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The EU Environmental Implementation Review: Common challenges and
how to combine efforts to deliver better results

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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**The EU Environmental Implementation Review: Common challenges and how to
combine efforts to deliver better results**

{SWD(2017) 33 - 60 final}

1. THE NEED TO DELIVER

More than 75% of European citizens find EU environmental legislation necessary for protecting the environment in their country, and nearly 80% agree that the EU institutions should be able to check that environmental legislation is being applied correctly in their country¹.

The EU's environmental policy and legislation bring undeniable benefits: they protect, preserve and improve the environment for present and future generations, and preserve the quality of life of EU citizens. Weak implementation generates high societal, economic and environmental costs and it creates an uneven playing field for businesses. The importance of the correct implementation of the EU's environmental *acquis* is also reflected in the Seventh Environmental Action Programme².

Here are a few examples of what could be achieved if EU environmental requirements were fully implemented:

- full compliance with EU waste policy by 2020 could create an additional 400,000 jobs and an additional annual turnover in the waste management and recycling industries of EUR 42 billion³;
- if existing EU water legislation were to be fully implemented, and all water bodies to achieve a 'good' status ranking, the combined annual benefits could reach at least EUR 2,8 billion⁴;
- the Natura 2000 network delivers estimated gains of EUR 200-300 billion per year across the EU and full implementation of Natura 2000 would lead to the creation of 174,000 additional jobs⁵.

In May 2016, the Commission launched the Environmental Implementation Review (EIR), a two-year cycle of analysis and dialogue to improve the implementation of existing EU environmental policy and legislation⁶. The EIR complements ongoing implementation efforts such as ensuring compliance and infringement procedures. It offers a coherent framework to tackle common implementation challenges and will contribute to achieving the Sustainable Development Goals.

This Communication is accompanied by an Annex and 28 EIR country reports. These describe the main challenges and opportunities on environmental implementation for each Member State⁷, based on the distance between the EU legal obligations and policy agreements, and the reality on the ground. The factual information included in the reports has been verified with the Member States.

This Communication also identifies challenges that are common to several Member States and provides preliminary findings on possible root causes of implementation gaps. Addressing these challenges will help remove obstacles to implementation, focus investments, reduce the number of legal procedures against Member States, create green jobs and, most of all, contribute to a better quality of life.

¹ European Commission (2014): Special Eurobarometer 416, p. 26.

² OJ L 354/171.

³ European Commission, 2011. *Implementing EU legislation for Green Growth*.

⁴ European Parliamentary Research Service, 2015. Water Legislation: Cost of Non-Europe Report.

⁵ European Commission, 2013. [The Economic benefits of the Natura 2000 Network](#).

⁶ COM (2016) 316 final.

⁷ Climate change, industrial emissions, and chemicals are not part of this first round of the EIR.

Tackling structural challenges requires a holistic approach across sectors, beyond the environmental policy community, through technical cooperation but also political involvement. The EIR offers a new opportunity to raise attention to the remaining environmental implementation gaps among all key national and local players as well as among the Council, the European Parliament, the Committee of the Regions and the Economic and Social Committee.

2. THE STATE OF IMPLEMENTATION: COMMON CHALLENGES, COMMON OPPORTUNITIES AND POINTS OF EXCELLENCE

The country reports⁸ show that the main challenges and most pressing implementation gaps across Member States are found in the policy fields of waste management, nature and biodiversity, air quality, noise and water quality and management.

Circular Economy and Waste management

Waste management cannot be seen in isolation from the transition to a circular economy, which is not only an environmental objective but also affects how we produce, work, buy and live. The Commission is implementing the 2015 Circular Economy action plan⁹ and has urged swift adoption by the European Parliament and by the Council of the proposals to review waste legislation. All Member States have started work in this field but several are frontrunners and have adopted national or regional circular economy plans (e.g. the Netherlands, Belgium) or integrated them in other policies (e.g. Germany, France). Around 20 Member States have adopted schemes to make the goods and services they purchase (through public procurement) more sustainable. Such measures are key to truly "close the loop", going beyond waste management to cover the whole life-cycle of a product.

Under the EU "waste hierarchy" the priority is prevention, followed by (preparing for) reuse, recycling, recovery and, as the least preferred option, disposal (which includes landfilling and incineration without energy recovery). The most relevant indicators to assess compliance with EU requirements on waste are the mandatory landfill and recycling targets, as well as the existence of up-to-date plans for prevention and management of waste.

