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CROSS COMPLIANCE – THE MEASURE CHALLENGING IMPROVEMENT OF QUALITY IN EUROPEAN UNION

***REGLE DE CROSS-COMPLIANCE – L'ACTION VISANT
A AMELIORER LA QUALITE EN UNION EUROPEENNE***

***ZASADA WZAJEMNEJ ZGODNOSCI – DZIALANIE
SLUZACE POPRAWIE JAKOSCI W UNII EUROPEJSKIEJ***

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Abstract:

The paper takes one significant element of the 2003 Common Agricultural Policy (CAP) of European Union's reform – the cross compliance – and considers it in relation to the development of quality perceived from different perspectives. It asks if cross compliance, and the regulations governing its implementation, are relevant, effective, efficient and proportionate for quality improvement in environmental, social and economic dimensions. Given the relative youth of the policy, the discussion is based on what can be understood about the intentions of cross compliance. The implementation of this measure should be considered as another step forward of the ongoing development of CAP in becoming a more competitive, sustainable and liable sector policy for EU.

Résumé:

L'article présent ne traite qu'un des éléments de réforme la plus récente de la Politique commune de l'agriculture dans l'Union Européenne créée en 2003 – la règle de la cross-compliance. Ladite règle est située en face du développement de la qualité définie des points de vue différents. L'analyse concerne la question de l'entité, du rendement, de l'efficace et de la proportionnalité de la règle de cross-compliance pour le développement de la qualité de point de vue économique, social et environnemental. Puisque la règle de l'unanimité respective fonctionne depuis peu de temps dans le cadre de la Politique commune de l'agriculture, le discours n'englobe que ces idées générales. La règle de cross-compliance doit être considérée en tant que le pas suivant dans le processus de la formation de la Politique commune de l'agriculture qui augmente la concurrence dans la Politique communautaire de secteur, équilibrée et responsable.

Abstrakt:

Niniejszy artykuł rozważa tylko jeden z elementów najnowszej reformy Wspólnej Polityki Rolnej (WPR) Unii Europejskiej (UE) z 2003r – zasadę wzajemnej zgodności – i odnosi ją do rozwoju jakości definiowanej z różnych perspektyw. Analizie poddano kwestie istotności, efektywności i proporcjonalności zasady wzajemnej zgodności dla rozwoju jakości w ujęciach ekonomicznym, społecznym i środowiskowym. Biorąc pod uwagę krótki okres funkcjonowania zasady wzajemnej zgodności w ramach WPR w dyskusji uwzględniono głównie jej założenia. Należy uznać, iż zagadnienia związane z ochroną przyrody na terenach wiejskich odgrywają istotną rolę w kształtowaniu WPR. Głównym ich założeniem jest włączenie kwestii ochrony przyrody do obszaru oddziaływania WPR, jak również rozwój działań w rolnictwie służących ochronie zarówno przyrody jak i obszarów wiejskich. Zalecenia, by rolnicy prowadzili produkcję rolną z zachowaniem standardów ochrony przyrody pojawiły się w UE wraz z reformą Agendy 2000. Wprowadzono wtedy wymóg dla państw członkowskich wdrożenia programów rolnośrodowiskowych, w których rolnicy mogli uczestniczyć jednak dobrowolnie. Dopiero kolejna reforma WPR z 2003 r. położyła większy nacisk na to zagadnienie, wprowadzając tzw. zasadę wzajemnej zgodności (cross-compliance), jako obowiązującą wszystkich rolników UE w celu uzyskania dopłat bezpośrednich. Wprowadzenie zasady wzajemnej zgodności w państwach członkowskich UE jest procesem, który został zapoczątkowany 1 stycznia 2005r. Większość Nowych Krajów Członkowskich wdroży ją jednak dopiero z początkiem 2009r. Zasadę wzajemnej zgodności należy uznać za kolejny krok w procesie kształtowania WPR jako zwiększającej konkurencyjność, zrównoważonej i odpowiedzialnej wspólnotowej polityki sektorowej UE. Nowy wymiar tego działania, poza obowiązkiem przestrzegania konkretnych wymogów służących ochronie przyrody w gospodarstwie rolnym, został poszerzony o kwestie jakościowe związane z ochroną zdrowia zarówno ludzi, roślin jak i zwierząt oraz z dobrostanem zwierząt. Dzięki nowemu kształtowi tego działania realizowane są zadania rolnictwa mające na celu dostarczenie korzyści społecznych wynikających nie tylko z produkcji żywności o określonej jakości, ale także z jakości przyrody czy krajobrazu. Aby czerpać tak szeroko rozumiane korzyści istotne jest wdrażanie zasady wzajemnej zgodności w poszczególnych państwach członkowskich w sposób przemyślany i pragmatyczny.

