EEB European Environmental Bureau

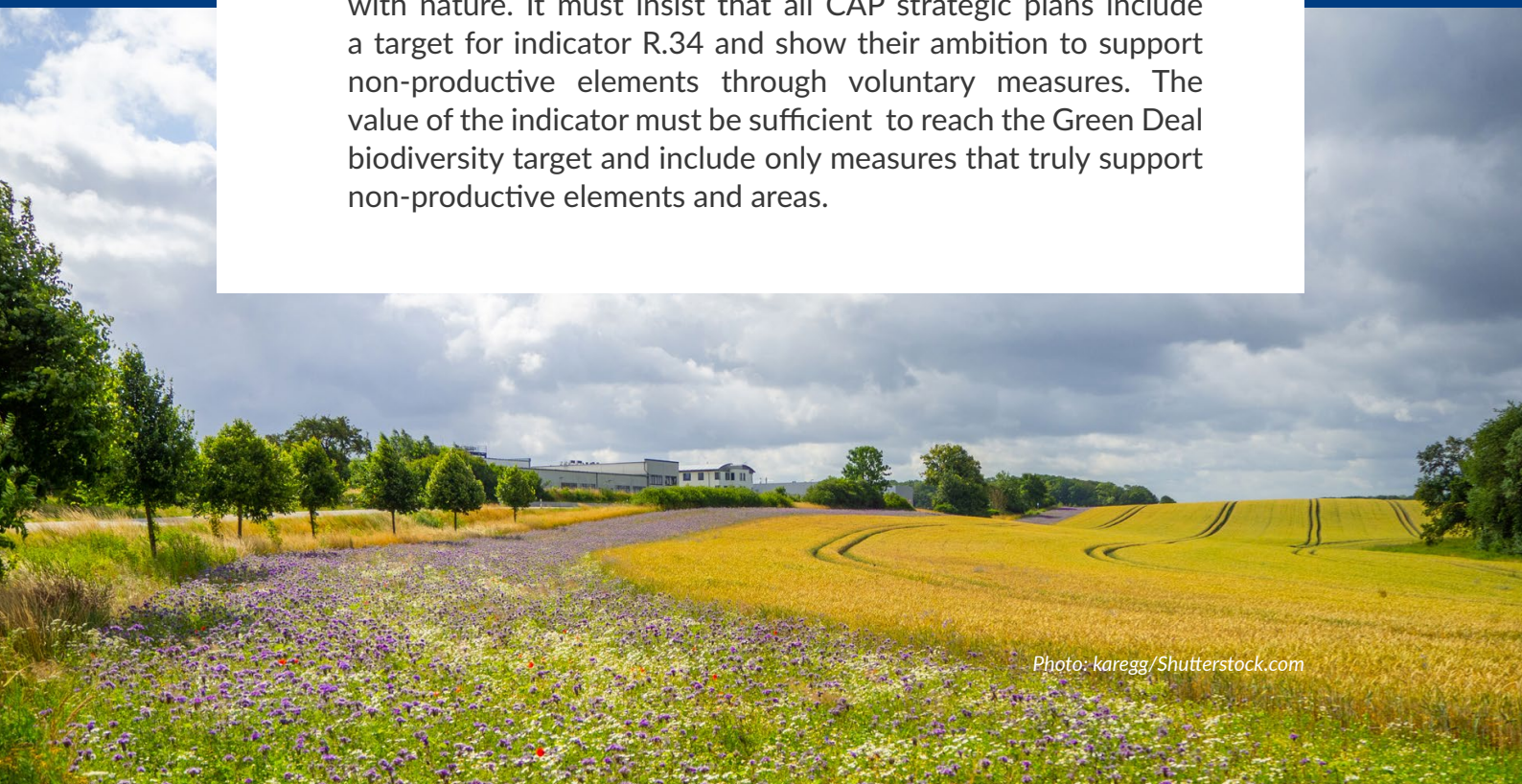
BirdLife INTERNATIONAL EUROPE AND CENTRAL ASIA

Space for nature on farms in the new CAP: not in this round

BirdLife Europe and European Environmental Bureau policy briefing

Key messages:

