



A Research Paper of the Cross Compliance Network

## **Administrative arrangements for cross compliance**

Deliverable 11

By

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## **About the Cross Compliance Network**

The Cross Compliance Network aims to develop our understanding of environmental cross compliance. A consortium of nine universities and research institutions from a range of EU Member States is consolidating research to date, undertaking new original research, identifying future research needs and fostering a network of cross compliance stakeholders.

The Cross Compliance Network is co-ordinated by the Institute for European Environmental Policy (IEEP) and consists of the following partner institutions:

Agricultural University of Athens (AUA), Greece  
Applications des Sciences de l'Actions (AScA), France  
CLM Research and Advice plc. (CLM), Netherlands  
Federal Agricultural Research Centre (FAL), Germany  
Institute for Structural Policy (IREAS), Czech Republic  
Istituto Nazionale di Economia Agraria (INEA), Italy  
Lithuanian Institute for Agrarian Economics (LIAE), Lithuania  
The Royal Veterinary and Agricultural University (KVL), Denmark

This paper, along with all those published for this project, may be found on the project's dedicated website:

<http://www.ieep.org.uk/projectMiniSites/crosscompliance/index.php>

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## 1 Introduction

Various administrative approaches have been adopted by EU Member States in order to implement cross compliance. This paper compiles information on institutional settings in the countries represented by the Cross Compliance Network project<sup>2</sup> and focuses on environmental cross compliance standards. By institutional settings, we mean the responsible authorities involved in the design, implementation and control of cross compliance. The main objectives of this exercise are:

- To show basic differences in institutional settings concerning cross compliance (e.g. central or de-central implementation, regional scope, control procedures and the role of specialised bodies).
- To gather first experiences of the implementation of cross compliance, especially concerning the new aspects of the enforcement system, taking as examples, the Statutory Management Requirements (SMRs) relating to the nitrates and the habitats Directives.
- To gather basic information for the identification of “good administrative practice” as part of further work of the Cross Compliance Network relating to the administrative costs of implementing cross compliance.

Information has been provided by answers to questionnaires completed by the project partners in the Czech Republic, Denmark, France, Germany, Greece, Italy, Lithuania, the Netherlands and the UK, using among other sources interviews with professionals in relevant administrations. In some Member States the regions have a high degree of independence; therefore the focus was on Veneto for Italy, England for the UK and Lower Saxony, Hesse and Thuringia for Germany. Information from some other Laender in Germany has also been taken into account. In order to develop more detailed examples, about experiences with the implementation of cross compliance concerning the nitrates and the habitats Directives, more information was sought in Denmark, Germany and Greece. Further suggestions and feedback on the draft from the first seminar of the Cross Compliance Network, held in Paris on 3 July 2006, have also been incorporated in this paper.

At the time of writing this paper, there has only been one year of experience with cross compliance, and the degree of implementation of cross compliance and sometimes the underlying EU Directives (especially the nitrates and habitats Directive, as evidence from this study shows) differs widely throughout the nine Member States examined here. In most, but not all cases, there was not always sufficient information available on all aspects, e.g. concerning risk-assessment when selecting the control samples or the level of

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<sup>2</sup> The following Member States are part of the Cross Compliance Network: Denmark, Czech Republic, France, Germany, Greece, Italy, Lithuania, the Netherlands, and UK.

non-compliance with cross compliance requirements. Thus, the depth and comprehensiveness of information relating to different Member States varies considerably.

In the first part of this paper, the administrative arrangements concerning the design and enforcement mechanisms in the nine Member States are shown. The second part deals with the experiences with implementation of cross compliance related to the nitrates and the habitats Directives mainly in Denmark, Germany and Greece, but examples from other partners are mentioned as well, depending on the information available.

## **2 Identification of the institutions involved in the design and implementation of cross compliance**

### **2.1 Design of cross compliance standards**

#### *Who was involved in the design of standards? Did regional scope play a part?*

In nearly all cases the Ministry in charge of Agriculture (MoA) had the overall responsibility for the design of cross compliance<sup>3</sup>, but co-operation between the MoA and the Ministry in charge of the Environment (MoE) (or other ministries e.g. for further Statutory Management Requirements) is required, namely in case of the birds and habitats Directive and standards for Good Agricultural and Environmental Conditions (GAEC) (see Table 1 in Annex I for more detail of different arrangements in different Member States). In Germany and Italy the representatives of the regions had a strong influence and had to approve the proposal. In all cases other stakeholders have been consulted, such as farmers' organisations, NGOs and external experts. The inclusion of external views was especially pronounced in England, where a consultation was conducted which received over 460 responses. A Regulatory Impact Assessment (RIA) has also been conducted in England in order to consider the effects of the proposed new GAEC options on the environment and any associated costs to farm businesses.

In all cases, the **framework for cross compliance standards**, at the very least, **is set at the national level**. Exceptions from requirements e.g. due to certain weather conditions at the local/regional level can often be authorised by the responsible regional authorities. Of course certain standards exist that target Natura 2000 or other designated areas and depend on specific locally defined management plans. In case the whole national areas is not defined as a Nitrate Vulnerable Zone (NVZ) according to the nitrates Directive, action plans with implications for cross compliance only apply in these zones. In the Netherlands, GAEC standards for soil protection differ according to soil type and

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<sup>3</sup> in the UK, Agriculture and Environment are under one ministry

requirements concerning steep hills only apply in one province, where such hills occur. In Greece there can be specific local regulations concerning livestock density.

Some Member States have a rather decentralised or regionalised political and administrative structure:

- In **France** GAEC standards are often specified at the department level (NUTS3) (e.g. management practices for minimum maintenance).
- In **Italy**, cross compliance was implemented through a two level system: a national framework, approved by the State-Regions Conference, defines the basic standards for GAEC and SMRs whilst the regional governments (NUTS2) may adopt more precise standards according to regional/local conditions (in 2005, 12 regions decided to do so).
- In the **UK**, there are differences between cross compliance standards in England, Wales, Scotland and Northern Ireland as the standards were developed by each devolved administration.
- In **Germany**, although it is a federal state, standards have been harmonised at the national level after consultation with representatives of the Laender (NUTS1). Still, each Land has the right to derogate, according to regional conditions, from the federal conditions. However, from the information available only Schleswig-Holstein chose not to apply the standards for retaining terraces because it is a very flat region. In the case of the SMRs, there can be some regional differences, but the regions are seeking to ensure that cross compliance requirements do not go above the harmonised national standards and not above the requirements of EU legislation. It remains the case that more ambitious mandatory standards might be relevant for national legislation, but are not subject to cross compliance.

For these Member States, the differences generally only concern some standards. In short, cross compliance is implemented through the setting of national standards that are, in some cases, adapted to regional and local circumstances.

## **2.2 Enforcement of cross compliance**

### **2.2.1 Control regimes**

With cross compliance, the EU places emphasis on threatening Single Payment recipients with potentially high sanctions through systematic controls, albeit with a rather low control frequency of one per cent of all those farmers submitting aid applications. If cross compliance should have a positive environmental impact and be more than an additional set of standards to be administered, it should be ensured that the farms which are most likely to cause environmental problems are targeted. When choosing farms to control, the design of the risk assessment system according to the potential environmental impact is

crucial. This paragraph describes the approaches of different EU Member States in selecting farms and carrying out on-the-spot controls (also see Table 2 in Annex I).

### ***Control sample***

#### **Central selection at national level:**

The farms to be controlled are chosen centrally by the **national Payment Agency (PA)** in the Czech Republic and in Lithuania for GAEC, in Greece for each NUTS 3 region, and in Italy where the four Italian regions with a regional PA chose the 2006 control sample themselves. In England, the **central PA** chooses the farms, assisted by English Nature concerning the SMRs relating to the birds and the habitats Directives and the GAEC on Sites of Special Scientific Interest. Data provided by the Environment Agency is used to select farms for inspection for the sewage sludge, nitrates and groundwater Directives. In the Netherlands, the **central Agricultural Inspection Service**, which coordinates controls, selects the farms for inspection.

#### **Selection below the national level:**

- Denmark: each **authority in charge of a control** selects a control sample. These authorities can be central or regional authorities. This procedure is supported by a web-based database system.
- France: the regional agricultural administrations, DDAF (devolved services from MoA (NUTS3)), select farms for the control of the environmental SMRs and GAEC and coordinate controls. Further SMRs and farms with an administrative authorisation to keep very large numbers of animals are controlled by two other control bodies, which themselves select the relevant control sample.
- Germany: in most Laender the selection happen centrally at NUTS1 level e.g. in Hesse (regional council on behalf of the MoA), Lower Saxony (Service Centre for Rural Development and Agricultural Support, SLA, on behalf of the MoA) and Mecklenburg-Vorpommern (PA); but, for example, in Thuringia, several specialised authorities are responsible for the selection of farms.