This first edition of the EIR country reports focuses on the management of municipal waste for which EU legislation set recycling targets for 2020. Management of municipal waste is crucial for our health and wellbeing, but has posed problems in many Member States.

Policy findings:

- *Waste prevention remains an important challenge in all Member States, including those with high recycling rates. Eight Member States produce at least twice as much municipal waste per inhabitant than a Member State with the lowest waste generation. Decoupling of waste production from economic growth is a pertinent goal within the wider context of the circular economy agenda.*
- *Based on the most recent ESTAT data, six Member States have already reached the municipal waste recycling target of 50%, while nine countries need to step up their efforts significantly to reach this target by 2020. The Commission is planning to follow-up on the status of compliance with the 2020 targets in an 'early warning' report*

⁸ The EIR is mainly based on information contained in the latest reports sent by national authorities. The latter may be in possession of more recent data. This was reflected in the reports whenever possible.

⁹ COM (2015) 614 final.

in 2018. Six Member States have not managed to limit the landfilling of biodegradable municipal waste (50% by 2009).

- *Drawing up of national waste management plans and waste prevention programmes is required by the Waste Framework Directive. It is also a precondition for cohesion policy funding in 2014-2020. Most Member States have waste prevention programmes in place but two Member States are missing them. One Member State does not have a national plan on waste management in place and five Member States miss at least some regional plans.*
- *Around half of the Member States have to increase effectiveness of separate waste collection, which is a prerequisite for improving recycling both as regards quantity and quality. Another issue is the inappropriate pricing of residual waste treatment (mechanical and biological treatment, landfilling and incineration) which does not provide sufficient incentives to push waste towards the higher levels of the waste hierarchy. This is coupled with the insufficient use of other market-based instruments, such as extended producer responsibility or "pay-as-you-throw". A better use of public procurement rules can lead to more cost-efficient solutions.*
- *In five Member States, lack of coordination between the different administrative levels and fragmented governance of environmental issues have been identified as a cause of insufficient implementation. However there are other governance issues (lack of legal enforcement, lack of capacity to manage large investment projects, unreliable data, or insufficient control and monitoring) which appear to contribute to the waste implementation gap.*

Successful practices:

Slovenia provides a good example of how to improve waste management in a relatively short time frame. Ljubljana has been rated as the best EU capital in terms of coverage and effectiveness of separate collection. Within 10 years, with the support of EU funds, the Slovenian capital decreased the amount of municipal waste sent to landfill by 59% and reduced the municipal waste generation by 15%¹⁰.

Ireland offers a useful example with its major reform of the waste sector, closing illegal landfills and financing extensive clean-up and remediation works. The reforms were carried out in close cooperation with the Commission, resulting in a system that ensures a high level of compliance with EU waste legislation.

Nature and biodiversity

Biodiversity is the extraordinary variety of ecosystems, habitats, and species that surround us. It gives us food, fresh water and clean air, shelter and medicine, mitigating natural disasters, pests and diseases and contributing to regulating the climate. Biodiversity is therefore our natural capital, delivering ecosystem services that underpin our economy. The EU Biodiversity Strategy¹¹ seeks to halt the loss of biodiversity and ecosystem services and restore them as far as possible by 2020.

¹⁰ Study by BiPRO, *Assessment of separate collection schemes in the 28 capitals of the EU*, November 2015.

¹¹ COM (2011) 244 final.

The Habitats and Birds Directives require Member States to designate sites as part of the Natura 2000 network, in order to protect habitats and species of Community interest. This network is an essential tool to meet the goal of "favourable conservation status". Following a thorough Fitness Check¹², the Commission concluded in December 2016 that the Directives are fit for purpose, but that the full achievement of their objectives will depend on substantial improvement in their implementation. This conclusion is also mirrored by the policy findings below.

For land ecosystems, the most frequently reported pressures and threats to biodiversity are non-sustainable agricultural practices, the modification of natural conditions, and pollution. For marine biodiversity, these pressures are unsustainable fishing and harvesting of aquatic resources, modification of natural conditions, climate change and ocean acidification, pollution by chemicals, plastics and noise.