Introduction

The Common Agricultural Policy (CAP) of European Union (EU) almost since its foundation is evolving to meet economic and society's changing needs. Nowadays also the preservation of the environment, value for money and agriculture as a source of crops to convert to fuel are acquiring steadily growing importance of CAP. The established in the Treaty of Rome in 1957 policy is continuously implemented for enlarging European Communities and is still recognized as a system of subsidies and programs that regulates the development of agriculture and rural areas in Europe. Today, representing over 40% of EU budget [1] CAP aims to provide European farmers with a reasonable standard of living, consumers with quality food at fair prices and to preserve rural heritage.

The CAP is being continuously adjustable to the requirement to become more sustainable policy of EU. The often-quoted definition of sustainable development by Brundtlandt Commission [2] describes it as development that meets the needs of the present without compromising the ability of future generations to meet their own needs. However the sustainable development could be also recognized as the management and conservation of the natural resource base and the orientation of technological and institutional change in such a manner as to ensure the attainment and continued satisfaction of human needs for present and future generations [3]. In EU the sustainable development (in the agriculture, forestry, and fisheries sectors) should therefore aim to conserves land, water, plant, and animal resources, and become environmentally non-degrading, technically appropriate, economically viable, and socially acceptable.

The concept of and need for the sustainable development of CAP was significantly emphasized in 1999, when the European Council in Berlin agreed its Agenda 2000 reform [4]. It was a new and important step in the agricultural reform process in EU. Agenda 2000 gave concrete form to a new European Model of Agriculture with the aim of preserving the diversity of farming systems spread throughout Europe and making them more sustainable. Its objectives involved more market orientation and increased competitiveness, food safety and quality, stabilization of agricultural incomes, but also the integration of environmental concerns into agricultural policy and development of the vitality of rural areas. These objectives were in line with the first EU Sustainable Development Strategy agreed by the European Council in Göteborg in 2001 [5], which requires that not only economic and social but also environmental effects of all policies need to be examined in a coordinated way and taken into account in decision-making process.

As a next step of making CAP more sustainable, in July 2002 the European Commission (EC) adopted the Communication on the CAP Mid-Term Review: Towards Sustainable Farming [6]. The Communication provided an assessment of the evolution of the CAP reform process since 1992. It concluded that much has been achieved, however in many areas gaps remain between the objectives set for the CAP and its capacity to deliver the outcomes expected by European society. The Commission has therefore proposed a number of adjustments to the CAP. The so-far last step of the fundamental CAP reform process, aimed at moving away from a policy of price and production support to a more comprehensive policy of farmer income support, was the decision reached at the Luxembourg Council on 26 June 2003 [7]. The key Luxembourg reform were the introduction of a decoupled system of payments per farm - the Single Payment Scheme (SPS) and the compulsory conditional for their recipients to meet environmental, animal health and welfare as well as food safety requirements (known

as cross compliance). A primary objective of this change was to promote a more market orientated and sustainable agriculture, which reflects to concerns of European citizens.

