These problems are intensified when, as in England, the State takes a very purist approach to the 'active farmer' definition, carefully eliminating any need to be an active farmer in the normal sense of the phrase; on common land, the area you claim can be maintained by someone else at no cost to you.

In England, the former regime raised just such questions. Active farmer was loosely defined, though most of those claiming were originally active farmers (since the entitlements were originally established by reference to historic activity). However, anyone could purchase entitlements and not have to be in any real sense an active farmer, or to actively farm the land in question.

The rights of pasture on common land have been registered under a statutory process (which itself is far from perfect, but that's another matter). The area of the common land was divided between the claimants according to their share of *all* the grazing rights registered, not just the ones being used in that particular year to support an SPS (now BPS) claim. A commons association took the Government to court, pointing out that active graziers were being paid on only a proportion of the area, while GAEC and similar rules require them to maintain the whole of the pasture. The Government withdrew from the case before the issues could be tested in court, and implemented the new approach described here.

### **What is the measure in question and how is it potentially beneficial for HNV grasslands?**

There is now a new system for allocating common land – it is split proportionally to the rights of those *claiming*. This potentially leads to higher area allocations to dozens of commons, as listed on the Gov.uk website (RPA, 2017a). Furthermore, the Government has allowed claimants who think they were underallocated area, and therefore payments, in previous years to ask for them to be paid in arrears.

In addition, it has brought in activity rules for common land which go beyond what applies in the wider countryside:

A farmer is 'using' a common if they:

- exercise their grazing rights by turning out stock on it, including grazing for conservation purposes
- participate in a relevant Environmental Stewardship or Countryside Stewardship agreement on it
- contribute to managing the common

'Contributing to managing the common', with appropriate consents and rights, includes:

- keeping some of it in a state suitable for grazing or cultivation by:
  - clearing scrub that can't be grazed
  - some other beneficial activity, for example treating bracken, maintaining internal walls, hedges or fences, or managed swaling (burning)

(Other rules are in place to determine whether the owners of commons can claim any 'surplus' pasture.) In the particular case of the New Forest, payments can only be made to those who paid grazing fees, i.e. who actually used the Forest for grazing.

**What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

Since 2015 payments are *still* not all made, and since commoners have only just had access to important elements of the underlying calculations (in particular the area allocated on each common to each LU equivalent of rights claims), we await feedback on the 'quality' of the implementation on the ground.

A crucial issue is how the 2015 allocation of entitlements on the basis of declared common land area translates into subsequent years. The rules of BPS would suggest that entitlements are fixed, but the proportion of claimed shares is liable to change year by year as claimants (both new and pre-existing) decide to use previously unclaimed shares. This is even more likely to happen in the New Forest, where simply turning out a different proportion of the total livestock will change the area allocation. A number of possible overlapping scenarios present themselves, each with their own issues, e.g.:

- New entrants not able to get payment; existing claimants have unused entitlements (possibly leading to problems with usage rules). Unused entitlements could be sold, but might be needed again in subsequent years. The new entrants are subject to the same issue as originally led to the change in the system – they have to maintain the land (if they claim BPS anywhere) and don't get paid on all the area.
- New entrants able to access entitlements from the National Reserve. This could lead to a continuous increase in the total number of entitlements.

We hear unofficially that Defra is considering implementing a system which is more like SAPS:

- Area allocated changes every year in line with the proportion of claimed rights (as above)
- Payments vary each year in line with the allocations
- There will be no 'spare' entitlements to sell or lease (this is what we are most unsure of, but it seems to flow from the other points; it could easily be challenged as being a breach of the property rights of the farmers whose entitlements are both unusable and cannot be traded)

It seems unavoidable to have such a system in the New Forest at very least.

Looking more broadly, it seems difficult to see how the system which seems to be proposed (rather covertly) in England is compatible with the BPS entitlement regime. On the other hand, it's not clear either what the down sides of such an implementation are in practice. One apparent solution would be to separate formally the system in operation on common land from all other entitlements and to vest them in commons associations for

disbursement. There has to be some doubt as to whether commons associations (which have no statutory basis in England) would welcome such a responsibility, and of course many commons don't have an association.



Ponies on Haytor Common, smaller of the Dartmoor Farming Futures pilot commons. Image: Creative Commons Licence: Derek Harper

### 7.7.3 Dartmoor's farming futures pilot AECM

**What are the particular issues at stake for HNV pastures in the country in relation to this example?**

The management of upland pastures, on common land in particular but not only, has proved to be a real challenge for England's AE schemes. England does not implement the LFA/ANC measure, so there is no 'broad and shallow' support for farming on this land, while the AE schemes themselves are still built around addressing supposed 'overgrazing' scenarios, with the main tools focussing on reducing grazing either in total or seasonally. The rules under which this happens are rather prescriptive. This has a number of unintended side-effects, including:

- Schemes being orientated towards box-ticking rather than outcomes on the land
- The objectives (as opposed to the rules) of the scheme not being explained to participants, even on designated sites
- Farmers' skills & knowledge and their initiative and enthusiasm not being used in the scheme
- Rewards purely financial, and related solely to the 'box ticking'
- Scheme outcomes not very impressive (or at least, could be better)



### **What is the measure in question and how is it potentially beneficial for HNV grasslands?**

This is an experiment in the implementation of *existing* AE contracts on two common pastures in the SW of England (DNPA, 2017). Since the contracts were already in place, the payment mechanism is unaffected, so that it is not a pure results-based scheme, but a hybrid which assesses some results-based approaches to various aspects of implementing a successful contract.

The pilot measures have the following novel aspects:

- Better specification and explanation of long-term objectives and explicit agreement between agency and participants on these objectives
- In particular, translation of formerly rather general or abstract biodiversity objectives into habitat condition indicators which can be, and are, monitored by farmers
- Allowing participating farmers a choice whether to follow the standard prescription or to agree with the grazings association (and ultimately with the state agency) a reasoned and detailed alternative approach. Almost every aspect of the prescription can be varied – stock type, stock numbers, stocking dates, burning practice etc.

Annual sign-off by the state agency that variations approved will maintain direction of travel towards final objectives. Questionable variations are looked at again and amended. This aspect was introduced into the process at the request of the farmers to minimise their long-term risk.

Overall, the measure appears to be fulfilling its potential, though it is only being piloted on 2 commons (albeit that one of them is very large, with many shareholders). (A report on it will be launched soon and cross-referenced here.)

### **What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

A potential weakness at present is that the link between the payment and the official calculation underlying it has been broken and may be vulnerable to the attentions of an over-enthusiastic auditor.

While not causing any problems at present, it would be beneficial in future to be able to vary payment, and this is something which could and probably should be introduced. This would have the benefit of bringing all payments back into the payment calculation protocol.



The Forest of Dartmoor - larger of the Dartmoor Farming Futures pilot commons. Image: Creative Commons Licence, Derek Harper

## 7.8 Scotland

### 7.8.1 Pillar 1 eligibility for wooded pastures

#### **What are the particular issues at stake for HNV pastures in the country in relation to this example?**

Wood pastures are a valued element of the cultural landscape and of some farmers' systems in Scotland, with extremely high levels of biodiversity and a European significance for some species. Forestry Commission Scotland has a 'woodland grazing toolbox' aimed at encouraging appropriate grazing management. The issue is whether such grassland areas can receive the same CAP payments as other pastures, and whether this can happen with no extra bureaucracy and risks for the farmer and no additional burden for the authorities.