Policy findings:

- *The assessment of the 28 EIR country reports reflects the findings of the State of the Nature 2015 report prepared by the European Environmental Agency¹³, i.e. the overall status of protected species and habitats has not significantly improved over the last six years. Across the EU, more than three quarters of the habitats assessments indicate an unfavourable conservation status and a significant proportion is continuing to deteriorate. As regards non-bird species, 60% of EU level assessments indicate an unfavourable status. The status of 15 % of all wild bird species is near threatened, declining or depleted and another 17% are threatened.*
- *While there has been progress in many areas and there are local success stories, there are significant gaps in implementation, financing and policy integration. At the current rate of efforts, biodiversity loss would continue in the EU with potentially serious consequences for the capacity of natural ecosystems to provide for human needs in the future.*
- *Only seven Member States¹⁴ have (almost) completed the designation of "Sites of Community Interest" under the Habitats Directive. 17 Member States have designated most sites on land but there are insufficiencies in the marine component of their network. The remaining four Member States have insufficiencies both on land and sea.*
- *Systemic issues causing poor implementation of the Nature Directives are the absence of management plans for Natura 2000 sites or their management. The country reports provide evidence for three Member States that are struggling with applying appropriate assessment procedures to determine the effect of new plans and projects on Natura 2000 sites.*
- *Furthermore, a lack of knowledge on species, habitats and sites is one of the major obstacles to effective implementation in most of the Member States, including with regards to marine ecosystems.*
- *Further issues are a lack of adequate funding, a lack of human resources and poor involvement and engagement of local communities and stakeholders such as landowners and land users.*

¹² SWD(2016) 472 final.

¹³ <http://www.eea.europa.eu/publications/state-of-nature-in-the-eu>

¹⁴ http://ec.europa.eu/environment/nature/info/pubs/docs/nat2000newsl/nat40_en.pdf

Successful practices

France has developed an effective participatory approach for the management of its Natura 2000 network, which has also created several hundred jobs. The *French Green and Blue Trails* (TGB)¹⁵ provide a planning tool used by the regional and local levels to establish coherent ecological networks.

Thanks to an extensive range of Natura 2000 sites restoration measures carried out since 2003 in the frame of six coordinated LIFE projects covering several thousands of hectares of peat bogs and wetlands in the Belgian Ardennes¹⁶, the Belgian authorities were able to report, in 2013, significant positive trends in the conservation status of a dozen different habitat types and associated species protected by the EU Habitats Directive¹⁷.

Estonia has provided one of the most complete integrated planning frameworks for the financing of Natura 2000 sites from different EU funds. Estonia presented a comprehensive priorities action framework¹⁸, including conservation priorities, measures needed to achieve improvement of conservation status of the protected habitats and species, and related financing needs, together with a thorough analysis of financing opportunities.

The Netherlands is a leader in the area of natural capital accounting. It has finalised a large natural capital programme¹⁹ providing evidence on how the concepts of natural capital and ecosystem services can be integrated into decision-making in different domains, such as agriculture, flood defence and international trade. The Netherlands also tested local level ecosystem accounts. NGOs, companies and governmental organisations have agreed to collaborate on the valuation of natural and social capital.

Air quality and noise

The EU has adopted and regularly updated a body of legislation²⁰ on ambient air quality aimed at protecting both the environment and human health, by establishing binding standards and objectives for a number of air pollutants²¹. As a result, up-to-date information on ambient air quality is routinely made available to the public and excessive air pollution levels are being tackled through air quality plans setting out practical measures. In addition, the National Emission Ceilings Directive provides for emission reductions at national levels so that citizens do not suffer from bad air quality caused by the emissions of the neighbouring Member States.

Given the harmful effect of air pollution on human health (estimates of the health impacts attributable to exposure of air pollution indicate that in the EU-28 NO₂, O₃ and PM_{2.5} concentrations were responsible for 68,000, 16,000 and 436,000 premature deaths

¹⁵ <http://www.trameverteetbleue.fr/>.

¹⁶ <http://biodiversite.wallonie.be/fr/meta-projet-life-de-restauration-des-tourbieres-de-haute-ardenne.html?IDC=5778>.

¹⁷ <http://biodiversite.wallonie.be/fr/resultats-du-rapportage-article-17-au-titre-de-la-directive-92-43-cee-pour-la-periode-2007-2012.html?IDD=4237&IDC=5803>

¹⁸ Natura 2000 prioritised action frameworks are important planning tools to strengthen the integration of Natura 2000 financing into the use of relevant EU financial instruments.

