



Comité européen de droit rural –
European Council for Rural Law
– Europäische Gesellschaft für
Agrarrecht und das Recht des
ländlichen Raums

SGAR Schweizerische Gesellschaft für Agrarrecht
SSDA Société Suisse de Droit Agraire
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Congrès européen de droit rural – 11–14 septembre 2013

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COMMISSION II – KOMMISSION II

Cadre juridique du droit de l'environnement pour la production agricole

Legal framework of environmental Law for agricultural production

Umweltrechtliche Rahmenbedingungen für die landwirtschaftliche Produktion

Président – President – Präsident: Maître Jean-Baptiste MILLARD, Avocat au barreau de Paris

Rapporteur Général – General Reporter – Generalberichterstatter: Prof. Dr. Dr. Erkki HOLLO

CONCLUSIONS

The Commission has dealt with the fact that there is a need to balance agricultural production and food supply with the need to comply with legally adopted environmental requirements and international strategies especially in relation to nature conservation and climate change. The present situation in most countries does not allow increasing administrative and judicial control, and the experiences of such control have not been environmentally successful. More efficient monitoring and enforcement are increasingly necessary.

Therefore the Commission emphasizes the need for concrete regulatory measures that are targeted to resolve conflicting situations as precisely as possible. The Commission has taken into

account that states give protection to economic rights and property rights. Large production units are mostly under the obligation to obtain a permit based on the assessment of environmental impacts. The activities of such units, new ones and enlargements, shall be planned and allocated in a way that environmental protection, as for instance sites of protection, groundwater zones and competing modes of production are taken properly into account.

First, operators should consider environmental issues before investments and the application of permits. The Commission sees that a system of prior assessment and a stronger commitment of farmers should apply especially to the use of chemicals, biological and other non-natural substances as well as new production technologies, including GMOs. Whenever possible, recycling of agricultural waste and the use of natural additives should be supported. Some reporters propose that the role of agricultural advisors should be strengthened.

Second, the Commission has estimated that greening of the new CAP brings tools for the reduction and accommodation of harmful environmental impacts but does not reduce the administrative burden. Contractual arrangements should focus on sustainability, and operators should observe cross-compliance obligations. The regulatory control should be supplemented with the principles of precaution and polluter pays, taken into account environmentally relevant liability and sanction rules. Member State implementation measures are diverse. Further research will help to identify and encourage good environmental practices.

Additional guidance could, depending on the administrative system of the states, be obtained by measures of agricultural zoning which may, first, guarantee the availability of rural land and second, restrict the location of intensive activities that cause erosion and biodiversity losses. In addition, the same planning objectives can be reached by appropriate contractual arrangements whereby requirements concerning public participation and assessment of impacts should be taken efficiently into account.