The Commission also sought to promote further simplification of agricultural legislation and its implementation. This simplification of CAP was a result of a growing recognition of the need for ‘better regulation’ leading to the adoption by the EC of an “Action Plan for Better Regulation”[8]. The specific communication on simplification and better regulation in relation to the CAP has also been issued by the Commission [9]. From these statements, a number of key principles for better regulation could be identified. Due to the EC the better regulation should be:

- Relevant – related to the issues or problems that need to be addressed and has clear objectives and purpose,
- Effective – producing or capable of producing an intended effect,
- Efficient – having the intended effect without wasting time, effort or expense,
- Proportionate - balancing the value of the public benefits derived against the burdens and costs imposed on individuals and businesses.

Taking into account the issues of sustainable development of CAP and its simplification in order to be a better regulation it should be pointed out that both processes significantly infiltrate in the way to form an added value. They directly address the issue of quality, which establishes a framework for the overall development, not only of European agriculture and rural areas. In this respect the special emphasis are paid to maintain not only short, but also long term balance between societies and the possibilities of the environment in which they develop. The cross compliance measure of reformed CAP could be thus analyzed as a quality value added instrument of reaching such a balance in European agriculture.

This paper takes one significant element of the 2003 Luxembourg CAP’s reform – the cross compliance measure – and considers it in relation to the development of quality perceive from different perspectives. It asks if cross compliance and the regulations governing its implementation, are relevant, effective, efficient and proportionate for quality improvement in environmental, social and economic dimensions.

Materials and Methods

Given the relative youth of the policy, the discussion is based on what can be understood about the intentions of cross compliance. The analysis has been conducted in two stages. The first stage applied analytical approach that based on qualitative assessment. It was the Author critical review of the EU’s legislation governing the cross-compliance and selected scientific papers, where sustainability focus was applied. However the second stage aimed to seek to provide a quantitative insight. It based on the Delphi methodology. The experts selected to the assessment of cross compliance under the Delphi process represented 4 groups of experts. There were 3 agricultural decision makers, 3 activists from agricultural and environmental non-government organizations, 3 farmers and 3 consumers. All come from Poland and were well wise to the issue. In the period of February-May 2007 during four rounds they were asked through electronic mail to make a quantitative assessment of sustainability of cross compliance with respect to its relevance, effectiveness, efficiency and proportionality.

Cross Compliance – a CAP quality value added

The concept of cross compliance originated in the United States of America (US). It was used from the 1970s onwards, to refer to conditions that farmers must meet in order to be eligible for assistance under government support schemes for agriculture, notably commodity programs. In the US, farmers claiming support under one program had to meet the rules of that program and certain obligations of other programs: thus making a link “across programs” which gave rise to the term “cross compliance”. The use of the term has been extended since then, both within the US and elsewhere, to refer to linkages between agricultural and environmental policies [10].

In the European Union the cross compliance was first considered in the late 1980s. It was introduced as a voluntary environmental measure for Member States. The introduction of such measure needs to be recognized as a result of the growing concern of the EC, strengthened by the voices of the European environmental movement to integrate environmental considerations into agricultural policy. The 1992 reforms of the CAP under Commissioner MacSharry, with their reliance on direct payments, increased the potential relevance of cross compliance. The transparency of farmers direct support made a social justification of agricultural subsidies and the possibility of requiring farmers to provide society with tangible social or environmental benefits in return for such payments. These ideas balanced the view that economic benefits could no longer be the main goal of public support for agriculture and they have to be justified in social and environmental terms. Under MacSharry reforms Member States were obliged to apply appropriate environmental conditions to the management of compulsory set-aside in arable cropping and were allowed to introduce environmental conditions on the direct payments offered as headage subsidies for beef cattle and sheep.