#### **What is the measure in question and how is it potentially beneficial for HNV grasslands?**

The measure concerns the rules for eligibility of such pastures. In Scotland, trees (other than in orchards) are considered ineligible features (Scottish Government, 2017). However, unless the parcel is wholly woodland *and fenced off* (my italics), such areas are subject to an assessment of the eligible grazable understorey and to a proportional reduction in the area declared based on the findings – in the best case, only the trunk area would need to be excluded.

Other ungrazable vegetation present under or alongside the trees such as bracken, gorse, marsh and scrub are still ineligible but to be treated in the same manner as trees (proportionate reductions in claimed area).

This is very similar in its *effects* to England's implementations, except that the area of the tree trunks should be removed. But it is phrased in a way which is much more in line with

the wording of the Regulation and EC Guidance and might be less open to challenge by an auditor.

As in England, the possibility of browse being forage is not recognised; this may be a question of practicalities – browse would have to be available to stock, implying determination of its accessibility relative to height of the livestock etc.



Highland cattle at Loch Katrine. Image: FCS

**What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

We are not aware of any problems arising with the measure.

## 7.8.2 Direct payment regionalisation by parcel

**What are the particular issues at stake for HNV pastures in the country in relation to this example?**

Scotland's landscape is dominated by rough grazings, and not all of those are actively used for agriculture (the land may be grazed by deer). Moreover, there is no clear cut-off everywhere between 'agricultural' and 'non-agricultural' – stocking rates tail off gradually in some areas. Agricultural non-use is usually not reflected clearly in land cover.

Complete decoupling of agricultural payments (direct payments and ANC support) therefore poses considerable issues for both policy and administration. There is broad agreement amongst stakeholders that payments should not be given to the agriculturally-inactive, and in particular that payment rates should not be diluted by the inclusion of a million or more hectares of land that was not receiving payments under the CAP before 2014.

Second, there is a strong feeling amongst marginal farmers that they should receive higher levels of support (they still receive least per hectare – a reflection of how the former headage payments were distributed, and the fact that Scotland maintains a partially historical system). But these farmers are the ones with the lowest stocking rates – the cases where determining agricultural use/non-use is most difficult. A purely administrative question therefore gets tied up with agricultural politics, giving questions of who is a 'proper farmer' an extra edge.

A third, less important factor is the need to avoid disrupting the land rental market and in particular not to further disadvantage the potential renter against the potential landlord.

The theory is that the more relaxed the rules on activity, the less likely is a potential landlord to need to lease the land to a farmer, and the higher the rent he can ask if he does (since undertaking actual agricultural activity, especially in marginal areas, is inherently loss-making).

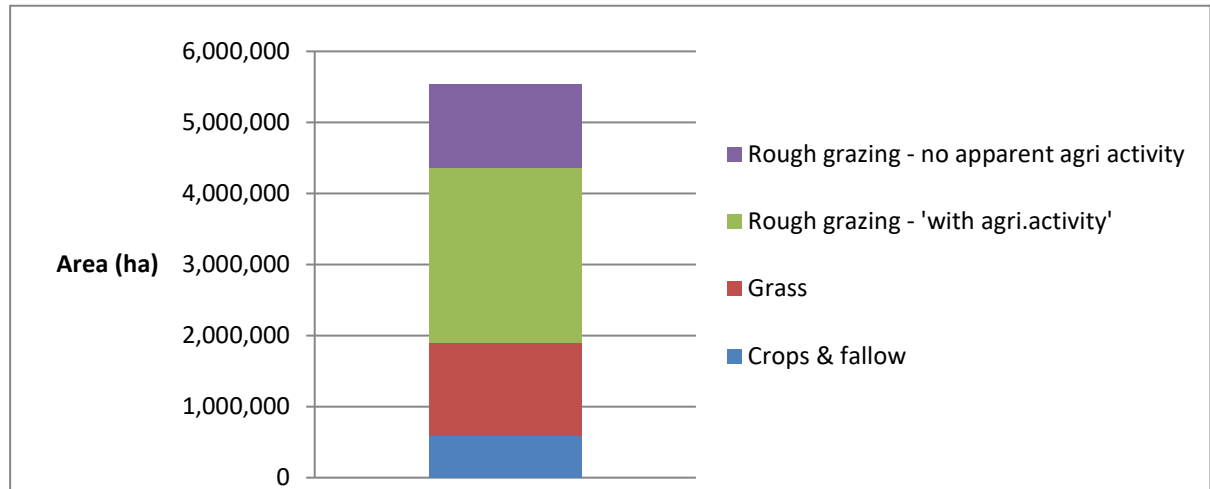


Figure 7: Approximate breakdown of agricultural and potentially agricultural land in Scotland (Scottish Government data and own calculations)

Scotland pushed during the CAP development process for 'active farmer' to mean exactly that, allowing governments to set tests of agricultural activity as opposed merely to depending on features of land cover, for example.

This has a particular relevance for HNV farming because a large proportion of semi-natural farmland occurs in such marginal areas and almost all farms in those same marginal areas are overwhelmingly dominated by semi-natural vegetation (HNV pastures).

In summary - in terms of the quality of land actually used for agriculture, Scotland has one of the widest ranges in the EU. It is clear that applying the same support measures, payment rates and accompanying rules to all that land would be difficult, if not impossible. Distinguishing different qualities of land so as to be able to treat them differently is something which is permissible in the 2014-20 CAP and is something which Scotland has chosen to implement.

### **What is the measure in question and how is it potentially beneficial for HNV grasslands?**

A number of possible implementation mechanisms would be possible, for example, using the old LFA and its sub-divisions (Disadvantaged Area DA, Severely Disadvantaged Area SDA). However, it soon became apparent that there was a need for better discrimination at the lower end of the land quality spectrum, i.e. between different qualities of SDA land.

This is for at least two reasons. First, the arithmetic fact that at low stocking densities, a small absolute change is still a large proportional change. A minimum stocking density rule of 0.15 LU/ha seems impossibly high for someone at 0.1 and nonsensically low for someone at 0.3; the same is hardly true for 1.1, 1.15 and 1.3.

Secondly, it became clear that it would be useful to have some mechanisms targeted solely at the poorest land, so a way of identifying this land was essential.

Scotland chose to implement 3 payment regions – a result of modelling exercises and detailed consultations, and a balance between subtlety of effect and complication of implementation. The implementation works on a parcel by parcel basis.

**What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

In general, the impression is that the implementation is workable. The main issue seems to arise from the rule that each parcel is allocated to only one region. This can be difficult in principle with any parcel, but for large parcels, potentially with significant areas of better land, this can create some real problems. For example in Figure 8, some common grazings are mapped as Region 2 and some as the poorer Region 3, although no differences are visible in the satellite image. Yet some large Region 3 common grazing parcels, for example, may contain more Region 2 or Region 1 land than even the claimant's main holding. Claimants on Region 2 land have to do less to get similar or greater levels of payments than their Region 3 neighbours.