### **Risk assessment**

The Competent Control Authority is obliged to control 1% of farms receiving direct payments with regard to the cross compliance requirements. If a higher control rate is required by legislation, as is the case with the rules on animal registration, the higher control rate applies). A draft working document of the European Commission (DS/2006/25) provides guidance on increasing the rate of on-the-spot checks in case a significant degree of non-compliance is found. Farms can be chosen from the sample pre-selected for IACS controls or from all holdings receiving direct payments and for whom the respective standards apply. According to Reg. (EC) No.796/2004 (§45) the selection of farms should be based on risk assessment. It is unclear as to whether 1% of farms in receipt of direct payments or one per cent of farms to which each cross compliance standard applies, have to be controlled. For example, with sewage sludge application, only

a small proportion of farms are affected by the legislation. The European Commission has stated that the control sample depends on the standards for which the controlling organisation is responsible and that a control rate of about 1% per standard should be aimed for. Risk assessment is crucial to select appropriate farms and a suitable control rate. Apart from the Czech Republic and Lithuania, where the procedure was not finalised at the time of writing, all of the Member States examined for this paper consider this requirement. A number of examples follow.

- **Denmark:** Farms are selected by each Competent Control Authority. If risk-assessment is not used, this has to be justified. The criteria can differ. Risk-assessment by DDFFA (Danish Directorate for Food Fisheries and Agri-Business) for the Plant Directorate is based on fixed guidelines and criteria may include farm size, number of livestock, management type, agricultural activity, land use, geographical distribution, date of last control visit, number of fields, area, live stock units for which there is applied for subsidy, changes compared to earlier years, control results from earlier years and replacement of animals corresponding to certain regulations. Risk assessment at the local government level is based on local experiences.
- **France:** Selection happens, with some flexibility over the criteria at departmental level, according to, for example, the location of farms, the geographic distribution of environmental issues (e.g. most polluted water basins) and the structure of farms (e.g. livestock density). Previously reported anomalies are taken into account. Certain certified farms are not selected in risk assessment, as they are believed to be respecting standards that include the cross compliance requirements.
- **Germany:** Risk analysis takes place at Laender or department/district level, depending on the administrative structure and the responsibilities of the specialised authorities. Criteria have been agreed between the Laender and the national level that enable the responsible authorities to carry out an integrated risk analysis. This analysis depends on the existing administrative structure and is conducted for several or all environmental SMRs and GAECs. In the case of the nitrates Directive in Lower Saxony, for example, the risk analysis only accounts for farms applying livestock manure. In addition to randomly choosing 20-25% of the control sample, further criteria are farm size (for environmental SMRs and GAECs), keeping of livestock, import of farmyard manure and cultivation of vegetables (for the nitrates Directive), the size of land taken out of production (for GAECs) and, since 2006, the control results of the previous year as well as any changes in the application of all standards. No overview could be produced as to how far the Laender keep exactly to these common criteria. In Thuringia the aim was to have only a small number of uniform criteria for risk assessment, taking account of farm size and farms with former non-compliances for the environmental standards. An example for weighting different criteria is given by Mecklenburg-Vorpommern. For 2006, the MoA suggests the following composition of the control sample for GAEC and the first 5 SMRs (these are the environmental SMRs): 20% random selection, 20% according to area size, 15% farms with livestock, 15% with land out of production, 10% with import of farmyard manure, 6% with non-compliances in 2005, 5% with cultivation of



vegetables, 5% new applicants and 4% without control in 2005. There is no indication if farms form part of a Natura 2000 site. In other Laender, a differentiation is made between holdings inside and outside of Natura 2000 sites, if this information is already recorded in the central system. A system of central integrated risk analysis and control by different agencies could mean that the EU requirement for the Competent Control Authorities to carry out checks on 1% of farms for the standards they are responsible for, is not complied with. The Commission has criticised Baden-Württemberg<sup>4</sup> for this. Mecklenburg-Vorpommern, as a Land with central risk analysis and controlling agencies at a more regional level deals with this problem by selecting the farms for each region within the Land and asking the relevant authorities for their feedback on the procedure. The central authority gives the regional authorities the possibility to adjust the weighting of the selection criteria and to report farms considered to be at high risk of non-compliance. Such farms are then automatically included in the control sample.

- **Greece:** A risk analysis is carried out for all applications that have already been selected for the eligibility controls and is based on case by case criteria. The criteria include the amount of payments, number of parcels, total area of holding, number of animals, changes in comparison with the previous year, former non-compliance cases as well established by controls of other agencies, non-compliance with Regulation 1760/00 (on the identification and registration on bovine animals), the obligation to comply with the Directives 86/278 (sewage sludge), 91/676 (nitrates), 92/43 (habitats) and 79/409 (birds), applications submitted for the first time, applications that have not been checked for cross compliance for the past four years, applications including pastures with a grazing density of over 2.7 LU/ha or less than 0.3 LU/ha, applications including areas of permanent pasture and farms which show no cultivation of leguminous crops (cross compliance requirement) in administrative checks.
- **Italy:** The sample is chosen using both random and risk assessment criteria. Groups of farms are identified based on different types of farms or conditions (type of land/crops/breeding) that are considered to be of greater risk concerning compliance with the cross compliance requirements.
- **Netherlands:** 80% of farms are selected by risk-assessment and each standard is considered a potential risk factor. The inspection history is a second criterion. A third criterion is to achieve a balanced representation of different types of farms and an even regional distribution.
- **England:** Of the 1,200 inspections conducted in 2005, the inspection selection was split into three elements as follows:
  - 68% of the total selection (about 820 inspections) was selected by scored risk. A variety of risk criteria are used, scores allocated and the farmers with the highest scores selected for inspection.

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<sup>4</sup> Lower Saxony and Baden-Württemberg have been criticised by the Commission for not sufficiently involving the specialised authorities in the selection of the control sample.

- 20% (about 240 inspections) was selected at random.
- 12% (about 140 inspections) was selected by targeted risk, using referrals received from other agencies such as the Environment Agency and English Nature.

Scored risk is calculated according to a number of criteria. In the case of the SMRs for the birds and habitats Directives, English Nature provides data on the condition of Sites of Special Scientific Interest (SSSI), draws on records of criminal infractions and considers farms that have a Wildlife Enhancement Scheme agreement in order to provide a summary risk rating. The Environment Agency draws on data for the chemical load of land, soil type, geology and topography in order to provide a risk score for the groundwater Directive. In the case of NVZs, the organic nitrogen loading of catchment areas, criminal prosecutions and the occurrence of problematic crops such as maize and peas are taken into consideration. In contrast, little information is available for targeting inspections for the sewage sludge Directive because no records of sludge spreading have been provided to a central authority in the past. The Environment Agency may become a Competent Control Authority in its own right in 2007, in order to be able to carry out their own more targeted risk analysis concerning the nitrates, the groundwater and the sewage sludge Directives.

Selection criteria therefore include farm size, the number of livestock and the size of direct payments, different types of land use (e.g. a large area of vegetables) and farm structure. Former non-compliances play a role in most cases, but only from 2006 onwards. Environmental risks are taken into account explicitly in France (farms in the most polluted water basins, livestock density), Greece (e.g. livestock density on pastures), and England (using information received from other agencies such as the Environment Agency and English Nature). In the Netherlands care is taken to achieve a balanced representation of different types of farms and an even regional distribution. The over-representation of mixed farms, which have to comply with more standards and thus have a higher risk of being selected, should be avoided in the Netherlands. In contrast, in Denmark, in most German Laender and in England farms are selected from **all** applicants for direct payments. In Greece only those farms that have been pre-selected according to IACS criteria for the eligibility controls are checked<sup>5</sup>. When IACS information is used, it means that the size of farms and direct payments is a strong criterion of selection. A random sample may be part of the selection. This is the case in England, the Netherlands, where the random component forms 20% of the sample, in Germany, where the random element is about 20-25% of the total sample, France, where a random selection is permitted if it represents less than 25% of the controlled sample, and Italy.

Most of the Member States considered in this paper seem to have opted for an integrated and centrally organised risk assessment. More detailed information would be beneficial in order to assess the inclusion of the knowledge of specialised authorities. There is some

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<sup>5</sup> E.g. size of payments, number of plots and animals, size of farms, new developments compared to the year before, former non-compliances.

evidence of the use of such knowledge. In England, English Nature and the Environment Agency provide data to the PA. This allows for the targeting of inspections for the birds, habitats and groundwater Directives to particularly environmentally vulnerable areas, where compliance with the cross compliance standards could result in the greatest benefit to the environment. In Mecklenburg-Vorpommern in Germany the specialised authorities can report high risk farms to be included in the systematic control. Of the countries examined, only Denmark clearly favours autonomous selection and controls by different specialised control bodies, and in France the selection happens at department level.

A systematic approach is new for many cross compliance requirements, and specialised authorities are not familiar with risk assessment in all areas and therefore there is often little experience about which criteria to use and what weight to give them in an integrated risk assessment. For example, in Mecklenburg-Vorpommern the identification of cases of non-compliance among farms chosen through the risk sample was not higher than those chosen through the random sample. In fact many instances of non-compliance were detected through checks other than those conducted through the systematic control. It is difficult to say how strong the impact of environmental risk assessment is in detecting breaches, as little information about the variation in the proportion of breaches between the random and the risk based samples is currently available.