- An area of at least 10% of non-productive elements, including fallow land, is critical for the maintenance and restoration of biodiversity on agricultural land. This has been reflected by including a corresponding target in the EU Biodiversity Strategy.
- The analysis shows that the draft CAP strategic plans are unlikely to adequately contribute to reaching the 10% biodiversity target. The reasons include: low mandatory baseline, use of exemptions and weighting factors that inflate the real area. The ambition to support non-productive elements by voluntary schemes measured by indicator R.34 is blatantly inadequate and/or in many cases the area is overestimated.
- The European Commission should not allow creative accounting with nature. It must insist that all CAP strategic plans include a target for indicator R.34 and show their ambition to support non-productive elements through voluntary measures. The value of the indicator must be sufficient to reach the Green Deal biodiversity target and include only measures that truly support non-productive elements and areas.



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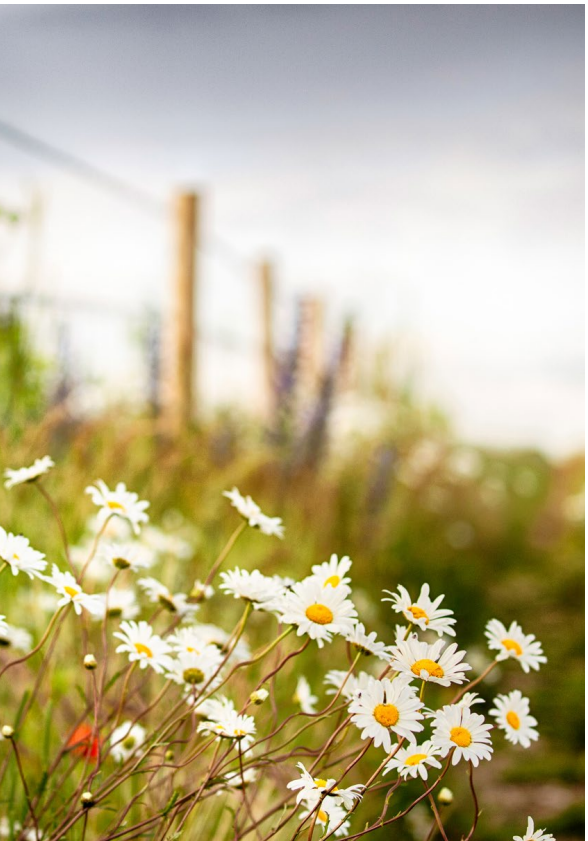
1. Background:

The intensification of agriculture, encouraged by CAP subsidies, has led to the removal of natural habitats in the farmed landscape: hedgerows, flower strips, field margins, small wetlands and fallow (uncultivated) land. The loss of these diversified structures and natural habitats is one of the key causes of biodiversity decline on farmlands. The number of farmland birds has declined by 59% since 1980,[1] and studies show insect populations are collapsing (Seibold et al., 2019).

Solutions on how to bring biodiversity back are well known. Studies from across Europe show that if a minimum of 10%-14% of agricultural land were to be non-productive, birds and other wildlife, would recover (Busch et al., 2020; Traba et al, 2019; Walker et al., 2018; Langhammer et al., 2017; Pe'er et al., 2014; Oppermann, 2008). Studies also show a particular value of well-managed fallow land for biodiversity (Bush et al, 2020; Traba et al., 2019).

There is also a need to act on the biodiversity crisis for the sake of agriculture itself; we cannot continue to destroy ecosystems and expect to be able to continue producing enough food. Further, research suggests that the intensification of farming and the related loss of natural habitats and species are reducing crop yields (Dainese et al., 2019), whereas restoration of space for nature can improve yields (Nelson et. al.,2021; Pywell et al 2015).

Through the European Green Deal and related strategies, the European Commission is putting the transformation of the EU's economy towards sustainability and the objective of tackling climate and environmental-related challenges at the heart of its policy making. The importance of tackling the biodiversity crisis by creating space for nature on farms has been demonstrated by a specific target aiming for *10% of agricultural area under high diversity landscape features by 2030*.



The key tool to deliver on this Green Deal target are CAP strategic plans that will operationalise CAP spending from 2023 onwards. Together with national agricultural experts, BirdLife Europe and the EEB analysed all CAP strategic plans[2] submitted to the European Commission to evaluate how Member States plan to use the elements of CAP green architecture to deliver on this target and create space for nature on farms.