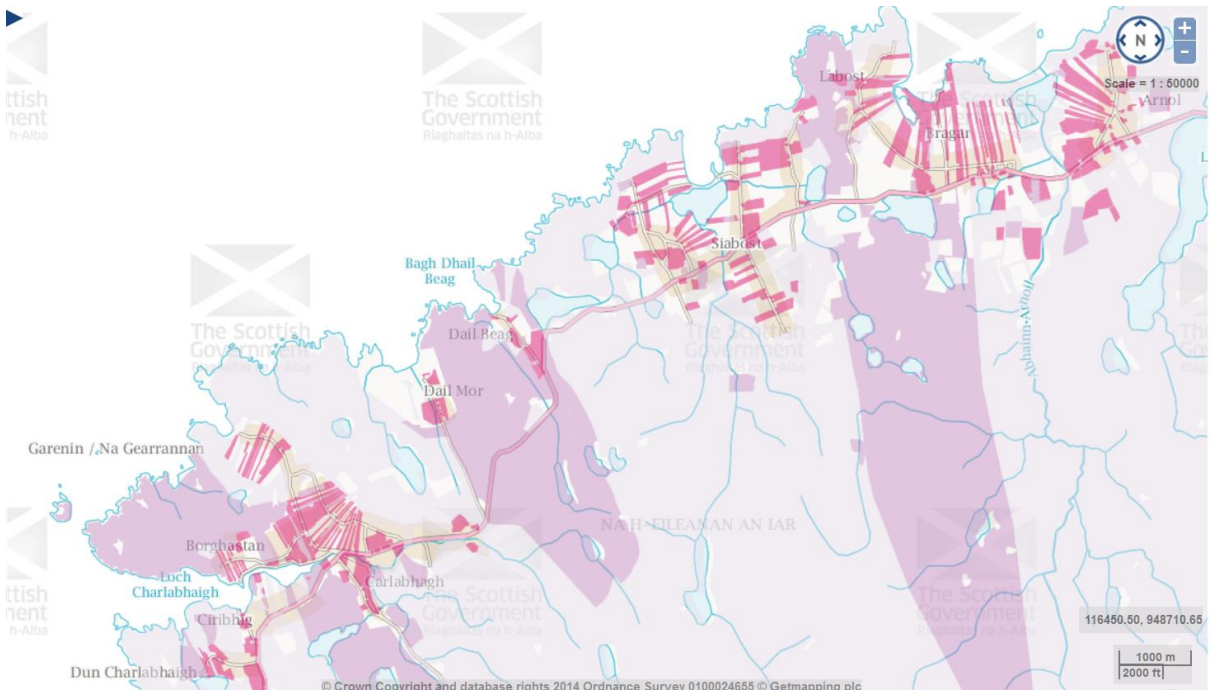
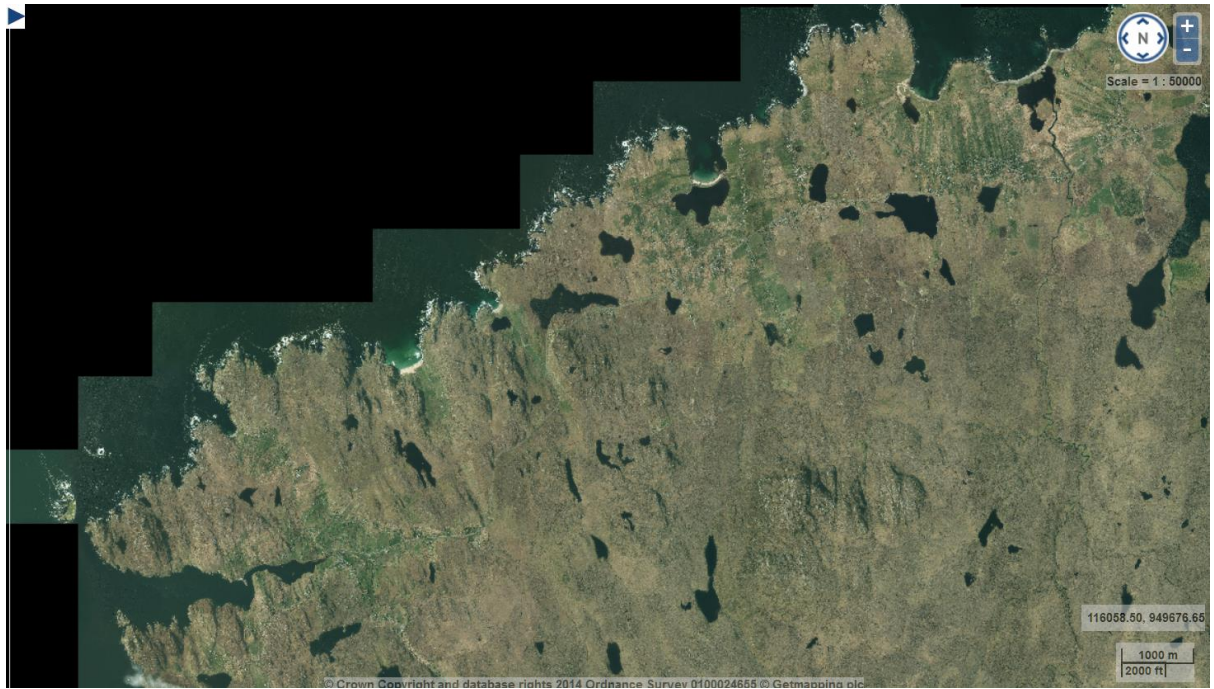
For common grazings, this effect is further magnified by an apparent decision (apparent in the sense that experience shows it to be the case, but I have never seen it written down) that common grazings can only have parcels in a maximum of 2 categories – this is actually a serious weakness in implementation, for the reason outlined previously – at these low stocking densities, small changes make a potentially huge difference.

The complexity of the implementation model used reflects the magnitude of the redistribution issue and its politics. It should also be noted that there are questions at a number of levels:

- Do the regions 'make sense'?
- How fair or reasonable or liable to deliver policy objectives are the different payment levels?
- Are the regions being used for anything beyond merely differentiating between payments?

In Scotland, we would have to say, yes in general to the first and be more guarded as to the second and third. We discuss this further when considering the integration of measures.

The de facto rule that only 2 Regions can be allocated to any one common grazing needs to be changed. Serious consideration should be given to allowing split-region parcels, at least for large areas.



Pink: Region 1; purple: Region 2; lilac: Region 3; blank: unallocated (unclaimed); blue: water bodies  
 Figure 8. Regionalisation in an area in the W of the Isle of Lewis. Image: Google Earth;  
 Map: Rural Payments Scotland, Crown Copyright Reserved

The area, like much of the rest of NW Scotland, consists of large areas of rough grazings, mostly common pastures, with mosaics of small croft parcels in the villages. While the regionalisation of the inbye land seems to have a certain logic, even that produces some strange results, with enclosed Region 3 land adjacent to supposedly-better quality Region 2 rough grazings in places.