### ***Systematic on-the-spot controls***

In most Member States verifiable standards for systematic on-the-spot controls are set out in guidelines and **official checklists** for control. In Germany checklists for self-control for farmers are provided on the internet by several Laender. In Greece there are no official checklists, as this was said not to be favoured during bilateral consultations between the Greek MoA and the Commission. The Czech Republic and Lithuania have not developed such a system for the control of cross compliance yet. No single clear concept exists concerning **verifiable standards**. In England the checklists for controllers are almost similar to the requirements set out in the guidance material sent to farmers i.e. the verifiable standards correspond directly to the rules set in the guidance material. This means there are several verifiable standards for each SMR and GAEC standard, resulting in potentially detailed and time-consuming inspection visits. Standards suitable for systematic control often have to focus on documentation and visual control. For example, in England and Germany this involves checking for the existence of environmental impact assessments for relevant plans and projects for the habitats and birds Directives and, in Germany, for not removing certain landscape elements concerned by the birds Directive. Other standards may only attract attention in case of cross checks.

The **PA is the Competent Control Authority** for all environmental SMRs and GAEC standards in the Czech Republic (regional and district offices of the State Agriculture Intervention Fund SZIF) and in some Germany Laender e.g. Lower Saxony<sup>6</sup>.

The **PA is sharing the controls with other organisations** in England, France, Italy, Lithuania and in several German Laender. In England, the RPA is the sole Competent Control Authority and controls GAECs and most SMRs. The Environment Agency is delegated for inspections concerning the groundwater, sewage sludge and nitrates Directives. In France, the PA for crop payments controls GAEC standards and the conservation of permanent pasture, whereas the agricultural administration is responsible for the environmental SMRs and the general coordination of cross compliance controls. Other SMRs and farms with large numbers of animal numbers are controlled by devolved services from the MoA dealing with livestock issues or regional services for plant protection. In Italy the national or regional PA contracts specialised private bodies for the control of cross compliance. When the action plans for NVZs and the management plans for Natura 2000 areas are implemented, specialised authorities (such as the Regional Agency for Environmental Protection and the Regional Health Service Agency) will probably be involved in the control activities. In Lithuania the PA is responsible for controls, but specialists from the agricultural administration at district level are involved because of better local competence and because the PA itself does not have the personnel capacity.

The control of environmental SMRs and GAEC standards has been delegated to the **lower agricultural authorities** in other Germany Laender, e.g. Baden-Württemberg (NUTS3) and Thuringia (NUTS3, sometimes merged). In Greece this duty is carried out by control committees of the Prefecture Authorities (NUTS 3).

The biggest number of **different authorities** seems to be involved in Denmark and in the Netherlands. In Denmark, the Municipalities, the Danish Plant Directorate, the Danish Forest and Nature Agency, and Regional offices are all responsible for different cross compliance standards. There is no coordination between the authorities in selecting farms for control. Thus one authority is not responsible for reporting the control on standards out of its jurisdiction. In the Netherlands, provinces and municipalities, water boards and other inspection services are responsible for a defined set of standards that correspond to the legislation these different bodies are competent to control. In Hesse in Germany several specialised authorities at different level are responsible for different standards and cooperation takes place concerning the timing of control visits.

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<sup>6</sup> The German situation is very mixed. Whereas the German working group on cross compliance considers an involvement of two organisations for animal and area related standards respectively, as ideal, in the Saarland one organisation is responsible for the systematic control of **all** cross compliance standards, and in most Laender this task is carried out by two to five different organisations.

Compliance with **other SMRs** in the field of animal identification and registration and public, animal and plant health are normally controlled by other agencies. The implementation of these standards is not looked at in this paper.

**On-the-spot controls are often bundled together.** Normally the Competent Control Authority checks all standards it is responsible for within one single visit. Care is taken to choose a suitable timeframe to be able to control most of the requirements. All environmental SMRs and GAEC are controlled within one visit in England (although this can take several days), as well as in Germany in Baden-Württemberg (if necessary together with a person from the lower nature protection authority), in Thuringia (apart from control of the sewage sludge Directive), Hesse, Mecklenburg-Vorpommern and Schleswig-Holstein. In Greece, standards are controlled in a bundled manner in order to minimise the time and effort for both controllers and farmers. Despite so many different authorities being involved in the Netherlands, it is an aim to coordinate control visits and, if possible, to inspect a farm for all standards on one day. In France there are four control domains: 1. environment; 2. public, animal and plant health; 3. animal welfare; 4. GAECs and permanent pasture. Since 2006, all standards under the responsibility of the control body need to be controlled in one visit. In case one farm is chosen for several control domains, either only the domain with the highest risk is selected or controls are well distributed over time. GAECs are controlled at the same time and by the same organisation as eligibility controls for arable land subsidies.

This seems to be different in Denmark, where there is **no cooperation** between the different controlling authorities. In Italy several private agencies are involved in control and it is not clear as to how far the control visits are coordinated by the PA.

### *Further controls*

Non-compliances can be brought to the attention of the Competent Control Authority in other ways than the systematic control, e.g. through on-the-spot checks carried out by specialised authorities which control relevant national legislation outside the selected sample. For example, in Mecklenburg-Vorpommern, 44 of 156 non-compliances with cross compliance requirements were detected through such “cross-checks”. In Hesse only 50 of 75 non-compliances resulted from systematic controls. In other cases it was stated that the system of reporting non-compliances from specialised controls into the central database did not work satisfactorily yet. In the Czech Republic, the PA cooperates with several existing specialised agencies. These will provide SZIF (the PA) with cross compliance relevant information that they will collect during their usual control work. In France, if “major” anomalies are reported outside the systematic cross compliance control, they can be taken into account in the sanction calculation without additional control. In the Netherlands, only the SMRs are subject to cross-checks. In England the local authorities are particularly active in monitoring compliance with some of the GAEC standards e.g. concerning public rights of way.

In most cases legislation is controlled by local or regional agencies, which can be the **same organisations controlling cross compliance** standards. This is the case, in Denmark, in the Netherlands and in Hesse in Germany, as well in Baden-Württemberg for fertiliser application. In Baden-Württemberg controls are kept separate due to statistical reasons so the systematic cross compliance control is additional, whereas in Hesse the specialised controls are now integrated into cross compliance controls, apart from checks that arise due to suspicion and complaint.

Conversely, cross compliance controls have the potential to improve compliance with national legislation. A ministry representative in Hesse in Germany commented that cross compliance controls often detected problems with legislation even if cross compliance requirements are formally complied with, for example concerning the storage of fuel or pesticides. This was especially the case when professionals from specialised agencies with detailed knowledge were involved in the control.

## 2.2.2 Sanctions

The PAs are responsible for imposing sanctions. In most Member States one central PA exists at the national level. In France and in the Netherlands there are different PAs for different direct payments. In Germany, the UK and for four regions in Italy there are PAs at the regional level. .

Paying agencies (PA): <b>National PA</b>		<b>Regional PA</b>
<b>One PA :</b> - Czech Republic - Denmark - Greece - Italy (17 regions) - Lithuania	<b>Different PA:</b> - France (for crop and animal payments) - Netherlands (one coordinating agency can apply sanctions; 3 other PAs for arable farming, animal farming and dairy farming)	- Germany - 4 regions in Italy (NUTS2) - UK (one central PA for England)

Concerning the **calculation of sanctions**, the **EU requirements** don't leave much scope for different implementation. Still, according to the "Guidance for Cross Compliance Inspectors" in England, it is possible to recommend a warning letter instead of a penalty for a first non-compliance in certain minor cases for several GAEC standards and for a number of the SMRs. **Rating matrixes** as uniform guidelines for controllers exist in Denmark, France, Germany, Italy, the Netherlands and in England, although it was stated in the response from this project's partner in Greece, that the Commission would not favour standardised checklists and point system schemes. In case different organisations are involved in the controls, the **results are transferred to a central authority**. In Denmark, Greece and Italy this is the PA, in the Netherlands the Central Agricultural Inspection Service register all results in a central database and the coordinating PA determines the height of sanctions and in France the agricultural administrations at NUTS3 level produce a synthesised report which is then sent to the PAs. In Germany all non-compliances related to cross compliance (detected during systematic or controls or due to cross-checks) are fed into the national IACS **database** where, according to the severity of the breach, the resulting reductions of direct payments are calculated. Accordingly, the PA determines the height of the sanction, although it can diverge from the proposal of the controlling organisation in justified cases.