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1 https://pecbms.info/trends-and-indicators/indicators/all/yes/indicators/E_C_All,E_C_Fa,E_C_Fo/

2 In case of Belgium-Flanders a version used for EIA public consultation was used for the analysis

2. Baseline for creating space for nature

2.1. What is required by the EU law

To receive direct payments, farmers have to comply with conditionality - the baseline of the CAP green architecture. The standard that aims to maintain non-productive features and areas to improve biodiversity on farms is GAEC 8. The CAP strategic plans regulation gives Member States a flexibility to decide which of three options they offer to farmers in CSPs. The options include:

1/Non-productive features only: Minimum share of at least 4% of arable land at farm level devoted to non-productive areas and features, including land lying fallow.

2/Enhanced eco-scheme on top of GAEC 8 covering at least 7% of arable land: In this case, the share attributed to compliance with this GAEC standard will be 3%.

3/Include catch crops or nitrogen fixing crops cultivated without pesticides: with an overall area of at least 7% of arable land of which 3% shall be land lying fallow or non-productive features.

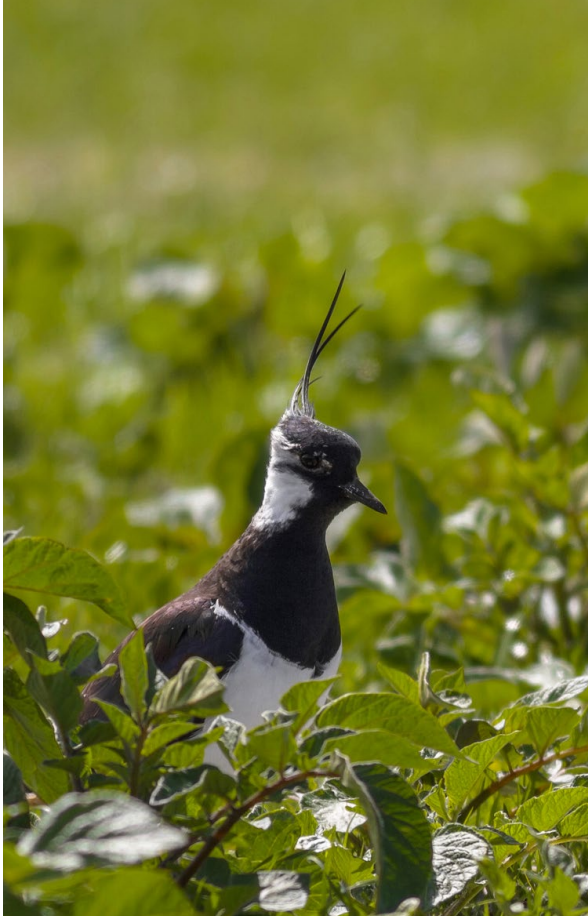
The GAEC standard also includes an obligation for retention of landscape features, ban on cutting hedges and trees during the bird breeding and rearing season and an option to put in place measures for avoiding invasive plant species.

The Commission's Implementing Regulation on the presentation of the content of the CAP Strategic Plans[3] provides an indicative list of landscape features and non-productive areas: land lying fallow, hedgerows, individual or groups of trees, trees rows, field margins, patches, buffer strips, ditches, streams, small ponds, small wetlands, stonewalls, cairns, terraces, cultural features and other.

2.2. Member States choices for GAEC 8

- All assessed Member States, except Czech Republic and Hungary, offer farmers option 1, i.e. minimum share of 4% of non-productive features and areas on arable land.
- 14 CSPs (BE-Wal, BG, CR, DK, EE, EL, LT, LU, NL, PL, PT, RO, SI, ES) offer option 2, an enhanced eco-scheme top-up.

3 Commission Implementing Regulation (EU) 2021/2289 of 21 December 2021 laying down rules for the application of Regulation (EU) 2021/2115 of the European Parliament and of the Council on the presentation of the content of the CAP Strategic Plans and on the electronic system for the secure exchange of information+



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- 17 CSPs (BE-Fl, BE-Wal, BG, CR, CY, CZ, EE, FR, EL, HU, LT, NL, PL, PT, SK, SI, ES) offer option 3, i.e., the possibility to include catch crops and nitrogen fixing crops under the GAEC 8 standard.
- 11 Member States (BE-Wal, BG, CR, EE, EL, LT, NL, PL, PT, SI, ES) allow farmers to choose from all three options.

