

## Potential impacts of the changes made to CAP Greening in 2017 on Green and Blue Infrastructures: Briefing from the BIOGEA Project

### Introduction

“CAP Greening”, (the addition of environmental measures to Pillar 1 of the European Common Agricultural Policy (CAP)), requires most arable farmers receiving CAP support to manage a percentage of their land as Ecological Focus Areas (EFAs). EFAs give farmers a choice of environmental measures to implement on 5% of their cropped area and should encourage a wider uptake of actions, which benefit biodiversity, water and the climate. Such measures have the potential to improve the provision of Green and Blue Infrastructures (GBIs) and related ecosystem services (ES) in the agricultural landscape. However, greening measures have attracted significant criticism due to the following issues: 1) their environmental ineffectiveness and 2) their administrative complexity.

Two rounds of simplification changes altering the EU laws which govern the implementation of Pillar 1 of the CAP were carried out in 2017. The first, which changed the delegated regulation on direct payments, largely addressed issue 1. The second, which changed the basic regulation on direct payments, was more driven by issue 2. While it is too early to draw conclusions about the impact on GBI, some first considerations of how the changes might affect farmers’ choices are described in this briefing. The **restriction on use of plant protection products on productive EFAs** has the potential to increase the environmental benefits provided by EFAs. On the other hand, **increasing the incentives to plant nitrogen fixing crops** (already the most popular EFA option) and **changes to the definition of permanent pasture** could potentially reduce environmental benefits, depending on how individual farmers react to these incentives.

### BIOGEA Project

This briefing is a product of the project Testing Biodiversity Gain of European Agriculture with CAP greening (BIOGEA) which is supported by the BiodivERsA funding programme. It researches the impact of land use change on Green and Blue Infrastructure (GBI) in the agricultural landscape. The impacts of policy on GBI and GBI on biodiversity and ES are examined through policy analysis on the EU and national level and biological monitoring and modelling in six case study areas in 3 Member States (Germany, Spain and Bulgaria) chosen to represent intensive and extensive landscapes in different biogeographic regions. Project outputs will include advisory tools and policy recommendations for the CAP reform.

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## How does CAP Greening and Environmental Focus Areas (EFAs) relate to GBI?

The term Green Infrastructure (GI) or, where aquatic ecosystems are included, Green and *Blue* Infrastructures (GBI) is defined as follows:

*“a strategically planned **network** of natural and semi-natural areas with other environmental features designed and managed to deliver a **wide range of ES**. It incorporates green spaces (or blue if aquatic ecosystems are concerned) and other physical features in terrestrial (including coastal) and marine areas. On land, GI is present in rural and urban settings.” (European Commission 2013)*

In agricultural landscapes, GBI provision is incentivised by agri-environment measures (supported by CAP Pillar 2) and on a wider scale by Pillar 1 CAP “Greening” (Marsden, Jay 2017). As part of greening, farmers must put in place EFAs i.e. 5% of their arable land (for farms over particular size thresholds) must be declared as EFA and managed consequently. Many GBI features are included within the list of elements which potentially count towards a farmers’ EFA, incentives to maintain GBI therefore exist under greening. Box 1 describes the requirements for EFAs under greening in more detail.

### *Box 1. The pre-existing EFA requirements*

The overarching objective for the establishment of EFAs is ‘to safeguard and improve biodiversity on farms’ (Recital 44 of Regulation (EU) 1307/2013). The requirement is to have at least 5% of the arable land on farms with more than 15 hectares of arable land declared as an EFA.

Member States have to establish a list of the EFA elements from which farmers can choose to meet their EFA obligations. The list can comprise the following elements:

- Land lying fallow;
- Terraces;
- Landscape features, including such features adjacent to the arable land of the holding;
- Buffer strips, including buffer strips covered by permanent grassland, provided that these are distinct from adjacent eligible areas;
- Hectares of agroforestry that receive or have received support from EAFRD in 2007-2013 or 2014-2020;
- Strips of eligible hectares along forest edges;
- Areas with short rotation coppice with no use of mineral fertilizer and/or plant protection products;
- Afforested areas that receive or have received support from EAFRD in 2007-2013 or 2014-2020;
- Areas with catch crops or green cover established by plantation and germination of seeds, on condition that they are established using a mixture of crop species or by under-sowing grass in the main crop;
- Areas with nitrogen-fixing crops, from a list of those such crops which Member States consider to contribute to the objective of sustaining biodiversity.