¹⁹ <http://www.atlasnatuurlijkkapitaal.nl/en/home>

²⁰ European Commission, 2016. *Air Quality Standards*, <http://ec.europa.eu/environment/air/quality/standards.htm>

²¹ Major primary pollutants produced by human activity include PM₁₀ which is a mixture of fine aerosol particles (solid and liquid) covering a wide range of sizes emitted from many anthropogenic sources, including combustion, and chemical compositions and NO_x, which is emitted during fuel combustion e.g. from industrial facilities and the road transport sector. NO_x is a group of gases comprising nitrogen monoxide (NO) and nitrogen dioxide (NO₂).

respectively in 2013)²², the Commission remains concerned about the overall pace of progress in achieving the limit values set by EU legislation in Member States.

Policy findings:

- *Air quality in the EU has improved over the past few decades as regards several pollutants, but more needs to be done with regard to PM₁₀ and NO₂. Five Member States have no exceedances of limit value and air quality is reported to be generally good with some exceptions. However, 16 Member States are facing legal action for exceeding PM₁₀ limit values, and 12 Member States for NO₂ exceedances as well as for lack of effective measures taken at national level.*
- *The PM₁₀ pollution can be caused by a wide range of sources (e.g. domestic heating, industrial emission, agriculture, traffic). To reduce PM emissions from domestic heating, measures addressing solid fuel burning need to be implemented 18 Member States. This practice has already been banned in some cities suffering from high levels of air pollution. Industrial sources should be tackled by permits that could go beyond the best available techniques. In addition, agricultural waste burning continues to lead to particulate matter pollution in some areas, and needs to be addressed.*
- *Measures to achieve NO₂ compliance have to target diesel vehicles in particular e.g. by introducing progressively stringent low emission zones in inner city areas or by phasing out preferential tax treatment. Transport demands in general should be addressed through the implementation of strategic urban mobility plans.*
- *Excessive noise is the second-worst environmental cause of ill health behind only ultra-fine particulate matter air pollution²³. The EU acquis sets out several requirements, including assessing the exposure to noise through mapping and drawing up action plans to address causes of noise. For the current five-year reporting cycle, more than 30% of the required noise maps and around 60% of the action plans are missing.*

Successful practices:

Many European cities have introduced low emission zones which limit the circulation of certain vehicle categories depending on their respective emission potential. In many cases these have proven to be successful²⁴: for example the 'Air Quality Plan for Berlin 2011-2017' estimated that by implementing a low emission zone in 2008, transport emissions were reduced significantly and as a result 10 exceedance days of the daily limit value of PM₁₀ were avoided in the year 2010. The estimates also indicated that NO₂ pollution for that year was reduced by about 5% and pollution from traffic related soot particles along roads by more than half²⁵.

²² EEA, 2016. [Air quality in Europe 2016 report](#).

²³ EEA, [Noise in Europe 2014](#) citing WHO p. 6.

²⁴ For low emission zones to unfold their full potential they need to target the main air pollution sources, provide traffic access restrictions for all but low emission vehicles and be updated to reflect evolving emission standards.

²⁵ [Luftreinhalteplan 2011 bis 2017 für Berlin](#) / [Air Quality Plan for Berlin 2011-2017](#)

Water quality and management

The main objective of EU water policy and legislation²⁶ is to ensure good quality water in sufficient quantity for the public, economic activities and nature by addressing pollution sources (from e.g. agriculture, urban areas and industrial activities), physical and hydrological modifications to water bodies and the management of risks of flooding.

The acquis requires Member States to adopt River Basin Management Plans (RBMPs) as an essential means of achieving in a coherent manner the protection, improvement and sustainable use of the water environment across the EU. More specific obligations include: the collection and treatment of waste waters before discharging them; the adoption of plans to protect water quality by preventing nitrates from agricultural sources polluting ground and surface waters; the adoption of Flood Risk Management Plans; the adoption of marine strategies to achieve good environmental status of marine waters by 2020.

The most common pressures on water quality are pollution from agricultural activities and industry, followed by poor flow regulation and morphological alterations, weak river management and illegal or excessive water abstraction.