The CAP reform under the Agenda 2000 extended the use of cross compliance. Article 3 of the Regulation 1259/1999 applied to all direct payments under the European Agricultural Guidance and Guarantee Fund [11]. It required Member States to take measures to ensure that agricultural activity within the scope of the Regulation was compatible with environmental protection requirements. However it also gave Member States a number of options for such measures including support in return for agri-environment commitments, general mandatory environmental requirements, or specific environmental requirements that constitute a condition for direct payments. Accordingly Member States were able to decide on the appropriate and proportionate to the seriousness of the ecological consequences penalties. They could include also withdrawal or cancellation of direct payments. Only a limited number of Member States set down such conditions for direct payments including Denmark, France, Greece, the Netherlands and the UK.

As a compulsory measure the cross compliance was introduced by the 2003 CAP reform. Its scope extended however from original environmental to many other public concerns. They include not only issues related to nature protection and conservation, but address also a quality issues connected to public, animal and plant health as well as animal welfare. The Regulation 1782/2003 [12] requires now farmers to observe certain standards in the areas of the environment, public, animal and plant health and animal welfare in return for direct payments under the SPS. The implementation of this measure is a process that was initiated from January 1st, 2005. However most of New Member States will introduce them from 2009.

In order to fulfill cross compliance requirements the farmer must comply with 19 Statutory Management Requirements (SMRs) and a number of standards aimed at ensuring the Good Agricultural and Environmental Condition's (GAEC) of agricultural land, referred to in Annexes 3 and 4 of the Regulation 1782/2003. Accordingly SMRs are based on pre-existing EU Directives and Regulations such as the Nitrates Directive, Bird Directive or Habitat Directive. GAEC is a new requirement and consists of a total of eleven standards relating to the protection of soils and the maintenance of habitats. The Regulation 796/2004 [13] sets down detailed rules for the implementation of cross compliance. Articles 3, 4 and 5 then proceed to further define cross compliance requirements identifying 19 pieces of legislation from which statutory management requirements must be drawn (Annex III) and the framework on which minimum requirements for good agricultural and environmental condition must be based (Annex IV). Member States have to define minimum standards for GAEC based on an EU framework.

Although cross compliance is relatively new measure of CAP the first results of its implementation are observable. In 2005, over 240 thous. on-the-spot checks were carried out on 4,92 percent of farmers affected by cross compliance. Reductions in payments were applied for 11,9 percent of farmers subject to on-the-spot checks. Most detected cases of non-compliance related to the identification and registration of cattle, with the remaining cases mostly concerning the GAEC and the Nitrates Directive [14].

On 29 March 2007 the European Commission proposed - as a result of better regulation approach - a draft of measures to improve and simplify the system of cross compliance. The changes aim, among other to improve information, introduce a certain level of tolerance in minor cases of non-compliance, harmonize control rates and introduce advance notice of certain on-farm checks. This proposal took into account experience gained so far to make the system work better for the benefit of farmers and administrations. It forms the latest stage in the Commission's ongoing efforts to simplify the CAP[14].

The Commission intends to introduce a single control rate, of 1 percent minimum, for on-the-spot checks for cross compliance. In cases where checks have revealed a significant degree of non-compliance, checks might increase. In future, this increase due to EC should focus only on the areas of risk and not on all standards, as is currently the case. The Commission will create the possibility to give notice of checks up to 14 days in advance as long as the purpose of the controls is not jeopardized. However controls on feed and food law, animal health and animal welfare and identification and registration of animals will remain unannounced. National authorities will be required to identify the optimal time of year to check most of the obligations, while ensuring that no obligation is ignored in the control system. Checks need only be made on half of the land parcels, rather than the whole farm. Farmers must receive the control report at the latest three months after the checks. There will be an improved selection of the control sample, including a random element.

Cross Compliance has the dual aims of helping to make farming more sustainable and making the CAP more compatible with the expectations of consumers and taxpayers. They aim to provide quality value added from CAP. They offer the public benefits in terms of wildlife, landscape quality and public enjoyment, as well as quality of food production. This undoubtedly should be considered as another step forward of the ongoing development of CAP in becoming a more sustainable policy for EU. However it is also important to ask to which extend this measure is sustainable in order to balance economic, social and environmental needs of quality required by the European society.