Each of these elements is subject to different weighting and conversion factors, which are used to adjust the area of the feature and so the extent to which it contributes to achieving the 5% ratio. [e.g. the area of hedge is multiplied by 2, whereas the area of green cover is multiplied by 0.3]. The weighting factors are broadly intended to reflect the relative environmental value of different types of ecological focus area [hedg es are considered more beneficial than green cover]. Member States are required to apply the weighting factors that are less than 1, but can choose whether or not to apply those greater than 1.

There are a range of exemptions including for Member States with large areas of forest and holdings with large areas of grassland, fallow or rice production.

Source: (Alliance Environnement and the Thünen Institute 2017)

## Why were changes to CAP Greening considered?

Since the implementation of CAP “Greening”, a number of reviews have examined its potential impacts on ES. Implementation has been criticised on a number of fronts in terms of the incentives and motivations for selection of particular greening measures by farmers and member states (Ecorys et al. 2016; Alliance Environnement and the Thünen Institute 2017); the environmental benefits likely to be provided by the measures most commonly selected as well as the lack of management requirements attached to those measures (Underwood, Tucker 2016; Pe'er et al. 2016); and the lack of advice provided to farmers or incentives to coordinate their activities (EIP-AGRI 2016). The most recent reviews from the European Court of Auditors (ECA) and a “Fitness Check of the CAP” commissioned by an NGO coalition, criticised the entire intervention logic and justification for Pillar 1 of the CAP and greening (ECA 2017) and the potential for it to provide any support in reaching sustainable development targets (European Union 2016; Pe'er et al. 2017).

One aspect, which has come up repeatedly in the reviews, is that the EFA measures, selected most commonly by farmers from the list provided by Member States, are likely to have the least benefits for biodiversity. The measures connected with agricultural production (nitrogen-fixing crops, catch crops and fallow areas) are significantly more popular but the first two in particular rarely benefit species and habitats (Underwood, Tucker 2016; European Commission 2016). In 2015, the two most popular options on an EU level were Nitrogen-fixing crops (37.5% of the total EFA area) and catch crops (33.2%). In 2016, the picture was very similar with slight increases in the first two categories and decreases in the rest (Figure 1).

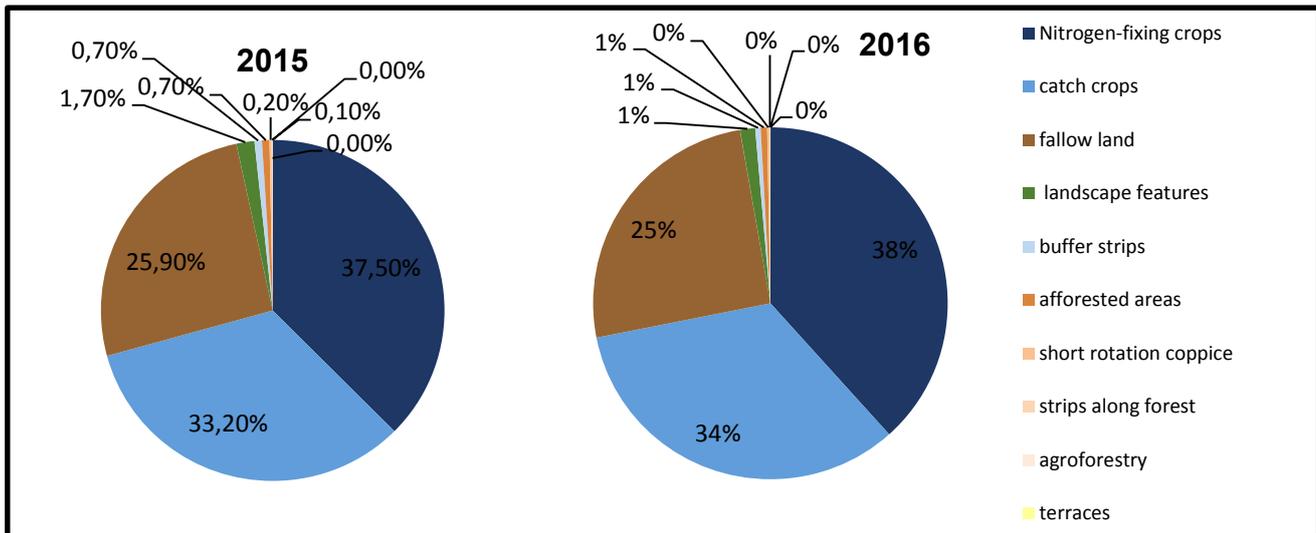


Figure 1. Uptake of EFAs in 2015 across the EU before weighting. (Source: Alliance Environnement and the Thünen Institute 2017)