Policy findings:

- *In one third of the Member States more than 50% of all natural surface water bodies have good or high ecological status. However, in five Member States less than 20% of water bodies have a good ecological status. As regards groundwater bodies, they have a good quantitative status in 13 Member States. In 10 Member States, 70-90% of all groundwater bodies have a good quantitative status and in five countries the figure is between 20-70%.*
- *All first generation RBMPs have some or significant deficiencies, mostly regarding monitoring and methods for assessing and classifying the status of water bodies. All Member States rely on exemptions allowing extension of deadlines. Many allow new projects that are detrimental to achieving good status of these water bodies, without giving always proper justification. The Commission has issued recommendations to Member States to address these deficiencies and close these gaps in the second RBMPs. These were included in action plans to fulfil preconditions for receiving European Structural and Investment Funds (ESIF) for water infrastructure investments.*
- *Five Member States have not yet adopted any of their second generation RBMPs, due by end 2015, and in three Member States the adoption is not complete yet²⁷.*
- *Root causes include ineffective control measures, a lack of coordination between water management authorities at different regional or local levels, a lack of cooperation between water and nature governance bodies, but also with authorities competent for other sectors, and lack of access to data. Another common challenge in the water sector concerns inadequate water pricing policies.*
- *Although implementation of the Nitrates Directive has led to some improvements, nitrates concentrations and eutrophication levels remain a serious issue in*

²⁶ This includes the [Bathing Waters Directive \(2006/7/EC\)](#), the [Urban Waste Water Treatment Directive \(91/271/EEC\)](#), the [Drinking Water Directive \(98/83/EC\)](#), the [Water Framework Directive \(2000/60/EC\)](#), the [Nitrates Directive \(91/676/EEC\)](#) and the [Floods Directive \(2007/60/EC\)](#).

²⁷ The EIR country reports could not reflect the progress achieved in the new RBMPs, still under assessment.

nearly all Member States. Eutrophication of the Baltic Sea, mainly due to intensive agriculture practices, is particularly problematic.

- *On drinking water quality, almost all Member States have very high compliance rates. In three Member States only there are local quality problems and certain areas are missing appropriate infrastructure.*
- *On bathing waters, 96% of all sites meet the minimum quality requirements set out in the EU's Bathing Water Directive ('i.e. they are of 'sufficient quality'). Many Member States reach higher quality standards: in eight of them, more than 90% of all bathing waters were of excellent quality in 2015. In 11 Member States the share of bathing sites with excellent quality is above the EU average of 84.4%.*
- *Six countries have excellent compliance rates on collection and treatment of urban wastewater, but most Member States struggle to reach full implementation and so far 13 face EU legal action. Closing the implementation gap by building up the necessary infrastructure requires good governance structures, adequate planning, and coordination to secure funding (substantial EU funds have been made available).*
- *Despite the 2015 deadline, as of the end of November 2016, only 18 Member States have reported information on their 2015 Flood Risk Management Plans.*
- *All Member States having marine waters still have gaps in implementing the Marine Strategy Framework Directive, starting with the definition of good environmental status. Most Member States' monitoring programmes will not be fully operational before 2018 or even 2020, which would lead to information gaps in the next assessment of their marine waters, due in 2018. By March 2016, Member States were due to adopt programmes of measures that provide the core actions that will give their marine waters good environmental status. However, 10 Member States have not yet done so.*

Successful practices:

Good practices can among others be found in Cyprus in relation to water inspection within the enforcement programme on agricultural abstractions using satellite photography and onsite inspections²⁸. This is noted as a model for possible future enforcement work.

Finland is implementing a large scale LIFE integrated demonstration project (FRESHABIT)²⁹, involving different sectors, to develop new methodology and indicators for assessing the conservation status of freshwater habitats and to improve the ecological status, management and sustainable use of freshwater Natura 2000 sites. The project will enhance capacity building inter alia by setting up coordination structures and also develop new model frameworks to facilitate long-lasting results.

²⁸ [Comparative study of pressures and measures in the major River Basin Management Plans](#), 2012

²⁹ http://ec.europa.eu/environment/life/project/Projects/index.cfm?fuseaction=search.dspPage&n_proj_id=5437

Enabling tools

Market-based instruments and investments

Fiscal measures, such as environmental taxation and the phasing out of environmentally harmful subsidies offer an effective and efficient way of achieving environmental policy objectives. While it is for each Member State to set up its taxation system, the Commission has explored the potential of environmental taxation per country in the context of the European Semester.