However, it seems clear that the regionalisation of larger common grazing parcels is not satisfactory, with some being allocated to Region 2 and some, indistinguishable on the

satellite image, being given a Region 3 rating. This means more than a three-fold difference in the BPS payment per hectare.

### 7.8.3 Use of stocking rate 'minima' as part of activity criteria

**What are the particular issues at stake for HNV pastures in the country in relation to this example?**

The background has been explained earlier (section on direct payments regionalisation). The use of 'real' activity measures, including stocking rates, was a 'must have' for the Scottish Government in the CAP negotiations.

**What is the measure in question and how is it potentially beneficial for HNV grasslands?**

The text of the guidance for farmers explains it as follows (Scottish Government, 2017a):

Payment Region One [all non-rough grazing land]

Where agricultural production activities are undertaken, these can encompass production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes.

Where no agricultural production activities are undertaken, the land must be maintained actively in a state suitable for grazing or cultivation. This means various actions according to the land. Across all land, the business must take action to control injurious weeds to which the Weeds Act 1959(1) applies and maintain access to those areas for livestock or agricultural machinery.

On areas of permanent grassland, you must be able to demonstrate maintenance of existing stock-proof boundaries and water sources for livestock, whilst on arable land you must take action to prevent the encroachment of scrub.

Payment Regions Two and Three [rough grazing land]

The normal minimum agricultural activity is to undertake an average level of stocking of 0.05 livestock units (LUs) per hectare on all hectares for 183 days in each scheme year. A lower stocking density, in terms of numbers or period, may be acceptable.

This must be justified by evidence, such as chronological records kept for an extended period or other evidence in respect of the carrying capacity of the whole or part of the holding (e.g. flock records, herd registers).

Alternatively, evidence can be provided where stocking levels have been lowered, again in terms of numbers or period, across the whole or part of the holding below 0.05 LU/ha, as a result of an environmental management agreement with Scottish Natural Heritage or an agri-environmental commitment as part of the Scottish Rural Development Programme.

As an alternative to minimum stocking levels, you can carry out an annual Environmental Assessment across the whole or part of the holding, where land lies in Payment Regions Two and Three. This will consist of three elements:

- a map and description of the farm environment
- a breeding bird, mammal, butterfly survey
- monitoring of habitats including plant health survey

You can choose to carry out a combination of minimum stocking and an annual Environmental Assessment, provided the minimum agricultural activity requirement can be met on all hectares (e.g. stocking or survey). For any part of the business where you have elected to undertake an Environmental Assessment, documentation of a survey in process must be made available to our inspecting officers and in any event, when complete, must be sent to the relevant area office no later than 31 August. As completion of the survey is an eligibility requirement for the Basic Payment Scheme, no payments can be made unless the completed survey has been received.

The survey should be undertaken by an environmental consultant or someone similar with suitable skills, which may include a member of the agricultural business. If you purchase a survey, our inspectors will expect to see the relevant invoices and receipts. 'Suitable skills' need to be assessed based on proven evidence of knowledge of ecology, species, and survey techniques (e.g. completion of other similar surveys, membership of professional or voluntary body, such as the Chartered Institute of Ecology and Environmental Management, Botanical Society Britain and Ireland or a relevant university degree). [There follows a lengthy description of what the survey must entail for various species groups and habitat types.]

The rules therefore require actual agricultural activity in terms of a minimum stocking on Region 2 and 3 land (or a complex and demanding series of annual surveys). This means that the vast majority of Scotland's LFA is subject to minimum stocking in practice (see example from the Isle of Skye); this includes some inbye parcels as well as all the rough grazings.



Figure 9: Areas in NE Skye naturally kept in good conditions and requiring a minimum stocking density for BPS eligibility (in grey). Map: Rural Payments Scotland, Crown Copyright reserved

The minimum truly is a cut-off below which no payments are made (unlike the LFA/ANC payment where it is in fact a threshold below which payments are proportionately reduced). But while this could cause problems, the implementation is in practice more subtle than the



wording suggests, with claimants who can show that their stocking rate was traditionally below the minimum not being denied payment.

The rule allowing alternative, survey-based, eligibility criteria was probably included as a safeguard against legal challenge. What it requires is onerous and costly, but on the other hand it does potentially allow a foot in the door of CAP payments for some of the wealthiest in society. It is not clear to what extent this option has been used. There must be a fear that its rigour is itself challengeable (why do they need to show that the land is in good heart *every year*?) and that, especially if it is weakened, it will be a Trojan Horse into CAP payments for large non-farming estates.

**What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

The lack of meaningful minimum activity rules in Region 1 areas has raised questions in the press, due to the impact on land leasing and the commensurate rise in 'slipper farming'. One thing which might be looked at is again to do with common grazings. For convenience, the pasture is entered once in each Single Application Form, but the reality is that many grazings have multiple parcels and in some cases, the less active claimants will not be using them all. For consistency, it would be right and proper for this to be reflected in the declaration. But it would no doubt add quite some additional complexity, and maybe for little actual impact.

#### 7.8.4 Voluntary coupled support

**What are the particular issues at stake for HNV pastures in the country in relation to this example?**

(See section on regionalisation of direct payments)

**What is the measure in question and how is it potentially beneficial for HNV grasslands?**

One possible way to address some of these issues is the targeted use of coupled payments to ensure that at least a proportion of the funding can only go to truly active farmers; Scotland is doing this. In doing so, it is continuing what is by now an established tradition in the suckler cow sector, with the Government trying to counteract the relative disadvantage of the sector relative to sheep. For more intensive beef producers, it is likely that another motive is to counteract the redistribution implicit in the regional BPS payments. The Scottish Government is also extending coupled payments to the sheep sector for the first time, trying thereby to address another perceived weakness of the BPS – its failure to insist on real active farming - and the difficulties caused by the Government's response to that weakness, namely very low BPS payment rates on the most marginal land.

The Scottish Suckler Beef Support Scheme is available to all farmers in Scotland and is paid to the holding of birth of calves which are at least 75% beef breed, as long as they stay on that holding for 30 days (Scottish Government, 2017b). There is neither a limit on the number of animals claimed nor a higher rate of payment for the first few animals (unlike some previous versions of coupled support in this sector). Payment levels will depend on the number of claims, but is estimated to be €100 per animal on the Scottish mainland and €160 on island-born calves.

The Scottish Upland Sheep Support Scheme (Scottish Government, 2017c) is rather more complex. It is paid on home-bred ewe hoggs (young females in their first year which are

destined for breeding, but which have usually not yet been to the ram) retained on the holding between 1<sup>st</sup> of October in the year of claim and 31<sup>st</sup> of March the following year. Only 'businesses that rely on poor quality rough grazing' are eligible. These are defined as those which have: a) 80 per cent or more of their agricultural land in Scotland's Basic Payment Region 3 (the poorest land class - see next section) and b) less than 200 hectares of good quality agricultural land in Scotland's Basic Payment Region 1. There is an upper limit to claims of 1 hogg per 4 hectares (i.e. roughly equivalent to a stocking of 1 ewe/ha). There is no restriction on breed nor on where on the holdings the animals in fact graze. The payment rate will depend on the number of claims, but is estimated that it will be around €100/hogg.