We have been able to obtain some **information on the results of the control visits** for 2005, some of them preliminary, for France, the Czech Republic, England and some German Laender (Brandenburg, Hesse, Lower Saxony, Mecklenburg-Vorpommern). In France around 12% of controlled farms did not fully comply with the requirements. In 98% of the cases these were rated as light breaches resulting in a 1% reduction of the direct payment. In the Czech Republic, in 2004 (i.e. before the introduction of cross compliance), one breach with the only pre-existing GAEC standard was detected. In 2005

30 breaches were reported from the administrative control and 187 breaches from on-the-spot-checks. Most of these concerned the ban on converting grassland into arable land and all of them were supposed to be unintentional. In some cases these breaches were probably due to an unclear border between grassland and arable land. In Germany and England the main problems with non-compliance were related to livestock identification. Within the environmental SMRs and GAECs, which are the focus of this paper, England reported the highest level of non-compliance for the SMRs relating to the nitrates Directive (about 4% of the inspected farms processed by April 2006), and with the GAEC standard relating to 2m buffer margins. There has been full compliance with the standards resulting from the birds and habitats Directives. Of the 181 farmers identified as non-compliant (as of April 2006) in England, 23% received a warning letter, 60% a 1 per cent penalty deduction, 2% a 2% penalty deduction, 13% a 3% penalty deduction and 1% of non-compliant farmers a 4% penalty deduction. One farmer has received a 100% penalty deduction. This indicates the severity of the breaches, but as yet there is no information available as to which cross compliance breaches are resulting in the highest penalties. In Germany, the nitrates Directive resulted in the greatest number of non-compliances among the environmental SMRs (5% to 17%), whereas hardly any problems were reported related to the birds and habitats Directives. Compliance with GAEC standards was very high (94%-100%). More details are shown in Annex II.

### 2.3 Advice and Communication to farmers

The introduction of cross compliance has been accompanied by an extensive information campaign in most Member States, targeting local agricultural and environmental officials, professionals and farmers. Member States have taken various steps to inform farmers about cross compliance. This has mainly been **lead by the MoA or the central PA**. In the Czech Republic (Institute of Agriculture and Food Information - UZPI), Denmark and Lithuania a central Agricultural Advisory Service is strongly involved. **Information letters and flyers** have been distributed and **articles** published in specialist magazines. In Lithuania concrete actions concerning advice will be created for the end of 2006. In Denmark, France, Germany, Greece, Italy, and England each registered **farmer received a brochure** informing them about cross compliance. In the Netherlands, a brochure is being prepared to be distributed at the end of 2006. England provides several specialist publications to farmers such as *Cross Compliance Guidance for Soil Management* and *Cross Compliance Guidance for the Management of Habitats and Landscape Features*. Information is made available through the **internet** by national and regional MoAs, PAs, agricultural chambers and farmers' organisations. In the Czech Republic the MoA publishes a brochure on cross compliance on the internet, and the central agricultural advisory service provides an information server for individual questions. In the Netherlands and in England dedicated telephone helplines for cross compliance exist.

**Regional bodies** play the main role in Germany (MoA, agricultural chambers). In Italy, e.g. the Veneto region, exemplary information systems have been set up with another regional booklet, a website and local contact persons. In Greece, there are contact persons



on every administrative level, and in France farmers can approach the decentralised services of the MoA for information. In the Czech Republic accredited Regional Information Centres (e.g. regional office of a farming organisation) are expected to provide consultation on cross compliance to both the advisors and to farmers. Public authorities, often together with farmers' organisations, have organised **local information events**. In England this happens via a number of contractors, who tailor advice to meet the needs of each region. In the Czech Republic free seminars for farmers are organised.

The setting up of an **approved farm advisory system** in relation to cross compliance is covered in further detail by a separate paper of the Cross Compliance Network (Deliverable 14).

### 3 Experiences with implementation

In this section we present more detailed experience concerning the Statutory Management Requirements for the nitrates Directive and the habitats Directive. In the nitrates Directive example, we ask whether cross compliance is helping to improve the level of compliance, and with the habitats Directive, we ask whether cross compliance influences the management of Natura 2000 sites.

#### 3.1 Nitrates Directive

##### *Adaptation of control system*

Systematic controls concerning cross compliance standards resulting from the nitrates Directive seem to be carried out mainly **by specialised bodies** that have the competence to check compliance with national legislation. With the exception of Denmark, farms are selected by a central agency for control and not by the actual control bodies. However, data and information from these bodies are taken into account and, in some cases, used in the risk-assessment. In Denmark the selection of farms is separate to the specialised control body and, for cross compliance, is now based on a web-based database system.

**Where the nitrates Directive has already been implemented by Member States,** standards from the national specialised control body, and often the same administrative bodies are used. However, the systematic approach and **standardised procedures for selection, control, reporting and centralised sanctioning are new** in all cases. This is illustrated by the **Danish example**, where the different municipalities and counties have flexibility to set their own procedures for control within a broader framework put forward by the Forest and Nature Agency and the Agency of Environment. Much emphasis has been put on communication and guidance, where in case of a breach of rules a controller often would advise a farmer as to how to solve the problem and only report a non-compliance if at the next visit the problem still occurred. Although controls have been integrated into the existing system, which only required minor changes, the new requirements to report every breach to the PA represent a major shift.

In Germany the respective competent regional authorities are in charge of selecting and controlling the farms for the specialised control of national legislation (i.e. the fertilising ordinance). The control often consists of planned controls (e.g. checking documentation) and random samples and controls in case of suspicion or complaint (other standards). Procedures vary throughout Germany. For example, in Thuringia the TLL (*Thüringer Landesanstalt für Landwirtschaft*; Thuringian Agency for Agriculture) set the criteria and number of farms to be controlled in each geographic area and carries out systematic controls of nutrient balances, whereas the different agricultural authorities select and control farms for the other standards. In Hesse farms have been selected at random or

because of complaint or suspicion. For cross compliance a new control system had to be created in addition to the existing specialised control. Many interviewed experts stated that bureaucratic effort has risen due to cross compliance. In Hesse, the specialised control is now carried out alongside the cross compliance control, and it is planned that in the future control of participants of agri-environment measures should be integrated in order to limit the administrative effort.

There are different situations concerning **control density**, in terms of the number of controls conducted. In Denmark the control density based on national legislation is higher than the 1% required by the cross compliance requirements. In Germany this is presumably not the case. Control procedures vary from Land to Land, with the specialised control visits sometimes being confined to almost exclusively checks following complaints or suspicion, although, for example in Lower Saxony, around 3% of farms are controlled according to the national legislation.

In some Member States (e.g. Greece, Italy) the **nitrate Directive has not been implemented fully by national administrations**. The new control system in Greece has only minor differences to the national control system but the **number of controls will certainly expand considerably**.

### *Improvement of compliance?*

There is little evidence, at the time of writing, to suggest whether cross compliance is improving compliance with the nitrates Directive. But cross compliance has resulted in a **much more rigorous and systematic enforcement regime** that could result in the identification of more cases of non-compliance than previously (e.g. England). In **Denmark** a breach of the rules was often only followed by a request to improve management, an approach that is no longer possible with cross compliance. For **Greece**, it was stated that compliance with the nitrates Directive was been seriously controlled at farm level before the introduction of cross compliance. In the past farmers in receipt of Pillar II support needed to observe “Good Farming Practice”, which required farmers to comply with the action plans for the specific vulnerable zones. However only those farms with support payments from Pillar Two had been subject to checks. In **Italy** more action is now being shown to implement the nitrates Directive, although most of the Regions are still dealing with the identification of NVZs (but some standards have been included in GAEC).

It was stressed several times by the project partners in **Germany, Greece and Denmark** that the **threat of sanctions** improves compliance with mandatory standards and that **farmers are now much more aware of standards**. This is illustrated by the fact that the number of non-compliances in Denmark with some standards related to the nitrates Directive was lower in 2005 than before (see Table 5 in Annex II).

## 3.2 Habitats Directive

It is difficult to undertake a preliminary assessment of the impact of cross compliance standards concerning the habitats Directive because there are few reported experiences concerning these standards. As the implementation of the habitats Directive is lagging behind in some cases and management plans are mostly in the process of being developed, in most cases no relevant requirements for the management of Natura 2000 areas exist yet. The basic obligation for farmers concerning the habitats Directive is to avoid the deterioration of the habitats in designated sites. In many cases, the management of Natura 2000 areas is not reflected in the cross compliance standards and most standards do not require specific action by the farmer.

- The cross compliance standards in **Denmark** mainly include rules, which prohibit future physical or structural changes to habitats, but no rules concerning positive management practices. There is one exception however of a cross compliance standard implemented for the specific area of ‘Tøndermarsken’ (a polder area), and requires specific management practices.
- The criteria for systematic control in **Germany** merely encompass a requirement to check if an environmental impact assessment has been carried out for notifiable plans and projects in protected areas.
- Formally, the **French** standards take all the requirements of Annex III into account. However, the verifiable standards concerning the birds and the habitats Directives just require the farmer not to have been fined for habitat destruction.
- In **Italy**, because the birds and habitats Directives have yet to be implemented in almost all the Regions, SMRs do not exist yet. Natura 2000 areas have been already identified and if regions have already implemented regional measures and specific management plans, these have to be complied with according to GAEC standards.
- In the **Netherlands** standards regarding the protection of Natura 2000 areas, based on the national Nature Conservation Act, will come into force in 2007. This means that there will be a formal ground for sanctions from this point. Before 2005, farmers did not have to comply with the requirements of the habitats Directive.

**An exception is England**, where all management notices served by English Nature in order to protect or restore a Site of Special Scientific Interest (SSSI) in a Special Protection Area (SPA) must be complied with under cross compliance. On land designated as a Special Area of Conservation (SAC) the same requirements apply. The use of a GAEC for SSSIs reinforces the SMRs for Natura 2000 areas as SSSIs outnumber these sites.