Making good use of the EU funds is also important to achieve the environmental goals and improve the integration of environmental requirements into other policy areas. The analysis in the country reports will support further exploration of how to put in place the right conditions to ensure adequate funding, and how to address environmental externalities through the use of green public procurement and other EU market-based instruments and investment opportunities.

Policy findings:

- *The country reports show that the percentage of environmental tax revenues of total revenues varies from 10.61% to 4.57 %, the EU average being 6.35%. Member States need to explore the full potential of environmental taxation (including on waste landfilling, water abstraction and fuel efficiency) to harvest environmental, economic and social (jobs) benefits.*
- *Specific environmentally harmful subsidies, such as preferential tax treatment for certain fuels and tax advantages for privately used company cars, which impede progress in tackling traffic congestion and air pollution are still in place in many countries and need to be phased out.*
- *Within the ESIF 'environmental protection and resource efficiency' constitutes the highest allocation area in the 2014-20 period in 12 Member States, but the available EU funding opportunities for environmental objectives should be used by Member States without delay.*

Successful practices:

Since the 1990s several Member States have established environmental tax committees opening up debates on possible options for tax-shift. This is a first but essential step in assessing the potential for such reforms within the national context. A recent example is Portugal, where some recommendations of the Commission for Green Tax Reform have been adopted by Parliament.

Spain, Italy, Greece and Poland have set up networks of cohesion policy managing authorities to promote environmental integration into the use of the EU financing.

Effective governance and capacity to implement rules

Effective governance of EU environmental legislation and policies requires an appropriate institutional framework, policy coherence and coordination, applying legal and non-legal instruments, engaging with non-governmental stakeholders, having adequate levels of knowledge and skills, and last but not least, strategic plans.

Policy coherence includes ratifying international environmental agreements concluded by the Union to address transboundary and global challenges. Delayed ratification by several Member States compromises environmental implementation, the Union's strength in related negotiations, and its credibility in advocating action by third countries.

Ensuring compliance with EU-derived environmental rules by economic operators, utilities and individuals depends on the effectiveness of a range of public authorities, including environmental inspectorates, police, customs, prosecution services and audit bodies, several of which share knowledge and practice in pan-European networks of practitioners³⁰. Good practice has moved towards a risk-based approach in which the best mix of monitoring, promotion and enforcement is directed at the most serious compliance problems. Further cohesion policy offers a wide range of capacity-building tools, including the PEER 2 PEER tool for exchange of expertise between public authorities³¹.

EU environmental legislation confers a range of substantive and procedural rights to citizens which need to be upheld by national courts on the basis of environmental access to justice. The good functioning of national justice systems is crucial for achieving the objectives of EU law, including in the field of environment³².

Electronic data-sharing between public authorities under the INSPIRE Directive³³, can help Member States to report on the environment more efficiently, and facilitate complex implementation tasks such as flood prevention, which depend on good use of topographical, hydrological, meteorological and other information.

Policy findings:

- *Sustainable development strategies exist in many Member States, including at regional level, although in some cases these are not updated. Less common are comprehensive national or regional environmental policy plans.*
- *Most Member States have established co-ordination mechanisms to improve effective cooperation between different governance levels. Ineffective enforcement and fragmentation of responsibility for the environment at regional level have been identified in a few Member States, and incorrect transposition of EU legislation at regional level remains a concern in several Member States. Regulatory impact assessment is deployed in many Member States, while some have streamlined the environmental assessment procedures where more than one EU directive is involved³⁴.*
- *Participation in existing networks of practitioners remains patchy. Information about how Member States ensure environmental compliance is incomplete, in particular on diffuse water pollution, urban air pollution, threatened habitats and species and the lack of or sub-standard waste-water treatment plants and collection systems. More information is needed on how both national and the EU level to ensure that rules are met.*
- *In some Member States there continue to be obstacles to access to justice in*

³⁰ European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL); European Network of Prosecutors for the Environment; the network of police officers specialised on combating environmental crime, the European Forum of Judges for the Environment, and the European Network of Environmental and Managing Authorities.

³¹ http://ec.europa.eu/regional_policy/p2p

³² The effectiveness of national justice systems is addressed by the EU Justice Scoreboard and the European Semester (https://ec.europa.eu/info/sites/info/files/european-semester_thematic-factsheet_effective-justice-systems_en.pdf).