Assessing the effects of the measure for HNV pastures is a very complicated question and is linked to the wider integration of measures (see below). It is also very difficult to judge this question in isolation from the wider issue of the total amount of funding available to the different sectors and different geographical areas.

In the case of the beef scheme, the effect is clearly to give a boost to suckler herds compared to other systems; suckler beef is not the 'farming of last resort' so there is a clear element of choice. The sheep scheme, on the other hand, applies only to the worst land where the choice in terms of agriculture is sheep farming or nothing (with afforestation a possible option in some circumstances – one equivalent to social abandonment in most cases); the 'success' or otherwise of such a scheme is difficult to ascertain, since there is a 'take it or leave it' element to it.

The beef scheme also doesn't try to support some producers more than others (the slightly higher payment to the islands doesn't really change the general picture) and there is no cap on claims. Large producers in geographically-attractive locations are thus given a further boost within the overall suckler beef sector.

Nevertheless, there should be a positive effect on cattle keeping in remoter areas vis-à-vis sheep keeping. (Cattle keeping is generally seen as economically less attractive – most systems involve capital-intensive winter housing, with the attendant need for making or buying in winter keep, the need for daily feeding, the need to dispose of manures etc.)

The sheep measure is a much more subtle tool, one which fits into a broader arsenal of mechanisms to ensure that payments on the poorest land go to the truly active rather than inactive. Its apparent weaknesses – lack of specificity on breeds or about where on the farm the animals are kept (are they actually using the poor land?) – are real, but limits are put on their possible effects by other elements of the design such as the limit on claims and the % of the farm which has to be poor land. This will create some unintended winners and losers, but it is hard to imagine any solutions which would be truly effective, and even possible ineffective remedies could prove to be massively bureaucratic.

It is of course a direct incentive to production, but payments are limited to a very low density of claims (again, quite a clever bureaucracy-limiting choice compared to density of stocking). The density chosen is somewhat higher than the minimum set by the active farmer rules (see below), thus offering a band of stocking intensities (albeit a narrow one) within which a farmer is gently incentivised to activity.

**What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

The sheep scheme is well-designed, considering everything. The cattle scheme is a Scotch Beef support scheme, not a HNV pastures support scheme; if it was the latter, perhaps it would look a bit more like the sheep scheme?

**7.8.5 Integration of direct payments options and ANC/LFA measure to achieve policy goals**

**What are the particular issues at stake for HNV pastures in the country in relation to this example?**

One of our themes over the years is that we need to look at the socio-economic 'big picture' – the whole farm economy on HNV farms in its broadest sense - and address that, and that policy measures should reinforce each other to do just that, each one doing what it does best. From our perspective, there is little point in a measure which, for example, pays for adjustments to the mowing regime on a meadow, if the whole farming system into which that meadow fits is unviable – that viability must also be addressed if the meadow is to be safeguarded.

In Scotland there is a complex set of policy goals, with some of the main drivers being hardly stated. For example:

- maintain the status quo, or at least make change away from it as slow and manageable as possible
- don't 'waste' money on non-farmers, at least not the money meant to be 'for supporting farming'; support farming activity, especially where there is potential for abandonment
- support the Scotch Beef chain
- allow as much flexibility as possible where it won't be abused

There are many others of course, but it is hard to get away from the perception that these are the main ones. We would find things to agree with in these, but also think that they are too broad and don't address some of the important issues, not least the rationale for how much any farmer gets paid and what he gets paid for.

Having said all that, the way in which Scotland has integrated its most fundamental and widely-applicable measures in support of these aims is really impressive, and gives an excellent example to follow for administrations with what we might consider a more appropriate or targeted set of priorities.

**What is the measure in question and how is it potentially beneficial for HNV grasslands?**

Scotland has used a range of CAP measures, each with its own rules and signals, in a broadly complementary way. The subtle differences (e.g. in stocking rate rules), rather than making for conflicting signals, tend to reinforce each other, while allowing a limited range of responses to reflect the particular circumstances.

The measures in question include:

- First Pillar area payments

- Regionalisation
- Active farmer rules
- First Pillar coupled payments
  - Suckler beef calf
  - Homebred sheep on hill farms
- LFA (ANC) area payments

The LFA scheme is not described here, as it is difficult to describe and not very satisfactory, but in broad terms it is banded, with the highest payments to the best land, and with rules connecting the payments to past and, in a rather loose and ill-defined way, to current stocking densities. Many permutations are possible, but Jones (2015) illustrates some of the perverse effects of the current rules.

Table 8: Some possible outcomes of the LFASS rules

Farm	Grazing category	Basic rate	Stocking rate adjustment	Stocking mix adjustment	Final £ per ha payment rate
Island poor land sheep	A	71.35	0.167	1	11.92
Island poor land beef dominated	A	71.35	0.167	1.7	20.26
Mainland best land sheep	D	34.12	0.8	1	27.30
Mainland best land beef dominated	D	34.12	0.8	1.7	46.40

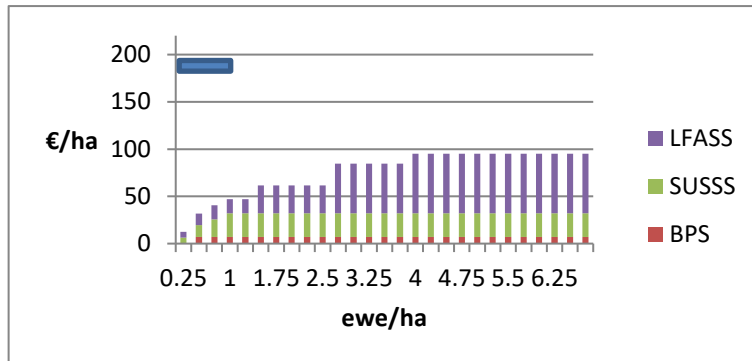
Having said that, the scheme (and even its uncertainties!) serve to support active grazing in the marginal areas, as the figures below illustrate.

All of the schemes have a slightly different way of looking at the holding. BPS considers land quality on a parcel-by-parcel level. Central to the coupled support for sheep is not only a broad link to the worst quality land but a threshold value for the proportion of such land on the holding. The coupled support for beef calves is not linked to land quality. The LFA/ANC measure meanwhile is indirectly linked to land quality through the use of historic stocking levels to set the grazing category which is so central to the size of the final payment.

On top of this, SSBSS and LFASS also have regional (in the usual sense of geographic zones) variation in the base payment – 2 levels for the former and 3 for the latter. And LFASS gives additional payments to suckler cattle but, unlike with SSBSS, they are linked to the proportion of cattle in the holding's total complement of livestock.

