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# Creating markets for ecological compensation



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Which kind of regulation support ecological compensation markets?

# Structure of presentation

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1. Background
2. Criteria for the assessment of the support of regulation
3. Results of assessment
4. How to go forward

# Part 1: Background

# No net loss and net positive impact

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- These two concepts have drawn increasingly attention internationally and nationally
- In many European countries, ecological compensation is seen as one way of implementing these policies
- Finland: experimental project on habitat bank is ongoing

# Mitigation hierarchy



# Ecological compensation - definition

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- Ecological compensation involves measures, such as new habitat creation, which are taken beyond the site boundary that offset the residual impacts
- Incorporating the cost of BD protection into economic activities - polluter pays principle

# Why regulation should support markets?

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- Only rarely an actor causing BD loss owns or govern a site, which could be used for ecological compensation => market transactions are needed to accomplish ecological compensation
- If regulation does not support markets => compensation may be possible in principle but is likely to happen rarely



# Part 2: Evaluation criteria

# Criteria for assessing regulation

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- Effectiveness
    - Responsibilities are clear and enforceable
    - Ecological effectiveness – no net loss / net positive impact
  - Predictability
  - Flexibility
  - Incentive
- Criteria may be conflicting: e.g. increasing flexibility may mean decreasing effectiveness

# Part 3: Results of assessment

# Legislative background

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- No explicit regulation on ecological compensation apart from Natura 2000
- Derogation permit under the Nature Conservation Act may contain provisions on ecological compensation;
- Other laws does not provide suitable legal basis (Water Act as an exception)

# Are there ecological compensation cases?

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- Only few, although the number has recently increased
  - This is because there are more protected habitats
- Key relevant instruments
  - Animal species: Breeding sites or resting places of Annex IV(a) species (the Habitats Dir.)
  - Plant species: Protected habitats important for the survival of a species under strict protection

# Breeding sites or resting places of which animals - examples of key species

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- Flying squirrel
- Moor frog

# Criterion: effectiveness

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- Breeding sites and resting places
  - no satisfactory alternative; not detrimental to the maintenance of the populations at a favourable conservation status; one of other grounds like ‘imperative reasons of overriding public interest’ (Art. 16)
- Protected habitats (strictly protected species)
  - derogation allowed, if the conservation status of the affected species remains favourable

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# Criteria: predictability and flexibility

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- Predictability
  - No rules, no policy => uncertainties
- Flexibility
  - Only like-for-like compensation possible
  - Applicant cannot transfer responsibilities to an market actor, like habitat bank

# Criterion: incentive

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- No incentive for ecological compensation
- Intention of an applicant to compensate or overcompensate does not make the process easier – on the contrary: Administrative burden will increase

# Part 4: How to go forward

# Effectiveness

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- Key question: when effectiveness criterion is in conflict with other criteria
  - Predictability should not be a problem
  - Does the need for increasing flexibility affect effectiveness of regulation?
    - Some changes no: transferring responsibilities
    - Other changes perhaps yes: ‘Like for like’ or other way of measuring what action is full compensation

# Effectiveness: which BD values

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- Part of conservation community is sceptical about ecological compensation and would like to limit its focus:
  - Exclusion of the most important BD values (habitats)
  - Focus on new values, like ecosystem services (flood protection, nutrient load, carbon capture, recreational values)

# Reform would call explicit rules on ...

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- Which BD values or ESS are covered
- Procedural and substantial requirements, including those for compensation plan
- Like-for-like or other principle
- Distance: how far away a compensatory measure can be taken
- Transferring management and monitoring responsibilities to a market actor (habitat bank)
- Incentives, e.g. reduction of administrative burden



Thank you for listening!

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