³³ Directive 2007/2/EC.

³⁴ Streamlining is mandatory for the EIA and the Habitats Directive; as regards the EIA and other environmental assessments, the Commission encourages Member States to use the options available to simplify procedures. See Commission guidance (OJ C 273, 27.7.2016).

environmental matters, whether related to the excessive costs of litigation or restrictive rules on who can bring a legal challenge.

- *In most Member States, data-sharing has not progressed as much as the INSPIRE Directive intended, and Member States need to step up efforts if they are to derive the full benefits of the Directive's potential.*

Successful practices:

The Irish Environmental Protection Agency has developed a Licencing, Monitoring and Assessment system (LEMA) to enable officials to electronically manage, analyse, share and use the data they collect from the holders of industrial permits and through inspections, including for the planning of future work³⁵. The Agency also co-ordinates a national compliance and enforcement network³⁶ aimed at ensuring a high level of consistency in compliance assurance work across more than thirty local authorities.

A risk-based methodology for planning inspections and other compliance assurance activities developed by the *Land* of North Rhine-Westphalia (Germany) has been taken up in several Member States, thanks to the work of IMPEL, the European network of environmental inspectorates.

The Flemish Region in Belgium³⁷ and the Spanish Environmental Prosecution Office³⁸ produce annual reports and analysis of environmental inspections and prosecutions, helping to inform the public and providing statistics for evaluation of compliance assurance work.

Scotland's Environment Web³⁹ and the Dutch National SDI (PDOK)⁴⁰ for spatial data infrastructure are exemplary in making free spatial data available to the public in line with the INSPIRE Directive.

3. COMMON ROOT CAUSES: FIRST FINDINGS

Solving environmental implementation gaps requires more than examining the fulfilment of EU policy and legislation. The EIR provides a new opportunity for national authorities and the Commission to have a closer look at underlying root causes for poor implementation. The country reports show that there are root causes common to several Member States⁴¹.

This first EIR exercise includes only a preliminary assessment of these root causes. To endorse country-specific solutions, more detailed evidence is needed. In order to improve knowledge in the next EIR reports, the Commission will need feedback from the Member States, in particular through the national dialogues which will follow the publication of the country reports.

³⁵ <http://www.epa.ie/pubs/reports/enforcement/>.

³⁶ Network for Ireland's Environmental Compliance and Enforcement or 'NIECE'.

³⁷ <http://www.vhrm.be/english>

³⁸ https://www.fiscal.es/fiscal/publico/ciudadano/fiscal_especialista/medio_ambiente/documentos_normativa/

³⁹ <http://www.environment.scotland.gov.uk/>

⁴⁰ <https://www.pdok.nl/en/about-pdok>

⁴¹ The identified challenges match findings on structural governance issues identified in the context of the European Semester, in the OECD Environmental Performance Reviews and in a recent IMPEL survey: <http://impel.eu/wp-content/uploads/2015/07/Implementation-Challenge-Report-23-March-2015.pdf>

Policy findings on the main common root causes identified so far:

- ***Ineffective coordination among local, regional and national authorities:*** *This can be an obstacle to implementation in Member States. For example, the responsibilities on monitoring water quality are often dispersed among different authorities without sufficient coordination.*

Three examples of policy sectors which require strong integration:

Air – Mobility: The impact of transport on air quality and the related environmental, economic and social (including health) costs require environmental authorities, mobility planners, urban planners and economic sectors to work together on a more sustainable concept of mobility, including cleaner vehicles and better transport modality and addressing traffic congestion.

Water – Nature - Food: The way our food is produced and consumed influences water quality and management, the related environmental, economic and social costs, as well as nature and biodiversity. A sustainable food system is therefore needed. At the same time, agriculture needs water of good quality and of sufficient quantity to fulfil its purposes.

Nature – Rural land use – Urbanisation: Pressure on nature and biodiversity is caused by both rural and urban land use. On the other hand, nature and biodiversity keep rural areas attractive for various types of land use such as tourism and recreation, ultimately contributing to the economy citizens' wellbeing.