In all cases the systematic inspection regime is new. There is no clear tendency to carry out controls predominantly by specialised bodies. In about half the cases the systematic controls are conducted by agricultural administrations or the PA, whereas otherwise specialised bodies are involved.

Where information about compliance was available, there seem to have been few problems concerning **non compliance** with these SMRs in 2005. In **England**, during 2005, no breaches of cross compliance concerning the birds and habitats Directives were reported by the inspection body. In Brandenburg, Lower Saxony and Hesse in **Germany** no problems were reported with compliance. In Mecklenburg-Vorpommern about 10% of controlled farms were sanctioned for non-compliances concerning the birds Directive, and about 2% concerning the habitats Directive. However, as the number of farms is very low in this region, this only corresponded to 6 farms and 1 farm respectively.

For Germany and England it was stressed, that SMRs for these Directives are not always formulated clearly and not necessarily well understood by farmers. Many cross references to other documents may make **understanding** of the guidance in England complicated for some farmers. In Germany farmers are generally worried about the risk of losing direct payments as a result of non-compliance with cross compliance requirements, and because of uncertainties concerning requirements in Natura 2000 areas are said to be more reluctant to engage in voluntary programmes for the management of Natura 2000 areas. Difficulties with renting out Natura 2000 agricultural land to farmers have been reported by nature conservation bodies, because the farmers harbour fears of possible cross compliance sanctions.

It is difficult to say if compliance with standards is increasing due to cross compliance. The fact remains that through the threat of sanctions, farmers are more aware of requirements. Administrations in Germany report more inquiries from farmers concerning compliance with standards and permitted management practices, especially concerning landscape elements. Therefore one can imagine that compliance increases because of better knowledge of the requirements.

***Discussion point - Does cross compliance influence the management of Natura 2000 areas?***

It is hard to say if cross compliance will influence the design of management plans. The responsible administrations might prefer voluntary means, as opposed to mandatory cross compliance, to achieve the objectives set for Natura 2000 areas in order to minimise the risk to farmers of breaching cross compliance requirements. Experiences in Germany suggest that responsible bodies are likely to have this connection in mind. The advice of several actors in landscape and nature conservation in order to guarantee the suitable management of protected sites is to focus on co-operative measures such as advice and information, round tables and contractual nature conservation measures. The German region of Lower Saxony prefers voluntary measures, although there are budgetary constraints which will probably limit the scope of agri-environment measures. The introduction of management plans will probably not influence the systematic control parameters in Germany. Detailed requirements will be controlled by the competent specialised authorities (often the lower nature conservation authorities) independently of cross compliance with the results subject to “cross-checks”.

In England cross compliance could improve the management of Natura 2000 sites where this has been neglected in the past. Defra (the ministry responsible for agriculture and environment) has a target to bring 95% of these sites into favourable condition by 2010. As of March 2005 50.3% of all SACs and 54.3% of all SPAs were in target condition. It could be hypothesised that the RPA (the paying agency) may be strict in enforcing the related SMR and GAEC standards in order to help ensure that the target is met. In practice though there may be a range of issues affecting the condition of Natura 2000 sites which are beyond the capability of cross compliance to respond to (e.g. inappropriate management regimes or inadequate compensation for changing management).

## **4 Summary**

### ***Design of Cross Compliance standards***

In nearly all cases the Ministry in charge of Agriculture (MoA) had the overall responsibility for the design of environmental cross compliance, but a co-operation between MoA and the Ministry in charge of the Environment (MoE) was required namely in case of the birds and habitats Directives and standards for GAEC. In Germany and Italy the representatives of the regions, as the responsible administrative level for the implementation of cross compliance, had a strong influence and had to approve the proposal. In all cases other stakeholders have been consulted. The framework for cross compliance standards is set at the national level, although not all standards are valid area wide (e.g. some standards only affect Natura 2000 areas or Nitrate Vulnerable Zones). In some cases standards are adapted to more regional circumstances, for example at department level in France or 12 of the Italian Regions.

### ***Control Procedures***

Most of the Member States considered in this paper seem to have opted for a central and integrated risk-assessment with bundled controls for all environmental requirements. This procedure appears to limit the administrative burden in comparison to an approach where the selection of farms and the control of the different standards are allocated to different specialised authorities. However, this approach might come with the cost of failing to adequately target those farms that are most at risk of not complying with the a single standard or are situated in environmentally sensitive areas where non-compliance could result in more severe environmental impacts. The control of many standards is less meaningful in certain cases, such as those standards concerning the habitats and birds Directives on farms without land in Natura 2000 areas, or the application of organic fertiliser on farms with few animals. Only Denmark is clearly favouring autonomous selection and controls by each of the different Competent Control Authorities.

Criteria for risk-assessment, as far as information was available, often seem to be not sufficiently targeted at environmental issues. This could be through selecting a considerable part of the control sample randomly and according to farm size. The

possibility for specialised authorities to report certain farms to be included in the systematic control in Mecklenburg-Vorpommern, and presumably as well in some other German Laender, offers chances to take into account high-risk farms. All signs of non-compliance that are detected by other control bodies needs to be reported. The environmental risk assessment for the systematic control of cross compliance appears rather well developed in England and in France (e.g. by including the nitrogen load of catchment areas or considering livestock density). In England the Environment Agency may become a Competent Control Authority in its own right in 2007 for several SMRs and would then be able to carry out its own more targeted risk analysis.

### ***Sanctions***

Concerning the calculation of sanctions, the EU requirements don't leave much scope for differing implementation. Only in England it is possible to give a warning instead of a penalty for non-compliance in certain minor cases. Rating matrixes as uniform guidelines for controllers exist in many Member States.

Although not explicitly an issue of this paper, it is worth mentioning that the major problems with non-compliance in 2005 were related to livestock identification. The nitrates Directive resulted in the most number of non-compliances within the environmental SMRs, whereas hardly any problems were reported in relation to the birds and habitats Directives. This may be at least partly explained by the fact that the standards for the birds and habitats Directives have not been developed to the same extent as those for the nitrates Directive, in most cases.

### ***Advice and communication***

The introduction of cross compliance has been accompanied by an extensive information campaign in most Member States. In England advice seems to be especially comprehensive and targets those cross compliance standards most likely to cause problems for farmers. The supply of information, together with the threat of additional sanctions in case of non-compliance can be assumed to have contributed to a higher awareness of farmers concerning existing standards.

### ***Experiences of Member States***

Cross compliance demands the implementation of a systematic and comprehensive system of controls to monitor compliance. For many Member States this is a new experience, as many of the SMRs and GAECs were not inspected in the past or were not done so in a systematic manner. Experiences seem to suggest increased bureaucratic effort. Despite, this there is evidence to show that there is better enforcement of mandatory standards through cross compliance because of additional systematic controls, the threat of potentially high sanctions and the higher knowledge of the standards among farmers. The introduction of cross compliance seems to have prompted an acceleration of the implementation of some of the EU environmental Directives in some Member States.

Cross compliance controls that are correct from a formal point of view, may hide the low efficiency of systematic controls based on indirect indicators such as fertilisation accounts. This is because the details of breaches and their relevance for environmental objectives are not monitored in detail. The impacts of the selection of control indicators, the risk assessment, and the focus on systematic controls within a specific period of the year, as well as the role of specialised control bodies versus central IACS controls have to be analysed in order to assess the scope for improving the efficiency and effectiveness of the controls in place.

The English system seems to provide several benefits compared to other examples. The risk-assessment considers, among other factors, the environmental condition of sensitive areas or the organic nitrogen loading of catchment areas. This comes in combination with cooperative elements such as an emphasis on targeted advice and the possibility to issue warning letters instead of penalty deductions in case of minor non-compliance with some standards.



## 5 Key questions and future research needs

In this final section we raise some key questions that we feel, as researchers, need to be addressed in the future in order to better understand the implementation of administrative arrangements for cross compliance.

In our first question we ask, how is an effective risk-assessment carried out? For many of the cross compliance requirements, a systematic approach to control and sample selection is new. There is often little relevant experience within the bodies responsible concerning the criteria to use, and the weight to give them, as part of an integrated risk-assessment. In order to understand the impact of the selection process more detailed information is needed about how the criteria for risk-assessment are selected in order to assess which farms are targeted and how each single cross compliance standard is considered. Further information about the relative importance of each criterion in the framework of risk assessment is also needed. More information would be useful regarding whether farms are selected from a pre-selected sample for IACS controls or from all beneficiaries of direct payments.

We would also like to better understand a requirement set out by Article 44 of Regulation (EC) No 796/2004, concerning the proportion of farms that need to be inspected. We ask for clarification of the meaning of “*checks on at least 1% of all farmers submitting aid applications under support schemes established in Titles III and IV of Regulation (EC) No 1782/2003*”. This is because not all cross compliance criteria are relevant to all the farms selected for inspection. We ask whether farms that have been selected for on-the-spot controls should be checked for all cross compliance criteria although some of these criteria might not be relevant. We also ask whether these farms do and should count to the minimum of 1% criteria.