There is variation between regions and Member States in terms of the measures which the Member States have opened to farmers (see Table 1) and this affects their uptake as shown by the examples from the three BIOGEA case study areas. For example, in Spain, only three options are available. Fallow land and catch crops are clearly the most popular of these. However, even in Bulgaria and Germany where similar options are available, the majority of farmers have chosen just three or four EFA types with fallow, catch crops and nitrogen-fixing crops proving most popular and with variations in uptake Figure 2.

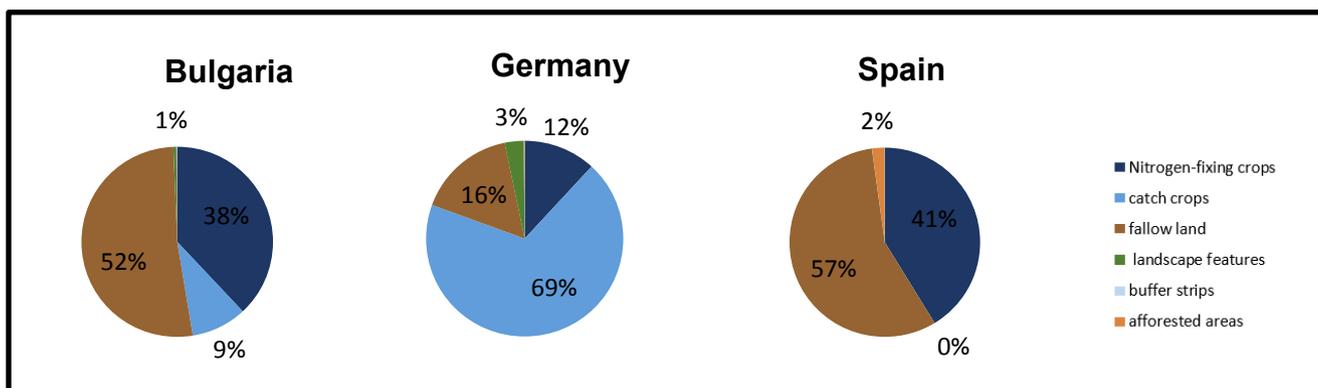


Figure 2. Percentage area of the main EFA types in the BIOGEEA case study countries before weighting (key as figure 1). Source: (European Commission 2017b)

Table 1. EFA Member State choices - EFA measures available in the BIOGEEA case study countries (coloured boxes means the measure is available, lighter colour they were available in 2015-2016 but were withdrawn in 2017)

	Bulgaria	Germany	Spain
Land lying fallow	Dark Green	Dark Green	Dark Green
Terraces	Light Green	Dark Green	White
Buffer strips	Light Green	Dark Green	White
Agroforestry	White	Dark Green	Dark Green
Strips along forest edges	White	White	White
Strips along forest edges no production	Dark Green	Dark Green	White
Short rotation coppice	Dark Green	Dark Green	White
Afforested areas	White	Dark Green	Dark Green
Catch crops/green cover	Dark Green	Dark Green	Dark Green
Nitrogen-fixing crops	Dark Green	Dark Green	White
Landscape features:	Dark Green	Dark Green	White
• hedges/wooded strips	Dark Green	Dark Green	White
• isolated trees	Light Green	Dark Green	White
• trees in line	Dark Green	Dark Green	White
• trees in group/field copses	Dark Green	Dark Green	White
• field margins	Dark Green	Dark Green	White
• ponds / wetlands	Light Green	White	White
• ditches	Light Green	Dark Green	White
• traditional stone walls	White	Dark Green	White

The reasons behind the Member States and farmers decisions vary. Many farmers may be motivated by wanting to change practice as little as possible and not facing additional costs. The complexity of some of the measures has also encouraged farmers to choose the simplest measures with the least risk of being penalised during a control check. Reflecting these criticisms, recommendations for potential changes were summarised in the Commission’s “Review of greening after one year” (see Box 2).