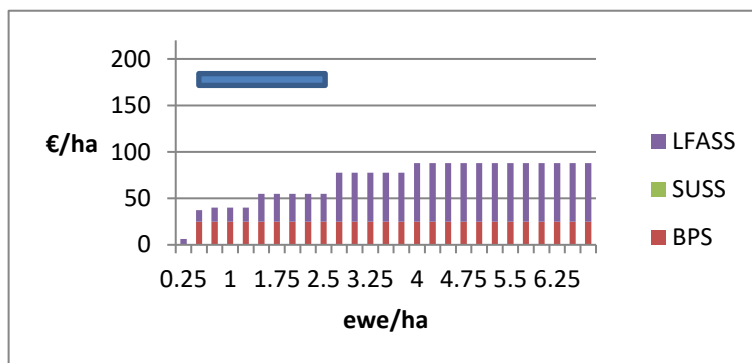
Here are some simplified examples in the knowledge that real farms are much more complex (e.g. having a mixture of BPS regions or a mix of livestock types). Nevertheless, they provide evidence to support the generalised conclusions at the end of the section. Figure 10 shows some theoretical scenarios in the Western Isles (where the base rate for LFASS and the SSBSS rate are highest) for sheep and Figure 11 does the same for a mainland area for suckler cows. Table 9 shows some illustrative (and not unlikely) scenarios.

In any parish, it is possible, though extremely unlikely, to have holdings which are all in one BPS payment region. For the sake of simplicity we imagine such holdings in a Western Isles parish and that those holdings have sheep only. While any stocking rate is in principle possible on land in any of the payment regions, in reality they will tend to reflect the quality of the land; indicative stocking density bands are shown in blue.



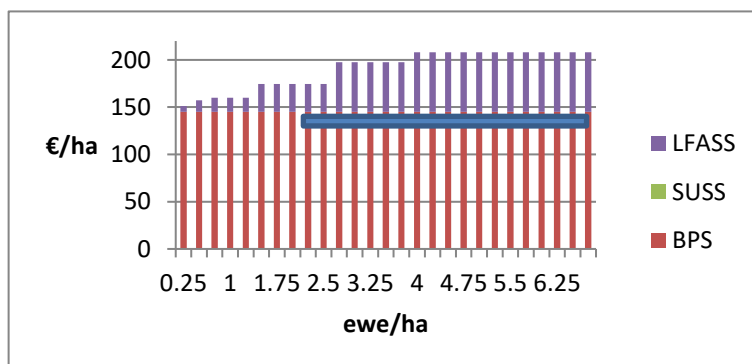
### Region 3

Apart from around 0.5 ewes/ha, payments are slightly higher than those in Region 2 but much lower than Region 1. LFASS 'minimum stocking' of 0.09 LU/ha likely to be a major driver; LFASS payments at higher stocking levels not under day-to-day control by the claimant.



### Region 2

Apart from around 0.5 ewes/ha, payments are slightly lower than those in Region 3 but much lower than Region 1. LFASS 'minimum stocking' of 0.09 LU/ha likely to be a major driver, but might be worth claiming just BPS between 0.05 and 0.09 LU/ha.

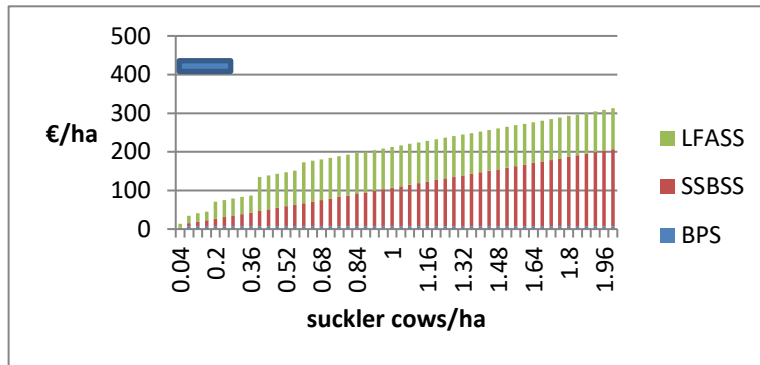


### Region 1

Highest payments at all stocking rates. BPS makes up much higher proportion of total payments and actually require no livestock to be present.

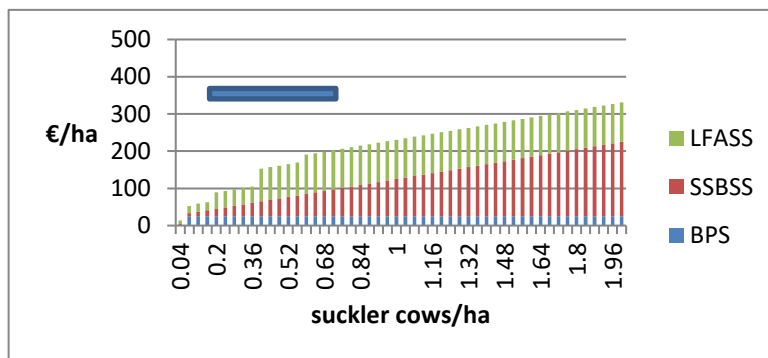
Figure 10. Integration of the direct payments and ANC schemes in Scotland - a Western Isles sheep example

In any parish, it is possible, though extremely unlikely, to have holdings which are all in one BPS payment region. For the sake of simplicity we imagine such holdings in a mainland Argyll parish and that those holdings have suckler cattle only. While any stocking rate is in principle possible on land in any of the payment regions, in reality they will tend to reflect the quality of the land; indicative stocking density bands are shown in blue. We assume that the overall stocking rate is 1.25 x no. of breeding cows (in reality it might be higher if cattle other than replacements are retained on the holding).



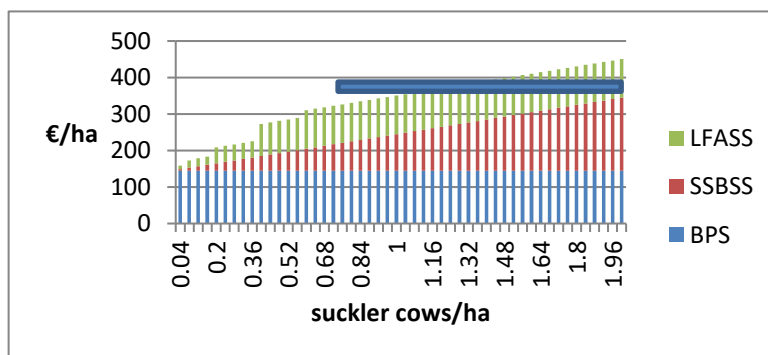
### Region 3

Payments are consistently lower than in all other regions due entirely to BPS. Farmer has little control over level of LFASS payment above 'minimum' stocking of 0.09 LU/ha, but once allocated a band, band specific minima apply.



### Region 2

Payments are consistently slightly higher than Region 3 and much lower than Region 1 due entirely to BPS. Farmer has little control over level of LFASS payment above 'minimum' stocking of 0.09 LU/ha, but once allocated a band, band specific minima apply.



### Region 1

Highest payments at all stocking rates due to BPS, but BPS makes up a lower proportion of payments than with sheep in general. BPS requires no livestock to be present.