Thirdly, we seek further understanding as to the extent to which specialised control bodies should be involved in the selection and control procedures. There appear to be different strategies as to how far specialised authorities at a lower administrative level should be included in these procedures. Their involvement would take into account their knowledge of regional conditions and might lead to a risk assessment that is more strongly oriented to environmental issues. On the other hand, this approach could involve a higher transaction cost. More exchanges between those involved about their experiences with different approaches to the involvement of specialist authorities are needed.

We also identify a need for further clarification about the interaction between controls performed by specialised authorities independent of cross compliance and the systematic cross compliance controls. We ask whether independent controls for the cross compliance standards were in place before the introduction of cross compliance, and whether the procedures changed after the introduction.

A further question concerns whether the breaches identified in the risk sample correspond to those in the random samples? This might indicate whether the breaches identified are nationally representative. Data about the variation in the proportion of breaches between

the random and the risk based samples would enable the competent control authority to assess the adequacy of the risk assessment selection mechanism. However, for such an assessment to take place, a sufficiently large number of farms is needed to be able to identify significant results.

We would also like to better understand the real environmental impact of each breach. At the time of writing, little is known about the nature of cross compliance breaches. For example, non-compliance with the SMRs for the nitrates Directive can occur if a farmer has failed to keep adequate records, even though their farm is compliant in terms of the level of nitrogen loading. A more severe breach may be because the farmer has placed much more than the permitted amount of organic manure on a field. In order to be able to evaluate the environmental impacts of cross compliance, it should be assessed as to how far control standards and actual sanctions affect the environment.

We would also like to improve our understanding about where cases of non-compliance is occurring. For example, is non-compliance occurring in areas of particularly high nature value or is non-compliance more disperse? And are there differences between farming sectors? Knowledge of this kind would perhaps enable the geographic targeting of inspections to particularly environmentally vulnerable areas.

It would also be interesting to learn more about the correspondence between the control and advice bodies. Cross compliance is a law and order instrument and leads to a strong separation of control and advice and strict sanction mechanisms. But there needs to be communication between control bodies and advisory bodies so that advice can be targeted at the most problematic cross compliance standards and the farmers most in need of help. There may be a need for the control bodies to provide feedback to the advice bodies so that farmers are well trained in those standards that are resulting in the highest level of non-compliance. The aim of the enforcement body ought to be to ensure future compliance rather than to make repeated sanctions.

We would also like to open a debate about how the efficiency of cross compliance can be increased. Cross compliance is a complex system, which suggests it is administratively costly. If the number of breaches are relatively low, do these costs seem proportional to the benefits derived? It is essential to approach the subject of transaction costs and for researchers to search out examples for “best administrative practice”

Finally, we ask whether cross compliance might hamper cooperative approaches to environmental enhancements such as habitat management. Hypothetically, the use of a system of cross compliance with the threat of potentially high sanctions, a low control rate and a weak risk analysis could result in sanctions that are perceived as unjust if farmers are penalised for standards with low direct environmental impact, e.g. for not keeping records. The fear of sanctions might influence the attractiveness of certain sites (e.g. Natura 2000 areas) for farming and might have an adverse effect on the willingness of farmers to participate in voluntary programmes with additional management requirements. In the Netherlands, for example, this argument has been the key issue in the national design of Annex IV GAEC, especially with regard to the maintenance of landscape

elements. When evaluating the environmental impact and overall administrative effectiveness of cross compliance, such experiences need to be taken into account.

## Annex I: Compilation of answers to questionnaire

**Table 1: Design and regional scope of environmental cross compliance standards**

Member State	Responsibility for design	Additional consulted organisations	Regional scope <sup>7</sup>
<b>Czech Republic</b> <sup>8</sup>	MoA and its agencies in cooperation with MoE (esp. concerning Natura 2000 and Groundwater Dir.)(Ministry of Public Health on Sewage Sludge Dir.)	Non-governmental agricultural organisations	National standards (unless NVZs)
<b>Denmark</b>	The Danish Directorate for Food Fisheries and Agri-Business (DDFFA) (MoA)	Design of standards related to Annex III and of verifiable standards in consultation with other Agencies, Directorates, and the local and regional governments (The Forest and Nature Agency, The Danish Environment Protection Agency, Danish Veterinary and Food Administration, Danish Plant Directorate, the counties, and the municipalities)	There is hardly any regional scope. One national standard is targeted at specific locations in the county of Sønderjylland (standard 1.26 on protection of Natura 2000 areas in the area “Toender Marsken”).
<b>France</b>	Negotiations between MoA and professional organisations (main farmer’s unions) Verifiable standards selected by MoA	MoE, NGOs, different experts	Action plans for NVZs (within a national frame) and many GAECs often specified at department level (NUTS3)

<sup>7</sup> Apart from different management plans in Natura 2000 areas

<sup>8</sup> Apart from Slovenia and Malta the new Member States with SAPS do not have to apply the SMR until the year 2009

<b>Germany</b>	Working group: MoA, MoE, ministries of the Laender (NUTS1) (approval from national parliament and federal council). Suitable verifiable standards (control criteria) for systematic controls have been compiled by MoA together with representatives of the Laender (concentration on documentation and visual control)	Hearings with NGOs	Standards are harmonised at the national level; Laender can allow for exceptions; in case of regional implementation of legislation (e.g. nature protection) there can be some differences (e.g. Birds Dir: protected landscape elements).
<b>Greece</b>	Ministry of Rural Development and Food (Directorate of Land Planning and Environmental Protection, Directorate of Agricultural Policy and Gen. Directorate of Veterinary services): MoA	Relevant stakeholders (farmers unions, NGOs, National experts, Prefecture authorities) have been asked to express their opinions	National level; but some standards targeted to NVZ or Natura 2000 areas.
<b>Italy</b>	GAEC: The Ministry of Agricultural and Forestry Policy (MiPAF) Environmental SMRs: Ministry of the Environment and Territory Conservation National framework, approved by the State-Regions Conference (MiPAF's Decree 5.8.2004). Verifiable standards selected by MiPAF and AGEA	Representatives of the 21 regional governments, the National and Regional Paying Agencies, the MoE, Research Institutes, the farmer's unions and the environmental organisations	Regional governments may accept national standards, 12 regions chose to adopt stricter rules. Derogations from the rules were introduced for every GAEC standards to take into consideration particular situations. (Due to the semi-federalist system every directive needs a national law for the adoption and a regional law/decree for the implementation - or a decree of implementation in the case of regulation.)
<b>Lithuania</b>	MoA, MoE		For SMRs no decision yet (more details end of 2006)

<b>The Netherlands</b>	<p>Annex III: Departments Legal Affairs and other departments of MoA, Agricultural Inspection service (AID)</p> <p>Annex IV: additionally MoE, research organisations and an NGO (society for Nature and Environment)</p> <p>Verifiable standards selected by Department of Legal Affairs of the MoA. AID has developed a detailed verification program for all verifiable standards, including those inspected by other control organisations.</p>		<p>Minor regional scope:</p> <ul style="list-style-type: none"> <li>• Soil erosion as specific regional problem (in one hilly province).</li> <li>• Specific approach for Natura 2000 designated areas</li> <li>• Differentiation within standards for soil types (three main categories are peat, clay and sandy soils)</li> </ul>
<b>UK – England</b>	<p>Department for Environment Food and Rural Affairs (Defra)</p> <p>In Wales, Scotland and Northern Ireland, the standards for CC have been set by the responsible governmental department present in each country.</p>	<p>New GAEC standards: consultation with the farming industry and stakeholders. Defra also commissioned research work to help write a Regulatory Impact Assessment (RIA) for the potential environmental impacts of new GAEC options.</p>	<p>Not within England, but some differences between Wales, Scotland and Northern Ireland</p>

**Table 2: Responsibilities of control and procedures for environmental cross compliance standards**

<b>Member State</b>	<b>Selection of control sample and risk-assessment</b>	<b>Responsibility for systematic control</b>	<b>Organisation of controls</b>
<b>Czech Republic</b>	State Agriculture Intervention Fund (SZIF) is an MoA agency and PA Criteria not available yet; preparation within 2006	SZIF with its regional and district offices Control system for SMRs not finalised. No official information on procedure of inspections	Specialised agencies may carry out CC control in addition to their usual duties
<b>Denmark</b>	The authority in charge of the control selects a control sample from a ‘subsidy population’, made available from the DDDFA (PA). This procedure is supported by a web-based database system.	The Municipalities, Danish Plant Directorate, Danish Forest and Nature Agency, regional offices. Existing legislation is being controlled regionally (Danish Forest and Nature Agency and counties) or locally (local governments).	Official checklists do exist. The control system is attached to existing standards, for which control is already specified. There is no coordination between the authorities. Thus one authority is not responsible for reporting of control on standards out of its jurisdiction. The different authorities in charge report their control result to DDDFA through an internet based system. In case a farm is situated in more municipalities; the municipality choosing the farm for control informs the DDDFA of this. DDDFA is in charge of informing the other involved municipalities
<b>France</b>	DDAF: devolved services from MoA (NUTS3) selects farms for environmental SMRs and GAECs. (further SMRs and farms with an administrative authorisation to keep very high animal numbers are controlled by two other control bodies, which themselves select the control sample).	SMRs: - DDAF - (DDSV – livestock) - (SRPV – plant prot.) GAECs + perm. past.: Regional service of ONIC (PA)	One control for each domain (1. SMRs; 2. GAECs and perm.pasture) (farmers are controlled for 1 or 2 domains, if possible at one date; farmer receives notice 2 days in advance). GAECs are controlled at the same time as eligibility controls for arable land subsidies. DDAF coordinates controls. In case one farm is chosen for several domains, either only the domain with the highest risk is selected or controls are well distributed over time. Farmers receive control report. DDAF receives and synthesises control reports
<b>Germany</b>			