**1) Better specification and/or clarification of what is required from farmers and national administrations, especially as regards landscape features**

Too detailed EFA sub-categories / sub-types to characterise landscape features have led to some confusion and farmers face uncertainties when they need to declare ecological focus areas. Moreover, too many conditions associated to each EFA feature also represent a source of administrative burden for the responsible public authorities when verifying farmers' compliance. Merging certain EFA types such as strips (e.g. buffer strips and field margins) and streamlining certain conditions associated to these EFA types could be a way forward. For farmers, these simplifications would reduce the risk of errors in the declaration. For national administrations, the need for definitions, clarifications and specific checks would be reduced. It should therefore *facilitate the uptake of some landscape features as ecological focus areas and therefore increase their environmental benefits.*

**2) Eliminating some burdensome technical requirements without lowering environmental benefits**

Certain conditions (e.g. management requirements) attached to EFA types have created an extra burden without providing a clear positive impact on the environment. Revisions of certain aspects (e.g. species to be used, allowing more mixtures) could be considered in order to make some EFA types more attractive and increase the environmental improvement. Introducing some flexibility as regards certain geographical criteria and deadlines could also be considered with a view to *preventing undue constraints upon farmers* arising from their inadequacies with respect to the plant cycle and the climatic conditions, especially for green cover or catch crops.

**3) Providing more flexibility or alternative where this increases the environmental and climate benefit of the greening**

Certain eligibility rules for landscape features are fully relevant for the definition of agricultural land, but have been shown to be too restrictive for ecological focus areas, in particular as regards their size and their location in the parcel of land. In such situations, farmers can be reluctant to declare these landscape features because of the risk of possible non-compliance with the fulfilment of the mandatory 5 %. *This reduces the potential biodiversity delivery of ecological focus areas. Certain modifications could be useful to promote other potential landscape features.*

**4) Additional harmonisation of some requirements and conditions**

This first year experience has shown that certain definitions are missing or would benefit from a better specification to better achieve their environmental objective, in particular for EFA types such as land lying fallow, catch crops or green cover. In addition, the potential biodiversity value added of EFA types has to be properly considered in view of favouring the use of the most valuable EFA types by farmers. As regards the method of calculation of EFA areas, *the definition of weighting factors could better reflect the potential to enhance biodiversity of the various features of ecological focus areas.* The modification of these weighting factors could therefore be considered in this respect. The harmonisation of some management requirements may also be needed. In this perspective, *a limitation of the use of inputs on productive EFA areas* could be considered.

## What changes were made and how?

→ Changes adopted in Delegated Regulation (EU) 2017/1155 (European Commission 2017a)

Based on these recommendations, proposals were made by DG AGRI as to how the delegated regulation could be altered. The proposals were adopted in Commission Delegated Regulation (EU) 2017/1155. The main changes reflect the Commission's recommendations and include the following:

- A ban of plant protection products on productive EFAs.
- Specification of the minimum period for the plant cover /minimum duration for some elements such as catch crops and land lying fallow.
- Merging of certain categories and clarifications (e.g. definition/extent of gaps in hedges or wooded strips) and streamlining the associated requirements.
- Increases of the minimum size of certain features.

When these changes were discussed, most debate was focused around the ban of plant protection products which was welcomed by environmental groups such as BirdLife but criticised by farming groups such as COPA COGECA and some parliamentary groups such as the EPP. Indeed, a resolution launched by the EEP Group to reject the Commission's delegated act was supported by 363 MEP, though it did not reach the required majority of 376 votes.

→ Changes adopted within review of EU budget ("Omnibus changes"), Regulation 2017/2393 (European Parliament and Council 2017)

At the same time, a second round of changes were under discussion as part of the CAP simplification process within the review of the multiannual financial framework (MFF), the financial framework for the EU budget. A first review package (the so-called Omnibus regulation) was published in September 2016 and included changes to

all four of the basic CAP regulations. The proposals were discussed by the Special Committee on Agriculture (SCA) and the Agriculture and Fisheries Council. Trilogue discussions between the Council's presidency and representatives of the Parliament and the Commission took place in the second half of 2017 and the SCA endorsed the deal in October. Regulation 2017/2393 was published on 29 December 2017 and came into force on 1 January 2018.