The list of non-productive features and areas differs from country to country. Finland is the only country that listed only fallow land while setting a maximum level of 10% that can be included under GAEC 8.

All assessed Member States, except Denmark and Ireland, use exemptions provided in the CAP strategic regulation, that allow farms under 10 ha or farms which area is covered by more than 75% with grassland to not comply with the environmental conditionalities. Ireland is the only country that extends the application of GAEC 8 to the entire agriculture area. (i.e. not just arable land).

Moreover, at least ten Member States (BE-Wal, CZ, HU, IE, LV, LU, NL, ES, PL SE) use a weighting factor higher than 1 for non-productive features and areas, meant to reflect their assumed high ecological value, the consequence of which is that the reported area is higher than the observed one.

Details of member states implementation of GAEC 8 are in Table 1 in the Annex.

2.3. Implications of Member States GAEC 8 implementation choices

The way GAEC 8 has been included in the CAP strategic plans confirms once again that when Member States are given flexibility to implement EU environmental rules they do the bare minimum. None of the Member States set a minimum percentage for non-productive features that is higher than what is required by EU rules. The minimum level set by the EU in CAP strategic plan regulations has been considered as insufficient by both scientists and environmental NGOs.

More than half of the CSPs (17) offer farmers an option to include productive elements such as catch crops and nitrogen fixing crops. It is very likely that this option will be similarly popular among farmers as it was in 'greening' during the 2014-2022 CAP, when nitrogen fixing crops and catch crops were the most common type of Ecological Focus Area (EFA). As these crops offer no significant benefits to biodiversity, the implementation of this option is likely to jeopardise the delivery of this standard on what it has been designed for – the improvement of biodiversity on farms.

The implementation of the provision related to retention of landscape features has been problematic during the 2014-2020 CAP and the issues are likely to remain. For example, Ireland has been allowing the destruction of up to 500 meters of hedgerow, if they are replanted elsewhere. In other countries, the landscape features are not mapped properly, not included in IACS, and therefore not benefiting from GAEC 8 protection.

According to the European Court of Auditors' Special Report 21/2017 on greening,[4] due to extensive exemptions, most farmers (65%) were able to benefit from the green payment without actually being subject to greening obligations. They estimated that farmers created new EFAs and increased crop diversification on only around 3.5% of arable land, i.e., around 2% of all EU farmland. It is too early to speak about numbers in the case of GAEC 8, but the fact that the new CAP includes similar exemptions as in the case of greening and that only two Member States are not planning to use them, are causes for concern regarding the actual delivery on the ground. For example, in Slovenia the average farm size is 8.2 ha, meaning only a minority of farms will be obliged to apply for GAEC 8.

This comes on top of the fact that the GAEC 8 standard applies only to arable land, so a significant proportion of a utilized agriculture area (UAA) that is covered by grasslands or permanent crops is exempted as default.

The fact that at least ten Member States apply a weighting factor higher than 1 for non-productive features represents another weak point in the actual delivery of this standard as one hectare on the ground is more than one hectare on paper. In addition, it will not be possible to compare Member States as not all of them make use of weighting factors which can vary between countries. It is not clear what the legal basis is for applying these weighting factors as the CAP basic regulation explicitly mentions weighting factors only for catch crops (value of 0.3). For example, Spain and Poland make a reference to weighting factors used for "greening" in the 2014-2022 CAP despite the absence of similar provisions in the new CAP strategic plan regulation and the fact that those rules will not be in force next year.

Examples of application of weighting factors in Czech Republic, Ireland and Spain are in Table 2 in the Annex.

4 Greening: a more complex income support scheme, not yet environmentally effective

3. Result indicator R.34 - space for nature beyond the baseline

3.1. What is required by EU law

The key result indicator providing information on the ambition of Member States to support creating space for nature on farms through voluntary commitments is result indicator R.34: *Preserving landscape features.*[5] The level of ambition also reveals how likely Member States are to reach the Green Deal target of 10% of agricultural area under high diversity landscape features by 2030.