Cross Compliance - a CAP sustainable measure

Taking into account the economic, social and environmental pillars of sustainable development and considering it with relation to cross compliance measure of CAP several key factors should be recognized.

As cross compliance makes the linkages across agricultural and environmental policy of EU it should address nature protection and conservation issues to development of agriculture and rural areas. However only 5 of the 19 legislation defined in the Annex III of Regulation 796/2004, which sets detailed rules for cross compliances, have an environmental focus [15]. They mostly address issues of EU environmental directives (Nitrate, Bird and Habitats). Analyzing the environmental approach it could also be noted that GAEC has stronger environmental focus than SMRs, although much of that is focused around soil issues. Additionally the cross compliance is considered as a measure that should ensure a degree of environmental protection as well as maintaining the agricultural condition of land. There is also recognized the vital role of cross compliance in discouraging land abandonment. In this respect one needs to point out that the adopted by Member States GAEC standards may have some role in preventing land abandonment and keeping land in a condition from which it can easily be brought back into full agricultural use. Some SMRs in relation to the Nitrates Directive, may even encourage farmers to continue to manage non-productive grasslands in order to have sufficient area on which to spread manure. But there is also a view that if cross compliance requirements are too high, especially on marginal land, farmers may be encouraged to abandon land [16]. Finally cross compliance needs to be recognized as one of the measures that supports the environment pillar of CAP development. As another should be mention Agri-Environmental Schemes, the Less Favorite Areas or Natura 2000.

The another side of the cross compliance's relationships is an agriculture. Here, among others need to be taken into account the economic consequences of this measure. Analyzing its influence on the economic performance of the farms and farmers it is important to stress out that cross compliance through the different level of constraints imposed between livestock and crops systems, might be a major driver of trends in farming systems. However the combination of crops/livestock will be firstly determined by economic opportunities at farm level. The introduction of another CAP mechanism - decoupling - might, in this respect, move the balance between the two kinds of activities on the basis of pure relative advantage. If a farmer can expect a higher income from livestock production, he will farm livestock whatever the cross compliance constraints. The empirical analysis suggest that when the balance between crops and livestock is fragile, with livestock considered as a marginal activity, cross compliance might lead farmers to quit mixed systems and move towards pure crop systems [17].

On other hand cross compliance results in cost burden on farmers. However most requirements or standards pre-existed the implementation of cross compliance and that, in general, compliance levels are high. The majority of farmers therefore appear to face minimal costs due to cross compliance SMRs and GAEC standards. A proportion of farmers may face costs if they do not respect national legislation that pre-existed cross compliance and was included within the national SMRs or GAEC standards. But any costs involved in achieving compliance are clearly those of meeting this legislation and cannot be attributed to cross compliance. Cross compliance may be conceptualized as providing an incentive for Single Payment claimants to achieve compliance with this legislation. Where costs do exist, these appear difficult to quantify in any meaningful manner [18].

Accordingly the influence of the costs associated with cross compliance SMRs and GAEC standards appear to have a minimal impact on competitiveness. These costs may have an influence, but the level of influence should be considered as limited when compared with the vast range of other factors that impinge upon or promote competitiveness

Taking into account cross compliance and considering it with regard to the third pillar of sustainable development – social acceptance the general framework of CAP needs to be applied. All reforms of CAP aimed to reduce this expenditure. This was due mostly to general budget limitations. However the later CAP reform from 2003 took significantly into account another factor – the acceptance of Europeans for the CAP expenditures. The cross compliance measure seems to be compatible with the expectations of consumers and taxpayers. The direct and indirect public benefits provided by this measure, especially related to food safety and quality of environment are favorably associated with social willingness to provide support for agricultural sector. The introduction of cross compliance measure as a compulsory condition for farmers in order to receive the direct payments has been justified by important and identifiable public interest reasons. In this context, the benefits rising from implementation of this measure legitimate the regulation for the society.