Unlike the amendments to the delegated regulation, there has been little public discussion of the changes introduced by the omnibus regulation. This may be partly due to the fact that the draft regulations were not made publically available and that the regulation itself was published very shortly before it came into force. The changes do however have potential to influence farmer's choices around EFAs:

- The definition of permanent pasture is changed so that Member States can decide whether grassland which is not ploughed for five years should be considered permanent. This is to “neutralise the effect of a recent European Court of Justice judgment, which leads to classify as permanent grassland any temporary grassland after 5 years” (European Commission 2017b).
- The exemptions from having to comply with crop diversification and EFA requirements are extended. Previously farms with more than 75% grassland, fallow or crops under water were exempt but had to comply with requirements if they had more than 30ha of arable land. This 30 ha limit has been removed meaning that very large farms may be exempt from requirements even if they have significant arable areas.
- New EFAs have been added (*Miscanthus*, *Silphium perfoliatum* and land lying fallow for melliferous plants). Weighting factors have been added for these new measures and at the same time the weighting factors for two measures have been changed: for nitrogen fixing crops, the weighting factor has been increased from 0.7 to 1 and for Short Rotation Coppice from 0.3 to 1.

Table 2. Changes introduced through Regulations 2017/1155 and 2017/2393

Aspect changed	Article	Situation before	Change
<b>Changes to deligated regulation 639/2014 (introduced through regulation 2017/1155)</b>			
Crop diversification	40 (1)	The period where the crops are measured should be the most relevant part of the cultivation period (not specified when)	More flexibility to fix the cultivation period at the MS level (the period can be fixed at national, regional or sub-regional level).
Crop diversification	40 (3)	Mixes of seeds considered mixed crops.	Definition of mixed crops also to include small parcels of different crops next to one another.
EfAs – fallow land	45 (2)	Fallow land should not be used for production.	More flexibility to allow use of the land so long as it is kept fallow for at least 6 months fixed by MS
EfAs – measurement of features	45 (4)	Trees in lines and hedges and trees in groups and copses considered as separate features with separate requirements.	Regrouping of landscape features and clarification of the minimum and maximum sizes of features.
EfAs – Buffer strips and field margins	45 (5)	Buffer strips up to 10m in size.	More flexibility for MS to define the type of buffer strips, not just those under cross compliance, an increase of maximum size to 20m.
EFA – strips of eligible land along forest edges	45 (7)	Maximum width of non-productive and productive strips 10m	Increase of the maximum width of non-productive strips to 20m
EFA – catch crops and green cover	45 (9)	Period that the crops are in place should not extend after 1 October.	Minimum period of 8 weeks for them to be in place to be set by MS at national, regional, sub-regional or farm level
EFA – nitrogen fixing crops	45 (10)	Requirement to establish additional management conditions for production methods.	Requirement for management conditions removed. Allow mixtures with other crops.
EFA – agricultural production	45(10a)	No requirement	Clarification of the meaning of agricultural production and exception for biodiversity measures as regards grazing or cutting of buffer strips.
EFA – plant protection products	45 (10b and c)	No requirement	No use of plant protection products on fallow land, green cover, nitrogen-fixing crops and productive strips along forest edges. For N-fixing crops this applies after the main crop has been replaced by the N-fixing crop
<b>Changes to basic regulation 1307/2013 (introduced through regulation 2017/2393)</b>			
Definition of permanent grassland	4.1 (h)	Permanant grassland includes grassland not ploughed for 5 years	The decision on whether grassland not ploughed for five years should be considered permanent grassland can be made by MS.
	4.1 (h)	Definition can include shrubs and trees which can be grazed provided herbaceous forage predominates.	MS can extend the definition of permanent pasture to areas with shrubs and trees which produce animal feed even if these are not directly grazed.
Active farmers	9.3a	No requirement	Member states may decide to exclude from eligibility farmers who are not registered in national fiscal or social security registers
	9.7 and 9.8	MS can exclude farmers whose agricultural activities are a small part of their activities or whose principle activity is not agricultural.	MS do not have to apply the active farmer criteria or can choose to apply just one or two of them. MS can choose to make changes to these definitions annually.
Flexibility between the pillars	14.1	MS can move up to 15% Pillar 1 support to Pillar 2 and 15-25% support Pillar 2 to Pillar 1. They should notify the EC by 01.08.17	Further opportunity for MS to review their decisions on moving payments between pillar 1 and pillar 2 for the year 2019.
Crop diversification	44.2	Exemptions from the % attached to the three-crop requirement if grassland or fallow covers more than 75% of the arable land – requirement is that the main crop should not cover more than 75% of the remaining land.	This is extended to crops under water as well as grassland.
	44.3(a)	Exemption from the crop diversification requirements if 75% of the arable land is used for grass production or is fallow if the arable area is not more than 30 ha	Exemption from the crop diversification requirements if 75% of the arable land is used for grass production or is fallow or is used for leguminous crops (30ha limit removed)
	44.3(b)	Exemption from the crop diversification requirements if 75% of the agricultural area is permanent grassland or crops under water if the arable area is not more than 30 ha.	Exemption from any requirement if 75% of the agricultural area is permanent grassland or crops under water if the arable area (30ha limit removed)
	44.4	Winter crop and spring crop considered to be distinct crops even if they belong to the same genus	Consider Triticum spelta as a separate crop from wheat
EFA	46.2	List of eligible EfAs	Addition of k) areas with Miscanthus; (l) areas with Silphium perfoliatum; (m) land lying fallow for melliferous plants (pollen and nectar rich species)
	46.4a	Exemption from EFA requirements where more than 75 % of the arable land is grass, fallow, leguminous crops, or a combination of these, if the rest of the arable area does not exceed 30 hectares	Exemption from EFA requirements where more than 75 % of the arable land is grass, fallow, leguminous crops, or a combination of these (30 ha limit removed)
	46.4b	Exemption from EFA requirements if more than 75 % of the eligible agricultural area is permanent grassland, grassland or used for the cultivation of crops under water or a combination of these uses if the rest of the arable area is not more than 30ha.	Exemption from EFA requirements if more than 75 % of the eligible agricultural area is permanent grassland, grassland or used for the cultivation of crops under water or a combination of these uses (30 ha limit removed)
	Annex X	SRC weighting factor (w.f.) 0,3; Nitrogen fixing crop w.f. 0.3	SRC weighting factor 1; Nitrogen fixing crop w.f. 1, miscanthus w.f. 0,7, Silphium perfoliatum 0,7, melliferous plants 1.5.