The relevant impact indicator that will be used to assess CAP performance is *I.21: Enhancing provision of ecosystem services: share of agricultural land covered with landscape features.*

3.2. Member states choices for indicator R.34

Despite the fact that R.34 is one of the "green deal targets" indicators, four Member States (FI, DE, RO, ES) have not selected it as a result indicator in their CAP strategic plans. In addition, four Member States (CY, IT, LT, DK) have selected this indicator, under strategic objective 6 (biodiversity), but set the value at 0%. This means that 1 in 3 Member States have not set any ambition to reach the 10% landscape features target through voluntary measures (eco-schemes, agri-environment-climate commitments) going beyond the baseline.

Some management schemes for non-productive elements and areas might be covered by other indicators, e.g. R.31 (Preserving habitats and species) and R.33 (Improving Natura 2000 management), but they will not provide relevant information regarding their contribution to the Green Deal target.

In eight CSPs (BE-Fl, BG, EE, LV, HU, MT, ES, SK) the value of the indicator was set below 2%. Eight Member states set the value between 2% and 9% (BE-Wal, AU, CR, CZ, IE, PL, SI, NL). Four Member States (EL, FR, PT, LU) set the value above 20%, with Luxembourg setting the most ambitious target of 85.59%.

3.3. What are the implications of Member States ambition set through indicator R.34?

On the one hand, more than half of Member States (16) have not selected indicator R.34, or have set it at 0 or below 2%, which represents a blatant inadequacy to contribute to 10% non-productive elements of the Green Deal target.

5 It represents a share of utilised agricultural area (UAA) under supported commitments for managing landscape features, including hedgerows and trees, beyond the baseline.

On the other hand, many of the targets, and in particular those that look very ambitious on paper, are based on actions with questionable values for biodiversity.

Austria

- The R.34 indicator, which has been set at 7.82%, also includes an area for productive measures, such as conservation agriculture (ca 3% of UAA). According to NGO estimates, the real area of commitment for non-productive features such as fallow land and flowering strips, is only around 4.8%.

Poland

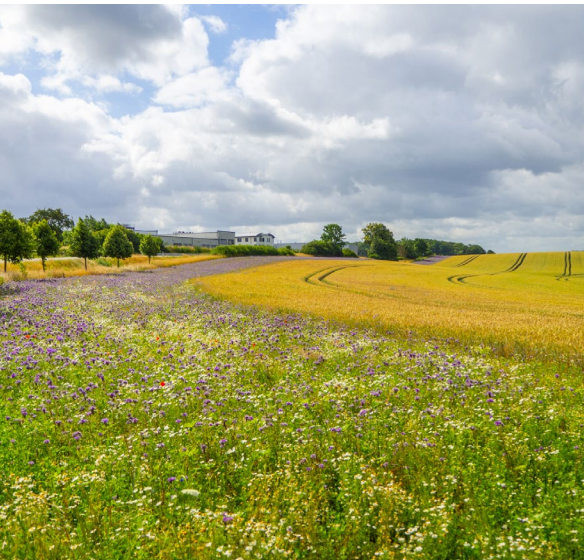
- The value of R.34 at the level of 2.13% has been significantly overestimated as the actual area of landscape features is much lower. According to NGO calculations, the commitments related to the management of landscape features planned in the Polish CSP correspond to the value of maximum 0.14%.

France

- The value of R.34 of 20% for France looks very ambitious, but in reality only a small proportion of this area is likely to genuinely support management of non-productive landscape features. The value includes the area of agri-environment scheme supporting agro-ecological infrastructure (100 ha), but also the area of eco-schemes (5,800,000 ha), including the "high environmental value" certification eco-scheme that has been widely criticised by the scientific community for its low environmental ambition. Indeed, its ambition is so low that an enrollment to this eco-scheme does not imply any changes in practices from farmers.

Portugal

- The ambitious value of R.34 of 41.8% will to a large extent be reached by including the area of eco-scheme "practices that promote biodiversity" (1,500,000 ha), which does not reflect the actual contribution to management of non-productive elements and features.



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4. Voluntary measures to support space for nature on farms

4.1. What are the options offered by EU law

The CAP strategic plans regulation provides Member States with two key instruments that can support practices contributing to creating space for nature on farms: eco-schemes funded under Pillar 1 (article 31) or agri-environment-climate commitments (article 70) funded under Pillar 2.