Lower Saxony	The Service Centre for Rural Development and Agricultural Support (SLA; Servicezentrum für Landentwicklung und Agrarförderung) on behalf of the MoA (NUTS1)	Systematic controls: general inspection service of the agricultural chamber (AID) (NUTS1) (the agricultural chamber being as well PA)(but further SMRs partly by other authorities); controls due to suspicion by specialised authorities (specialised department within agricultural chamber for NO3; lower nature protection authorities (NUTS3) for Habitats Dir.)	Bundled controls at one visit if possible. The same farms are controlled for compliance with GAEC and Birds/Habitats Dir.
Hesse	At NUTS1 level: regional council on behalf of the Ministry for every administrative district (NUTS3, sometimes merged)	Systematic controls by specialised authorities, in case of environmental CC-standards: lower agricultural, nature protection and water protection authorities (quality controlled by responsible regional council).	Coordination between specialised authorities in order to limit frequency of control visits (control of GAECs and environmental SMRs in one visit); control by at least two persons
Thuringia	Responsible authorities for different environmental SMRs and GAEC: Office for Regional Administration (TLVWA), Thuringian Agency for Agriculture (TLL), agricultural administrations, MoAE, Lower Nature Conservation Authorities	Systematic control by agricultural administrations (NUTS3, sometimes merged) (animal registration by other organisation) Cross-checks by specialised authorities: Habitats-Dir: Habitats-Dir: Lower nature conservation authorities; NO3: Agricultural administrations and TLL	One sample for bundled control of all environmental standards (apart from Sewage Sludge) All non-compliances have to reported to the Office for Regional Administration (TLVWA).
<b>Greece</b>	Central OPEKEPE (PA) is responsible for deriving the sample for the on-the-spot controls. A different sample is drawn for each Prefecture (NUTS 3).	On-the-spot checks are carried out by control committees of the Prefecture Authorities (NUTS 3), comprised of at least two persons of relevant expertise. In case where lab analyses are deemed necessary (e.g. determination of NO3-concentration), the control committees employ the services of accredited labs.	The on the spot controls are organised in a bundled manner. The objective is to minimise time and effort and also to limit the necessary human and financial resources and avoid repeated 'inconvenience' to the audited farmer. Results are transmitted to the PA.
<b>Italy</b>	2005: AGEA (national PA) 2006: AGEA and regional PAs	Responsible: National PA; in 4 regions regional PAs (general framework provided by AGEA); Control generally carried out by specialised private bodies, contracted by PA. When the action plans for NVZ and the management plans for Natura 2000 areas are implemented, specialised regional authorities will probably be involved in the control activities.	Specified in a manual of AGEA Veneto: AVEPA (regional PA) delegates private certification bodies (a specialised organisation) to the on-the-spot controls, throughout specific contracts



<b>Lithuania</b>	GAEC: PA SMRs: control system to be created in 2007 (only prepared for animal welfare)	GAEC: PA No decision yet for SMRs (PA, Environmental Protection Agency and others; animal welfare by county and district veterinary inspectors)	PA is lacking capacity to inspect farms that is why specialists from 45 Agricultural Departments at district level are involved Later the control is going to be done by IACS system
<b>The Netherlands</b>	Agricultural Inspection Service (AID); 80% selected by integral risk-assessment	The controls at a farm are coordinated by the AID as the designated Control Authority but carried out by different specialised control bodies (12 provinces, 458 municipalities, 27 water boards, 1 inspection service of the Ministry of Traffic and Water, 1 Food Safety Authority and 25 Police Force Districts.)	All inspectors come as much as possible on one day to the selected farm. Control results are reported to the AID. Each farm is checked for all relevant standards. All non-compliances with SMRs detected during other controls have to be reported to AID.
<b>UK – England</b>	RPA (PA) has the main responsibility for co-ordinating and carrying out on-the-spot inspections for the majority of SMR and GAEC standards. The other bodies involved in the selection process for the controls are the Environment Agency (EA), English Nature (EN), the Veterinary Medicines Directorate, the State Veterinary Service and Local Authorities.  EN is involved with the selection of farms for inspection for the SMRs relating to the wild birds Directive, the habitats Directive and the GAEC on SSSIs (these generally correspond to SACs and SPAs) and has trained RPA inspectors. EN did not conduct control visits prior to the introduction of CC, but has provided evidence on non-compliance. EN will form part of a new government agency from October 2006 called Natural England. This will change the structure of delivery and control of a number of rural policy areas, including CC.	<b>RPA</b> is the sole Competent Control Authority and is responsible for co-ordinating the inspection and enforcement activity and controls GAECs and most SMRs. <b>EA</b> is ‘delegated agent’, for inspections concerning the groundwater, sewage sludge and nitrates Directives. EA may become a Competent Control Authority in its own right in 2007, with responsibility for conducting inspections for the three Directives mentioned as well as the soil GAEC standards.  <b>Local authorities</b> report any suspected breaches of CC to the RPA on a voluntary basis. Local authorities are particularly active in monitoring compliance with the GAEC standard concerning rights of way.	Competent Control Authority (CCA) must check all of the SMRs and GAECs that it is responsible for and that are relevant to the farmer being inspected. For 2005 RPA was the sole CCA and as a result was responsible, with some support from the EA, for checking all relevant SMRs and GAECs on each inspection.  Level of seriousness of breach will be assessed by the inspector with regard to the criteria set out in the EC Regulations and report will inform RPA’s decision on the determination of any appropriate payment reduction

**Table 3: Imposing sanctions**

<b>Member State</b>	<b>Paying agency (PA)</b>	<b>Procedure</b>
<b>Czech Republic</b>	SZIF	GAEC: SZIF is the controlling agency, but is cooperating with several existing specialised agencies, who will provide SZIF with CC relevant information that they will collect during their usual control SMRs: Not yet worked out for SMRs
<b>Denmark</b>	DDFFA	Elaborated guidelines, tables and point systems are established for calculation of sanctions. The different control bodies make the judgement/evaluation of the ‘degree’ of breaches based on the above-mentioned guideline. Farmer can comment on the control report. It has to appear from the final report if changes have been made due to comments from the farmer. The final report is sent to DDFFA, which calculates the corresponding sanction due to ministerial orders.
<b>France</b>	ONIC for crop payments OFIVAL for animal payments	DDAF sends synthesis report with suggested sanctions to PA (point system for each domain: kind and severity of non-compliance, reduction rate). If “major” anomalies are reported outside the systematic cross compliance control, they can be taken into account in the sanction calculation.
<b>Germany</b>	Each Land has appointed a PA	Controller produces report; information of systematic controls and cross-checks is fed into the central national IACS database (ZID: <i>Zentrale InVeKoS Datenbank</i> ). In order to ensure a nationally consistent procedure, the controlling organisations refer to rating matrixes for non-compliance with standards when establishing the severity of a breach, leading to different percentages for the reduction of direct payments. The rating matrixes represent suggestions that have been compiled by a working group with participants from the national and regional level. The controlling organisations can diverge from this rating in justified cases. As well the ZID works with these rating matrixes. The ZID compiles all information related to the direct payments and produces a result for all farms, integrating all non-compliances. Accordingly, the PA determines the height of the sanction (according to EU requirements). The PA can diverge from the proposal of the controlling organisation and increase or decrease the sanctions
Lower Saxony	Agricultural Chamber	
Hesse	16 PA (administrative districts: NUTS3 level, sometimes merged together)	
Thuringia	Agricultural administration	
<b>Greece</b>	OPEKEPE (monitored by the Ministry of Rural Development and Food): central office in Athens and 13 regional branches (NUTS 2)	The PA is responsible for imposing sanctions based on the control reports. The severity of each breach is based strictly on Reg. EC 796/04 and relevant Commission working documents. (point systems were not favoured by the Commission)
<b>Italy</b>	National PA: AGEA. Regional PA in 4 Regions (Emilia Romagna, Lombardia, Toscana and Veneto)	Veneto: non-compliance weighting system established by MiPAF and regional PA specified in official documents

<b>Lithuania</b>	National Paying Agency (NMA) under the Ministry of Agriculture was established in the end of 1999 as an independent budgetary institution, acting in the field of administration of the MoA	GAEC: in case of non-compliance, payments can be decreased. SMRs: No decision yet (working group of MoA)
<b>The Netherlands</b>	Dienst Regelingen is the coordinating PA and responsible for application of sanctions. Besides: 3 other Pas for arable farming, animal farming and dairy farming.	AID verifies the controls and registers all results in a central database. The coordinating PA determines the height of the sanctions, which are based on a point system. Each requirement or standard is codified with a certain number of points dependent on severity, extent, permanence, repetition and/or intent.
<b>UK – England</b>	Rural Payments Agency (RPA <sup>9</sup> ), an Executive Agency of Defra	RPA determines the height of sanctions referring to controllers' reports. Defra produced a Guidance for Controllers with descriptions of breaches, which helps them to assess the intention, extent, severity (minimum, medium, high) and permanence of a breach (the rating is similar for the whole of the UK with few exceptions for Scotland and Northern Ireland).