## What are the likely impacts on GBI?

The 2017 changes may have impacts on whether farmers are likely to choose landscape features or productive measures such as nitrogen-fixing crops to make up their EFA area. This may affect the provision of GBI through the EFA area. The changes most likely to have positive or negative impacts on GBI are listed below.

### *Simplification of the measurement requirements for EFA features*

- + Farmers may worry less about controls and may be more inclined to include landscape features in their EFA areas.

### *Restriction on the use of plant protection products on productive EFA measures*

- + Preventing the use of plant protection products on the most popular EFA measures could increase benefits to biodiversity over significant areas.
- + Farmers may be discouraged from including the productive measures such as Nitrogen fixing crops and catch crops in their EFA and chose other measures instead - potentially increase diversity of the EFA measures in place and benefiting biodiversity.

### *Weighting factor for nitrogen fixing crops changed, so that the entire area of nitrogen fixing crop can count towards a farmer's EFA allowance.*

- The attractiveness of this EFA measure for farmers will increase so that more farmers may choose it and farmers who were previously fulfilling their 5% requirement through a mixture of EFA measures, may be able to fulfil it through their area of nitrogen-fixing crops only.
- The overall area of EFA after weighting will appear to increase on the EU level without additional environmental benefits.

### *Definition of permanent pasture changed so that Member States can choose whether grassland not ploughed for five years is considered permanent pasture.*

- + May help to reduce the perverse incentive to farmers to plough grasslands to avoid them being considered as permanent pasture.
- May mean that larger areas can now be ploughed since they are not considered to be permanent pasture.

## Which topics require further exploration?

The impacts of the above changes on the actual uptake of greening measures will not be seen until the figures for 2018 become available. More research into farmers' actions on the ground and the knock-on impacts on biodiversity and ES is also needed. Given that the latest changes became law at the start of 2018, it may be that the change in practice this year is limited. In addition, the decision-making process leading up to the changes particularly to the CAP basic regulation is of interest and could be examined further. Through the detailed examination, of implementation in three Member States (Bulgaria, Spain and Germany), the BIOGEA project will contribute further research to the following aspects:

-  National translation of the CAP regulations in the three case study Member States including how the new options for flexibility have been put in place;
-  Implementation of the EFA measures in the case study areas including interviews with farmers and advisors to examine which measures they are using for what reasons and how they react to the incentives provided by Greening;
-  Examination of the relative impact of the different measures on GBI in the case study areas;
-  Production of briefings and policy recommendations based on these findings.

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