4.2. Member states choices

Our earlier assessment based on draft CAP strategic plans focusing on the environmental delivery of eco-schemes found that less than one-quarter of the eco-schemes[6] supporting high-diversity landscape features (total 26) were judged by national experts as "*Good - likely to deliver*". More than half of the assessed schemes were going in the right direction, but important improvements were needed if they were to deliver. Some improvements might have been introduced in the submitted plans, but the overall picture has not changed.

The problem is that the schemes that are likely to deliver for biodiversity, including those that support non-productive features and areas are underfunded and/or have low target areas, and are therefore unlikely to make a difference on the ground and to be sufficiently incentive for farmers to implement them. For example:

- The UBB/Bio agri-environment scheme in Austria (however the required percentage for fallow land needs to be increased if it is truly to deliver)
- Wildlife habitat strips and re-grassing of arable land agri-environment schemes in the Czech Republic
- Eco-scheme to top up GAEC 8 in Germany, agri-environment scheme to support perennial flowering strips in several German states
- Agri-environment schemes to support hedges, flower strips, wetlands and environmental set-aside in Italy
- Agri-environment scheme to support perennial flower strips in Poland

Finally, in most of the CSPs there is a problematic uncompetitive premia, especially when better funded schemes with less demanding requirements are available. And the experience from the current CAP also shows the importance of good quality advisory systems and national campaigns for increasing farmers' interest in biodiversity schemes.

6 WWF, EEB, BirdLife (2021) Will eco-schemes be worth their name? An assessment of draft eco-schemes proposed by Member states

5. Summary and recommendations

Most Member States (22, including both Belgian regions) set the value of GAEC 8 and the indicator R.34 so that their sum is lower than 10% - inadequate to reach the 10% target even in theory.

Only six Member States (AU, CR, FR, EL, LU, PT) have set the value above 10%.

In both cases above, the extent to which the commitments included under the R.34 truly contribute to management of landscape features as illustrated in the chapter 3.3 is highly questionable.

More details in the table below:

COUNTRY	% FOR NON-PRODUCTIVE ELEMENTS SET UNDER GAEC 8	VALUE SET UNDER R.34	POTENTIAL CONTRIBUTION TO 10% GREEN DEAL TARGET
Austria	4%	7,82%	11,82%
Belgium- Flanders	4% (3%)	0,03%	4,03% (3,03%)
Belgium -Wallonia	4% (3%)	2,63%	6,63% (5,63%)
Bulgaria	4% (3%)	1,48%	5,48% (4,48%)
Croatia	4% (3%)	8,78%	12,78% (11,78%)
Cyprus	4% (3%)	0,00%	4%
Czech Republic	3%	6,37%	9,37%
Denmark	4% (3%)	0,00%	4%
Estonia	4% (3%)	0,29%	4,29% (3,29%)
Finland	4%	-	4%
France	4% (3%)	20,00%	24% (23%)
Germany	4%	-	4%
Greece	4% (3%)	25,14%	29,14% (28,14%)
Hungary	3%	1,079%	4,079%
Ireland	4%	2,65%	6,65%
Italy	4%	0,00%	4%
Latvia	4%	0,93%	4,93%
Lithuania	4% (3%)	0,00%	4% (3%)
Luxembourg	4% (3%)	85,59%	89,59% (88,59%)
Malta	4%	0,89%	4,89%
Netherlands	4% (3%)	4,36%	8,36% (7,36%)
Poland	4% (3%)	2,13	6,13% (5,13%)
Portugal	4% (3%)	41,8%	45,8% (44,8%)
Romania	4% (3%)	-	4%
Slovakia	4% (3%)	1,01%	5,01% (4,01%)
Slovenia	4% (3%)	3,46%	7,46% (6,46%)
Spain	4% (3%)	1,54%	5,54% (4,54)
Sweden	4%	-	4%

Our analysis of the submitted CSPs shows that most, if not all, Member States are unlikely to reach the Green Deal target of 10% of agricultural area under high diversity landscape features by 2030 because:

- An inadequate EU baseline set in CAP strategic plan regulation for GAEC 8; and failure to apply this standard to all agricultural areas
- Failure by Member States to set GAEC 8 above bare minimum level
- Exemptions used by most Member States, hence releasing a large proportion of farmers from the obligation under GAEC 8
- Use of weighting factors, hence inflating the actual area under GAEC 8
- Failure to put in place adequate targets for voluntary interventions to support management of landscape features and areas measured by indicator R.34
- Ambitious targets do not reflect the actual area of commitment supporting landscape features

The European Commission observation letters should call on Member States to:

- Set a value of non-productive elements under GAEC 8 that goes beyond bare minimum set in the EU legislation
- Not use exemptions for GAEC 8, and to extend GAEC 8 to all agricultural areas
- Not use weighting factors for non-productive features under GAEC 8
- Include indicator R.34 under strategic objective 6 in cases it was missing
- Set the value of R.34 at the minimum level of 10% (sum with GAEC 8)
- Ensure that only commitments that genuinely support landscape features and areas are included under the R.34 indicator.