- ***Lack of administrative capacity and insufficient financing:*** *In some countries, a lack of financial and human resources poses an obstacle to implementation, as this prevents the authorities from preparing and implementing investment projects. Even when financing is available, local authorities sometimes lack the human resources and/or the know-how for organising public procurement and monitoring the quality of the service provided. For example, in the area of nature protection, the lack of capacity has resulted in the inability to carry out and monitor necessary management and conservation measures.*
- ***Lack of knowledge and data:*** *A lack of (access to) data and unreliable data causes implementation problems in many Member States. For example, a lack of knowledge and data on species and habitats hinders their effective protection.*
- ***Insufficient compliance assurance mechanisms:*** *The analysis demonstrates that there are often concerns over compliance monitoring and enforcement, including through effective and proportionate sanctions.*
- ***Lack of integration and policy coherence:*** *The analysis shows that a lack of integration of environmental concerns into other policy areas constitutes a root cause for poor implementation, such as illustrated in the air-mobility nexus referred to above.*

4. THE WAY FORWARD

The country reports, this Communication and the guidance provided in the Annex, should form a basis for Member States to address common implementation challenges, in collaboration with, local and regional authorities and stakeholders, as well as with other Member States.

The Member States are responsible for closing the implementation gaps and the Commission will support and accompany these endeavours. The table in the Annex brings together all actions the Commission suggests to the Member States in the country reports to improve the delivery of EU environmental policy and legislation. In the country reports these suggestions have been put in their wider context and, where needed, explained.

The Commission will carry on the **ongoing efforts** to improve implementation by targeted enforcement action at EU level and to co-finance environmental investments using the EU funds. In 2017, the Commission will provide guidance on how to promote, monitor and ensure environmental compliance. To facilitate judicial action by citizens and environmental NGOs, an interpretative communication on access to justice in national courts on environmental matters will help increase the effectiveness of remedies in case of non-implementation.

The Commission will also explore with Member States and the European Environment Agency how to strengthen policy knowledge and to better target it to the specific requirements of EU environmental *acquis*. To do so, the Fitness Check on Environmental Monitoring and Reporting will help develop a more effective and efficient monitoring and reporting system. In addition, the Commission will take steps to ensure that research and innovation policies support the development of new tools and business models, including indicators and ways to monitor effectiveness.

The country reports identified that inefficiency of public administrations is an important root cause for poor implementation, which deserves special attention. It is analysed in the context of the European Semester and is an investment priority in the ESIF Funds. In addition, in 2015 the Commission published a Toolbox for practitioners⁴². The Commission intends to further deepen, together with the Member States, the knowledge about public administration quality and governance when it is a root cause of weak environmental implementation.

In addition to these ongoing initiatives, and without prejudice to its enforcement powers under the EU Treaties, the Commission offers to facilitate the Member States' efforts through a **new dedicated framework**:

Policy proposals:

- 1. Setting up a structured implementation dialogue with each Member State:*** The purpose is to reflect on how to address the structural issues and the needs of the respective Member State. The dialogues should focus on delivering concrete action. Transparency and wide participation of relevant stakeholders from different sectors and different levels of administration is essential.
- 2. Providing tailored support to Member States' experts directly by their peers in other Member States:*** Peer exchange is an important means to improve mutual learning and expertise and to make sure that tested solutions are passed on to others. The Commission

⁴² <http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7757>

is establishing a corresponding tool for the Member States under the EIR.

- 3. *Discussing common structural issues in the Council in order to improve the implementation of the EU's environmental rules:*** *The key findings and guidance of the EIR should be the subject of strategic discussions both at national and at EU level, with a view to further the implementation of EU environmental rules and to speed up meeting their objectives. Member States should be able to exchange views in the Council about common challenges, in particular where they have cross-border impacts. Connected issues should be examined as a whole with a view to identify the best solutions accommodating the legitimate interests of all sectors involved, in line with the shift from sectoral approaches to holistic solutions, encouraged under the Sustainable Development Goals⁴³. Implementation problems arising from a lack of clarity, coherence or consistency in EU policy and legislation could also be addressed in this context. Stakeholders such as NGOs, businesses and research as well as the European Parliament should be involved where appropriate.*

After the country dialogues in 2017, the Commission will evaluate the first EIR cycle, taking on board the comments from Member States and other players. It will then incorporate the lessons learned into the upcoming cycles.

⁴³ "Nexus approach" referred to in the Communication from the Commission, *Next steps for a sustainable European future European action for sustainability*, [SWD\(2016\) 390 final](#).