Cross Compliance – challenging improvement of policy

The paradigms of a good regulation are challenging cross compliance to be relevant, effective, efficient and proportionate. This measure thus should be recognized as a challenge not only for those who formulate the policies for European Union, but also for those who implement them and are their final recipients.

The cross compliance is *de facto* a set of rules that defines the baseline standards which govern farming practice in whole EU. Those farmers, who receive payments under the SPS have to meet cross compliance requirements. However not all farmers are in receipt of such payments, but the vast majority are. It should be pointed out that cross compliance measure within CAP is also linking two financial policies of EU. It is a measure that links conditions described for II pillar of CAP (food security, environment protection, animal welfare, rural development) with money provided from I pillar of CAP (SAPs). Farmers might also contribute from II pillar of CAP if they meet standards forming a basis for cross compliance. In such cases the support is provided through agri-environmental measures. However farmers receiving agri-environment payments are required to meet higher standards than those required by cross compliance.

The very nature of cross compliance - the way it links environmental and other obligations with receipt of the Single Payment, means the policy can only be effective as long as the SPS remains in place. Any future reduction in the Single Payment, i.e by introducing modulation, could reduce the effectiveness of the policy as the main enforcement lever or sanction – the threat of reduced payments – would be weakened.

It is however important to mention that the direct objectives of this policy are nowhere clearly expressed. One could argue that indirectly this is a tool for implementation and enforcement of key EU environmental legislation, such as the Nitrates Directive and the Birds and Habitats Directives. The cross compliance becomes a policy tool to enforce compliance of agricultural sector with environmental requirements. Thus the application of cross compliance standards at farm level will be critical in determining the overall effectiveness of this legislation.

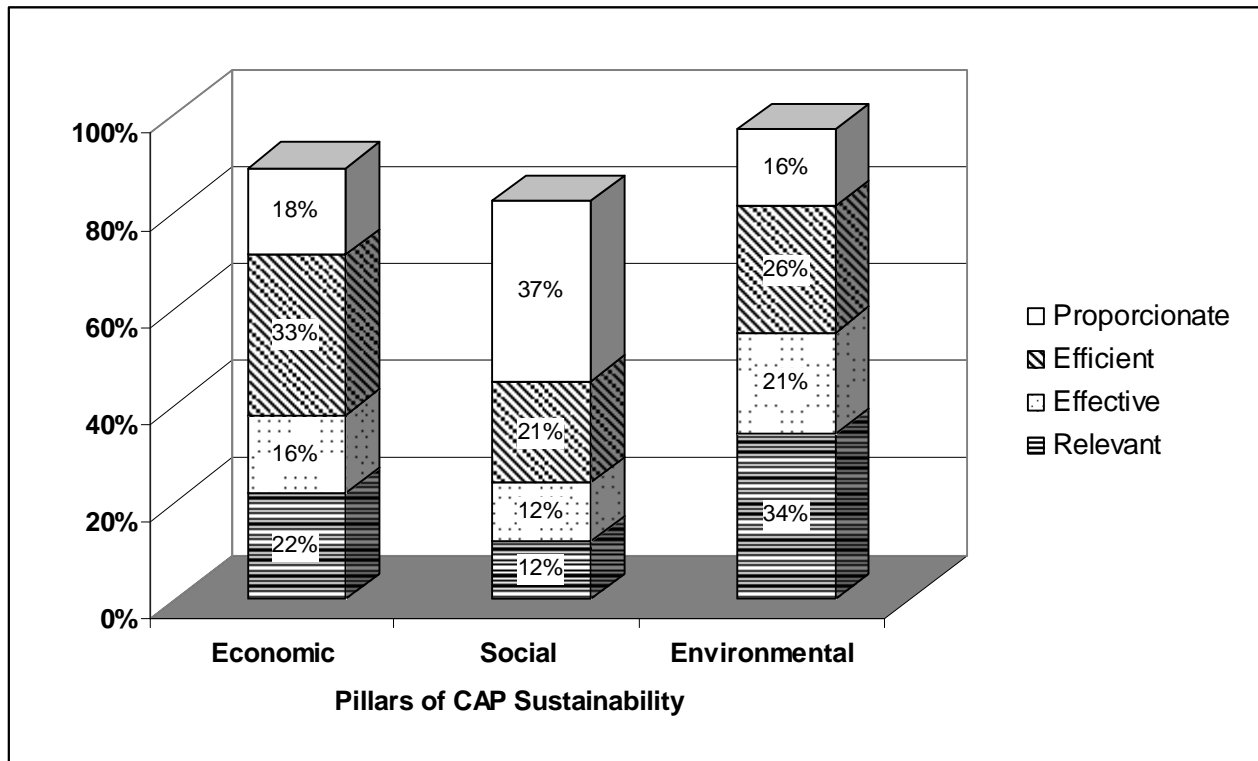
Various factors will influence whether or not farmers comply including: their understanding of the cross compliance requirements and of the consequences of not complying; the rigor of the enforcement regime (control and inspection); and, the cost of not complying (sanctions and penalties).