The European Commission should not approve any CAP strategic plan if it:

- Uses weighting factors for non-productive elements higher than 1 and inflates the actual area under GAEC 8
- Does not include the R.34 indicator under strategic objective 6 of a value above 10% (sum with GAEC 8), calculated on the basis of commitments truly supporting landscape elements and features.

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ANNEX

Table 1: Implementation of GAEC 8 standard

Country	4% non-productive	3% non-productive +eco-scheme ≥7%	3% non-productive + productive ≥7%	Use of weighting factors above 1?	Exemptions applied?
Austria	√	-	-	-	√
Belgium - Flanders	√	-	√	-	√
Belgium- Wallonia	√	√	√	√	√
Bulgaria	√	√	√	-	√
Croatia	√	√	√	-	√
Cyprus	√	-	√	-	√
Czech Republic	-	-	√	√	√
Denmark	√	√	-	-	-
Estonia	√	√	√	-	√
Finland	√	-	-	-	√
France	√	-	√	-	√
Germany	√	-	-	-	√
Greece	√	√	√	-	√
Hungary	-	-	√	√	√
Ireland	√	-	-	√	-
Italy	√	-	-	-	√
Latvia	√	-	-	√	√
Lithuania	√	√	√	-	√
Luxembourg	√	√	-	√	√
Malta	√	-	-	-	√
Netherlands	√	√	√	√	√
Poland	√	√	√	√	√
Portugal	√	√	√	-	√
Romania	√	√	-	-	√
Slovakia	√	-	√	-	√
Slovenia	√	√	√	-	√
Spain	√	√	√	√	√
Sweden	√	-	-	√	√

Table 2: Examples of weighting factors use:

	Weighting factors used by Czech Republic	Weighting factors used by Ireland	Weighting factors used by Spain*
Ditches	2	2	x
Field margins, patches or parcels	1,5	1 (Habitats, Designated Habitats, Scrub, Wild bird cover, Grassland space-4nature) 2 (ASSAP areas)	1,5
Buffer strips	1,5	1,5	
Individual or group of trees	1,5	1	x
Hedgerows, Tree rows	2	2	2
Land Lying fallow	1,5	1	1
Others	1,5 (eg stone drift)	0,15 (Natura 2000 sites, Commonage, Land subject to GAEC 2 and 9)	1 (Other items not listed above but protected under GAEC 7, SMR 2 or SMR 3)
Small wetlands	2		n/a
Small ponds		1,5	1,5
Terraces	1		1
Stonewalls		2	1

*Spain includes a reference to the weighting factors in the Annex of Commission Delegated regulation 639/2014 establishing rules for direct payment (ie greening rules for the CAP 2014-2022)

Table 3: Member states ambition of R.34 result indicators

Country	Value of R.34 indicator	Indicator R.34 chosen for SO6? (biodiversity)
Austria	7,82%	√
Belgium - Flanders	0,03%	√
Belgium- Wallonia	2,63%	√
Bulgaria	1,48%	√
Croatia	8,78%	√
Cyprus	0,00%	√
Czech Republic	6,37%	√
Denmark	0,00%	√
Estonia	0,29%	√
Finland	-	-
France	20,00%	√
Germany	-	-
Greece	25,14%	√
Hungary	1,079%	√
Ireland	2,65%	√
Italy	0,00%	√
Latvia	0,93%	√

Lithuania	0,00%	√
Luxembourg	85,59%	√
Malta	0,89%	√
Netherlands	4,36%	√
Poland	2,13	√
Portugal	41,8%	√
Romania	-	-
Slovakia	1,01%	√
Slovenia	3,46%	√
Spain	1,54%	√
Sweden	-	-

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