Figure 11. Integration of the direct payments and ANC schemes in Scotland - a mainland (e.g. Argyll) suckler cattle example

Farm	Grazing category	Region	Overall stocking rate	BPS /ha	SUSSS /ha	SSBSS /ha	LFASS /ha	Total /ha
Island poor land sheep only	A	3	0.1	7	16.67	0	14.90	38.57
Island poor land beef only	A	3	0.1	7	0	8	25.32	40.32
Mainland best LFA sheep	D	1	2	154	0	0	34.12	188.12
Mainland best LFA beef only	D	1	2	154	0	160	58.00	372
Mainland best land (no activity)	n.a.	1	0	154	0	0	0	154

Table 9. Some illustrative scenarios of scheme integration

What then are the signals to farmers, broadly speaking, and how do they relate to the apparent objectives?

- If you are on the very best land, you will be well rewarded for doing nothing and this reward will be greater than ANY active sheep keeper in Regions 2 or 3 can get. This is a reflection of the 'maintain the status quo' and 'give flexibility where possible' objectives. This is not at all positive for HNV farming.
- Even on non-LFA land, there is a financial incentive for keeping cattle, with no cap or degressivity which, at realistic stocking densities on good land, is the equivalent of the BPS payment. There is no such incentive for keeping sheep at high densities. This supports the 'support Scotch Beef' and the 'maintain the status quo' objectives. This supports *some* HNV farms, but in general directs payments to their competitors on the better land.
- In the LFA, the incentives for keeping cattle are even higher. In fact the highest payments of all are paid on the best LFA land to cattle keepers. This reflects the 'maintain the status quo' objective. This is favourable to HNV producers in the LFA, but there are many intensive producers there too.
- If you can keep cattle, the subsidies tell you to do so in preference to sheep in all areas. Whether the subsidy overcomes the cost of the system is one question. But another issue is that in the most marginal areas keeping cattle is not so easy and may in reality be impossible. This reflects the 'maintain the status quo' and 'support Scotch Beef' objectives. The encouragement to keep cattle is good, but the reality is that many HNV producers would find it difficult to respond; the system penalises them without offering a way out.
- For sheep systems, the system only provides encouragement at lower stocking densities. However, unlike with cattle, it leaves most producers with no 'do nothing' option, with most or all payments linked to actual activity. SUSSS is a pure headage payment; LFASS is a headage payment below 0.09 LU/ha and has both minimum stocking levels in each grazing category and the unspoken threat of rebasing on a



more recent farming year (as has happened in the past); BPS is not paid below 0.05 LU/ha. This reflects the 'don't support inactivity' objective. This is a 'good thing' in so far as it reduces or eliminates the competition for land from potential 'slipper farmers', but see next point for the other side of the coin.

- Marginal producers therefore find themselves in a trap in which the question of whether the payments fully compensate for the cost of activity becomes rather academic. They have no choice of claiming and doing nothing, despite receiving perhaps 20% or less of the payment offered to the idle on the best land. Their choice in reality is to continue farming and take what they're given or to give up. This reflects the potential tension between the 'maintain the status quo' and 'don't support inactivity' objectives
- In terms of 'moving payments up the hill', despite the changes introduced in the current CAP, funding is overwhelmingly channelled to the better land. Even the fact that cattle get higher payments everywhere has the same effect in the most marginal regions, where cattle are less common in general and associated with the better land when they do occur. And while at least for sheep Region 3 land generally attracts a lower payment than Region 2, in the key stocking density band where there is most overlap, Region 2 bafflingly has the highest payments, suggesting that as with the original LFASS scheme, there has been a certain weakness in the Government's extensive modelling exercise. In terms of the small details, it could have been better modelled so as not to inadvertently punish certain HNV producers. In terms of the bigger picture, that remains one where the 'commercial' competitors of HNV farmers still receive most of the subsidy, further marginalising HNV farming.

**What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

In terms of how it works when set against the Government's apparent or stated objectives, two weaknesses have emerged. The first is the decision not to require minimum agricultural activity on Region 1 land. This has led to land previously let out seasonally to active farmers being kept in hand for the crucial dates and used by the owner to claim payments (even if maintained in practice by the same active farmers). This could easily be remedied by the introduction of a meaningful active farming test, the rationale being not the poor subsequent state of the land but the need to avoid the pointless spending of public money. Having said that, it is clear that rents are being adjusted to reflect the scale of BPS payments available, even when land is not being taken back in hand.

Secondly, there is definitely a poor integration at the Region 2/Region 3 intersection. It seems clear that there is a band of stocking densities where for example being less active pays better in Region 2 and being more active in Region 3. This is a failure of modelling and adjustments could be made.

The question of how it could better work for HNV farms is a different one. The whole balance of resourcing across the country would need to change, not just the 'money for nothing' aspects of Region 1 rules, but with meaningful safeguards in the forms of payment rationales and payment rules based on those rationales which ensure that payment goes to the active and, as far as possible, is not just converted into rent/land values. The question of other potential stakeholders – new entrants and inactive shareholders on common grazings, for example – would need to be taken seriously from the very start.

Were well-designed output-linked agri-environment schemes to be available in Scotland (whether broad and shallow or deep and narrow or both), they should shoulder a significant portion of the burden.

### 7.8.6 Farm advisory service

#### **What are the particular issues at stake for HNV pastures in the country in relation to this example?**

Good advice is an essential aspect of running a HNV farm – technical advice relating to the agricultural activity, but also information and guidance on the plethora of Government regulations and schemes.

The CAP recognises the need for advice, particularly on non-commercial topics related to public goods. However, an approach which sees all other advice as a purely ‘commercial’ matter to be left to the free market is unlikely to work in HNV farming areas. Farm visits and paperwork have a fixed cost element (and one of hassle for the advisor) which militates against small farms. Combined with the cost of remoteness in terms of travel time and so forth, the pressure for maximising returns can often lead to cherry picking accessible large farm clients. Yet at the same time, the impact of paperwork-heavy support payments and other schemes is often greatest on the small marginal farmer. The Scottish approach tries to address these concerns within a partially-commercial system.

#### **What is the measure in question and how is it potentially beneficial for HNV grasslands?**

The current incarnation of the advisory service for small farms and remote areas is as part of the Farm Advisory Service contract (Scottish Government, 2017d; FAS, 2017), this part of which (and indeed the bulk of the rest) is delivered by the long-term delivery vehicle for past incarnations, SAC Consulting. It sits alongside the free public goods advice service and supporting activities.

The main elements continue the pattern set in the past:

- Provision of offices in remoter areas
- Cost of travel to remote areas not borne by the individual clients
- Cheaper subscription rates for crofters and small farmers, offering 2 hours of ‘free’ advice as well as access to generic advisory resources
- At least some cheaper consultancy charge out fees

As can be seen in Figure 12, the rates of subscription as well as of the central advisory opportunity of each year, the completion of the Single Application Form (IACS in the figures), varies considerably from office to office, and not in a systematic way.

Further insight can be gained by comparing these uptake rates to the number of potential clients (measured in terms of the total number of SPS claims submitted in the area (Scottish Govt., pers. comm.)). Again, there is no simple pattern in the data (Figure 13), but there is unsurprisingly a broad association between the office being well resourced in terms of staff and the % of potential clients serviced (Figure 14). Some offices perform very well, even in marginal areas (e.g. Oban) and ones dominated by small farms (e.g. Portree).