The efficiency of cross compliance can be judged on the basis of whether it has the intended effects without wasting time, effort or expense and when compared to alternative approaches to achieving the same effects. Early indications suggest that many Member States have found the process of implementing cross compliance to be burdensome in administrative terms [19]. There is however little information available yet on the administrative costs associated with cross compliance. But given that Member States were already required to implement and enforce EU legislation, it is doubtful whether cross compliance will result in any additional costs in the long term. This is more likely to be the case in relation to SMRs than GAEC where, some Member States at least, have introduced completely new measures. It might be argued however that if cross compliance results in more streamlined and co-ordinated inspection and control regimes, there might be cost savings, at least after the initial start-up costs. If this proves to be the case, then cross compliance could become an example of efficient regulation.

Since cross compliance may well impose burdens and costs on individual farm businesses it should be also recognized that these costs are compensated by the payments farmers receive in the form of the SPS. In this respect the cross compliance could be judged as proportionate as it delivers public benefits.

The opinions on cross compliance's sustainability expressed by the panel of Polish experts shows that this measure well responds to the requirements of sustainable development. In overall all three pillars of the sustainability: environmental friendliness, economic viability and social acceptance are balanced by cross compliance (see graph 1). However there are disproportions in recognition of cross compliance as a good regulation for sustainable development.

Taking into account the request to be a proportionate policy cross compliance is balancing the value of the public benefits derived against the burdens and costs imposed on individuals and businesses to the highest extend with regard to social pillar of sustainable development. However the highest relevance of this measure, although the purposes are indirectly defined, is recognized for the environmental pillar. The environmental pillar has also been recognized as an element of sustainable development with the highest effectiveness with regard to cross compliance. On other hand the highest effectiveness of this measure will be shown through the economic pillar, as here the intended effects will be clearly shown without wasting time, effort or expenses.



Graph 1. How cross compliance responds to the requirements of sustainability and good regulation of CAP.

Source: own investigation

Conclusions

This paper took one significant element of the 2003 Luxembourg CAP's reform – the cross compliance measure – and considers it in relation to the development of quality perceived from different perspectives. It asks if cross compliance, and the regulations governing its implementation, are relevant, effective, efficient and proportionate for quality improvement in environmental, social and economic dimensions. It has been shown that however in different proportions the cross compliance measure provides a basis for quality improvement not only in European agriculture and rural areas.

This measure has been recognized as an example of good regulation being a tool for sustainable development of the European Union. Although the social, economic and environmental pillars of this development are well balanced by the cross compliance, the proportion of its relevance, proportionality, effectiveness and efficiency vary across the pillars.

Thus implementation of this measure should be considered as another step forward of the ongoing development of CAP in becoming a more competitive, sustainable and viable sector policy for EU. Taking into account the dynamic nature of the European Union the sustainability of cross compliance needs to be continuously monitored and if necessary adjusted in order to strengthen and facilitate the improvement of quality in Europe.

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