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<sup>9</sup> unlike in other regions of the UK, RPA has severe difficulties with disbursing the single payment to farmers, due e.g. to IT problems. To date, about 40 per cent of payments have been made in England, resulting in negative attitude of farmers towards cross compliance

## Annex II: Sanctions resulting from cross compliance

**Table 4: Results of controls in 2005 (where available):**

	Farms controlled	~ % of non-compliances	Severity of non-compliance/height of sanctions
<b>France</b>	~ 24000	~ 12%	<b>In ~ 98% of non-compliances: 1% of direct payments</b>
<b>Germany</b>	Preliminary results		
Brandenburg	<b>Total</b> (env. standards and sheep and goats): 88 plus 3 cross checks Nitrates Dir.: 67 Groundwater Dir: 66 <b>Cattle:</b> 321	<b>Annex IV:</b> none <b>Nitrates Dir:</b> 12% <b>Groundwater Dir:</b> 9% <b>Cattle:</b> 39%	
Hesse	<b>Annex IV:</b> 325 (of which 13 cross-checks) <b>Annex III:</b> Birds Dir: 315 farms Habitats Dir: 312 farms Nitrates Dir: 326 farms Groundwater Dir: 312 farms Sewage Sludge Dir: 43 farms Pigs: 133 farms Sheep/goats: 57 farms Cattle: 1082 farms	<b>Annex IV:</b> 5.2% <b>Annex III:</b> <b>Birds Dir:</b> 0.6% <b>Nitrates Dir:</b> 16.6% <b>Groundwater Dir:</b> 0.3% <b>Sewage Sludge Dir:</b> 2.3% <b>Pigs:</b> 12.8% <b>Sheep/goats:</b> 22.8% <b>Cattle:</b> 25.1%	(~ % of controlled farms) <sup>10</sup> <b>Annex IV:</b> light: 1.2%; middle: 4% <b>Annex III:</b> <b>Birds Dir:</b> light: 0.6% <b>Nitrates Dir:</b> light: 10.7%; middle: 3.7%; severe: 2.2% <b>Groundwater Dir:</b> middle: 0.3% <b>Sewage Sludge Dir:</b> middle: 2.3% <b>Pigs:</b> light: 2.2%; middle: 3%; severe: 7.5% <b>Sheep/goats:</b> light: 8.8%; middle: 7%; severe: 7% <b>Cattle:</b> light: 15.7%; middle: 2.5%; severe: 7%
Lower Saxony	<b>Total:</b> ~ 5400	<b>Sample not yet fully analysed</b>	(~ % of controlled farms)

<sup>10</sup> light non-compliance corresponds to reduction of 1% of direct payments; middle: 3%; severe: 5%

	<p><b>Annex IV:</b> 669</p> <p><b>Annex III:</b></p> <p>Nitrates Dir: 492</p> <p>Sewage sludge Dir: 28</p> <p>Habitats, Birds and Groundwater Dir: 669</p> <p>Cattle: ~ 2200</p>	<p><b>Annex IV:</b> ~ 2% (minimum maintenance of arable land out of production, crop rotation)</p> <p><b>Annex III:</b></p> <p>Full compliance in case of Birds, Habitats, Groundwater and Sewage Sludge Directive</p> <p><b>NO3-Dir:</b> ~ 5% (documentation, application limit for organic fertiliser, storage capacity)</p> <p><b>Cattle:</b> ~ 30%</p>	<p><b>Annex IV:</b></p> <p>light: 0.2%</p> <p>middle: 1.6%</p> <p><b>Annex III:</b></p> <p><b>Nitrates Dir.:</b></p> <p>light 2%</p> <p>reduction of 2%: 2% of controlled farms</p> <p>middle: 1%</p> <p><b>Cattle:</b></p> <p>light: 20%</p> <p>middle: 4%</p> <p>severe: 6%</p>
Mecklenburg-Vorpommern	<p><b>Total:</b> 618 (of which 64 cross-checks)</p> <p><b>Annex IV:</b> 58</p> <p><b>Annex III:</b></p> <p>Birds Dir: 59 farms</p> <p>Habitats Dir: 49 farms</p> <p>Nitrates Dir: 62 farms</p> <p>Groundwater Dir: 56 farms</p> <p>Sewage Sludge Dir: 3 farms</p> <p>Pigs: 8 farms</p> <p>Sheep/goats: 8 farms</p> <p>Cattle: 316 farms</p>	<p><b>Total:</b> 156 (of which 44 due to cross checks)</p> <p><b>Annex IV:</b> 3%</p> <p><b>Annex III:</b></p> <p><b>Birds Dir:</b> 10%</p> <p><b>Habitats Dir:</b> 2%</p> <p><b>Nitrates Dir:</b> 15%</p> <p><b>Groundwater Dir:</b> 11%</p> <p><b>Pigs:</b> 25%</p> <p><b>Sheep/goats:</b> 25%</p> <p><b>Cattle:</b> 41%</p>	<p>(~ % of controlled farms)</p> <p><b>Annex IV:</b> middle: 2%</p> <p><b>Annex III:</b></p> <p><b>Birds Dir:</b> light: 2%; middle: 8%</p> <p><b>Habitats Dir:</b> middle: 2%</p> <p><b>Nitrates Dir:</b> light: 13%; middle: 2%</p> <p><b>Groundwater Dir:</b> light: 6%</p> <p><b>Pigs:</b> middle: 12.5%; severe: 12.5%</p> <p><b>Sheep/goats:</b> light: 25%</p> <p><b>Cattle:</b> light: 25%; middle: 4%; severe: 11%</p>

**Sources:**

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**Mecklenburg-Vorpommern:** Ministerium für Ernährung, Landwirtschaft und Forsten und Fischerei Mecklenburg-Vorpommern (2006)

**Table 5: Breaches of selected standards resulting from implementation for the Nitrates Directive in Denmark:**

Table describing non-compliance (Danish Plant Directorate 2006) <sup>11</sup>		
	2002/2003 (Not cross compliance)	2003/2004 (Cross compliance)
Obligation	Breaches (number of breaches out of 3000)	Breaches (number of breaches out of 3000)
Fertilisation account	354 (11,8 %)	207 (6,9 %)
Exceeding the N-norm	80 (2,7 %)	48 (1,6 %)

The height of imposed sanctions due to national legislation is 2000 Dkr. (268 €) for not sending in a fertiliser account (first time). If further reminders are send out the fine increases. For exceeding the level of fertiliser the sanction is depending on the size of the breach. For levels less than 30 kg/ha, the sanction is 10 Dkr/kg/ha (1,3 €) and for more than 30 kg/ha the sanction is 20 kr/kg/ha (1,7€).

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<sup>11</sup> The data for 2003/2004 expresses the change due to cross compliance because they have been controlled in 2005, and thus been under cross compliance regulation.

## **Annex III: Acronyms**

GAEC: Good Agricultural and Environmental Conditions

IACS: Integrated Administration and Control System

MoA: Ministry in charge of Agriculture

MoE: Ministry in charge of the Environment

NVZ: Nitrate Vulnerable Zone

NUTS: For statistical reasons the national territories in the European Union are broken down into hierarchical units, the “Nomenclature of Territorial Units for Statistics”

PA: Paying Agency

SAC: Special Area of Conservation

SMR: Statutory Management Requirement

SPA: Special Protection Area

### **Czech Republic:**

SZIF: State Agriculture Intervention Fund (MoA agency and PA)

UZPI: Institute of Agriculture and Food Information

### **Denmark:**

DDFFA: Danish Directorate for Food Fisheries and Agri-Business

### **France:**

DDAF: Direction Départementale de l’Agriculture et de la Forêt; decentralised service of the Ministry of Agriculture at the NUTS3 level

ONIC: Office national interprofessionnel des Céréales; manages CAP funding attributed to crops

### **Germany:**

SLA: Service Centre for Rural Development and Agricultural Support (Servicezentrum für Landentwicklung und Agrarförderung) in Lower Saxony

TLL: Thuringian Agency for Agriculture (Thüringer Landesanstalt für Landwirtschaft)

TLVWA: Office for Regional Administration in Thuringia (Thüringer Landesverwaltungsamt)

ZID: Central national IACS database (Zentrale InVeKoS Datenbank)

### **Greece:**

OPEKEPE: Payment Agency (with central office and regional branches)

### **Italy:**

AGEA: Agency for Agricultural Payments

MiPAF: Ministry of Agricultural and Forestry Policy

### **Lithuania:**

NMA: National Paying Agency

### **Netherlands:**

AID: Agricultural inspection Service

**UK:**

Defra: Department for Environment, Food and Rural Affairs

EA: Environment Agency

EN: English Nature

RIA: Regulatory impact Assessment

RPA: Rural Payments Agency

SSSI: Site of Special Scientific Interest