The net benefit for HNV grasslands is probably one which accrues almost by accident – the system is not designed to achieve it. However, the reality remains that in most marginal areas dominated by semi-natural grasslands, the partially-subsidised SRUC advisory

service (now tellingly branded SAC Consulting) remains the dominant player, with other services being very local and/or engaged in cherry-picking the most profitable work.

**What problems arise with the measure (including on paper and on the ground) and what improvements could be proposed to its design and/or implementation?**

Some serious weaknesses can be mentioned, including:

- Clients in remote Scotland (CC) have a lower number of advisors servicing them than the rest of Scotland (all the named offices except Inverness have a substantially higher no. of potential clients per advisor)
- There is a huge variation between offices in the Highlands and Islands, which seems unrelated to the potential need
- There seems to be a huge variation in engagement with clients in the remoter areas, especially where there is a significant possibility of cherry picking clients on better land (Kirkwall, Inverness and especially Thurso)
- Although subscriptions are cheap compared to professional fees charged by others, they are still significant for the smaller and more marginal client, potentially explaining some of the low uptake rates
- The strong feeling is that SAC Consulting uses the funding to maintain the status quo – a pattern of office distribution and advisor staff strength which has been in place for many years. There seems little effort to improve performance with additional support. As such the advice service provision reflects the weaknesses of wider CAP policy.

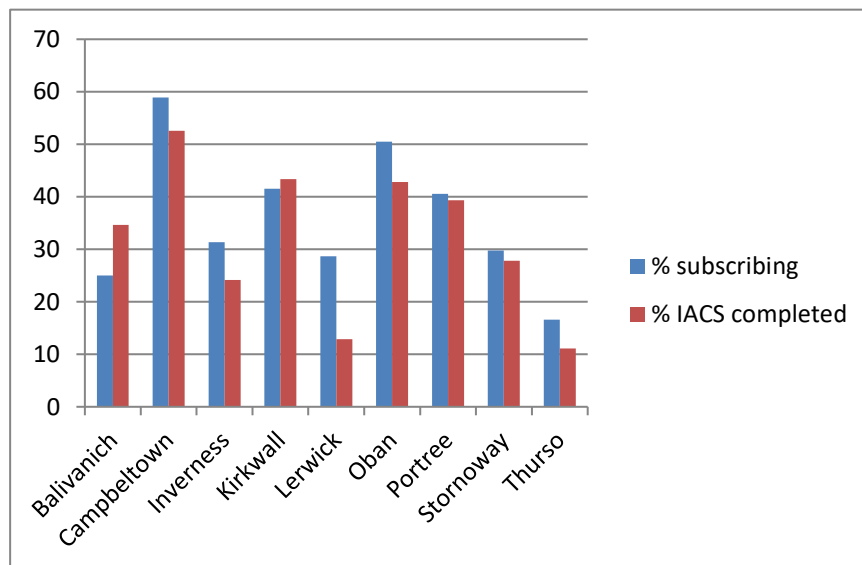


Figure 12. % of potential clients subscribing and of IACS forms completed by SAC

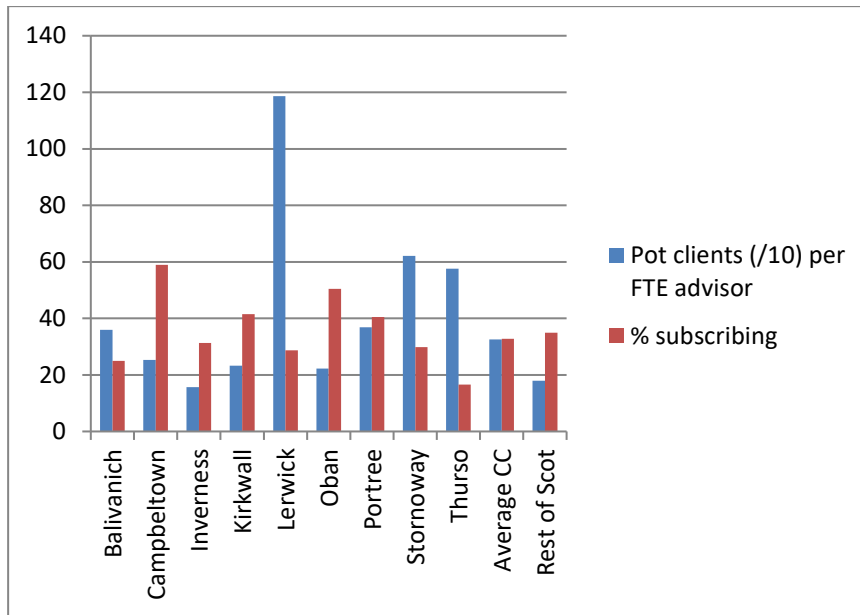


Figure 13. Potential clients per advisor and % subscribing to services

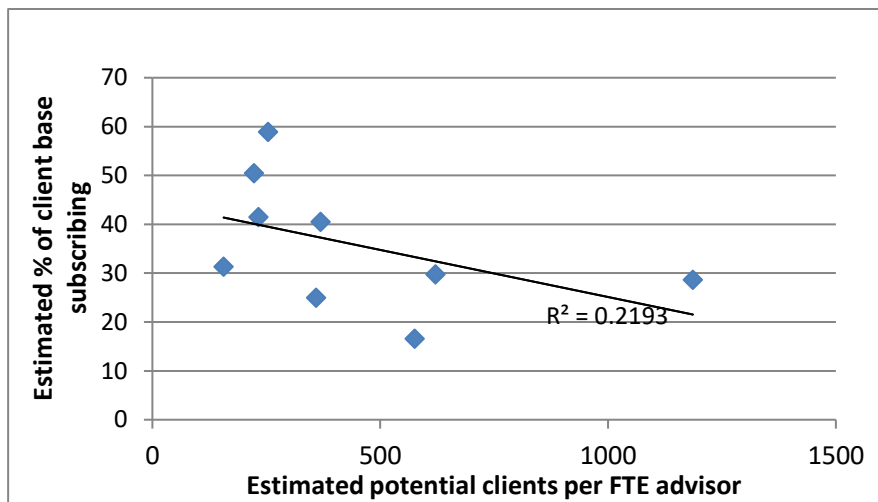


Figure 14. Relationship between potential client numbers per advisor and actual % subscribing

Addressing the weaknesses requires both SAC and the Scottish Government to

- Take an interest in the data
- Truly believe that things can be done better and that it is worth doing things better
- Find a mechanism for supporting offices in a more equitable way
- Be willing to look both at the appointment of new experienced staff (not just trainees) and the cost of subscriptions
- Change the way the service is presented and dealt with internally, with less stress on putting as many of the services as possible into the 'commercial' or semi-commercial box (while having regard to valid concerns for dealing with issues of liability/responsibility)



## 8 Conclusions

At EU level, the CAP is not designed in an integrated way. There are some obligatory measures and rules, and a very large number of optional measures and optional implementation models. It is left to MS and regions, if they wish to, to create a policy that has real integration and coherence in the way it works on the ground. We are not aware of any MS or region that does this in an exemplary way for HNV grasslands, in the sense of adapting the entire policy package to this objective, although in theory it would be possible. This report presents some examples merely of how *pieces* of the package have been used to benefit HNV grasslands.

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