

ROADMAP			
TITLE OF THE INITIATIVE	Communication from the Commission on an Action Plan on Environmental Compliance Assurance		
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ADDITIONAL INFORMATION	<a href="http://ec.europa.eu/environment/legal/law/inspections.htm">http://ec.europa.eu/environment/legal/law/inspections.htm</a>		
<p><b>This Roadmap aims to inform stakeholders about the Commission's work in order to allow them to provide feedback and to participate effectively in future consultation activities. Stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have. The Roadmap is provided for information purposes only and its content may change. This Roadmap does not prejudge the final decision of the Commission on whether this initiative will be pursued or on its final content.</b></p>			

A. Context, Problem definition and Subsidiarity Check
<p><b>Context</b></p> <p>This initiative on environmental compliance assurance forms part of the Commission's 2017 Work Programme<sup>1</sup> and sets out actions to support Member States in how they promote, monitor and enforce compliance by economic operators and other duty-holders with EU environmental law. The 2015 Better Regulation Communication<sup>2</sup> commits the Commission to cooperating with Member States in examining the best ways to ensure compliance with EU law at national level. The EU Agenda on Security<sup>3</sup> stresses the need to strengthen environmental compliance monitoring and enforcement. The 2016 Communication "EU law: Better results through better application"<sup>4</sup> confirms the importance of working with Member States in enforcing EU law.</p> <p>Addressing public enforcement, environmental compliance assurance complements the Environmental Implementation Review (EIR)<sup>5</sup>, which aims at agenda setting and facilitating structured dialogues in the Council and bilaterally with Member States on the main challenges they face with implementation of EU law. The biennial country-specific EIR reports on environmental implementation include compliance assurance<sup>6</sup>. The action plan is to be based, amongst others, on the shortcomings and challenges identified in the first round of EIR reports and aims at establishing EU support actions to assist Member States in addressing them.</p> <p>The initiative also complements an interpretative guidance on environmental access to justice<sup>7</sup> that will be adopted by the Commission in 2017<sup>8</sup>, which addresses private enforcement.</p>
<p><b>Problem the initiative aims to tackle</b></p> <p>The initiative aims to support the many national authorities responsible for promoting, monitoring and enforcing compliance with EU environmental law ("environmental compliance assurance"). in addressing a number of problems and challenges:</p> <ul style="list-style-type: none"> <li>• inefficient national compliance assurance systems due to a lack of effective evidence-based interventions related to the risks of non-compliance;</li> <li>• insufficient know-how on strategic and operational planning and targeting compliance assurance work and on choosing the right interventions depending on the causes for non-compliance;</li> <li>• insufficient knowledge on use of modern technologies and techniques to reduce administrative burden on duty-holders;</li> <li>• lack of structured mechanisms for cooperation and coordination between competent authorities;</li> </ul>

<sup>1</sup> [http://ec.europa.eu/atwork/pdf/cwp\\_2017\\_en.pdf](http://ec.europa.eu/atwork/pdf/cwp_2017_en.pdf)

<sup>2</sup> [http://ec.europa.eu/smart-regulation/better-regulation/documents/com\\_2015\\_215\\_en.pdf](http://ec.europa.eu/smart-regulation/better-regulation/documents/com_2015_215_en.pdf)

<sup>3</sup> [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eu\\_agenda\\_on\\_security\\_en.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eu_agenda_on_security_en.pdf)

<sup>4</sup> [2017/C 18/02](http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eu_agenda_on_security_en.pdf)

<sup>5</sup> [COM\(2016\) 316](http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eu_agenda_on_security_en.pdf)

<sup>6</sup> See section 4 of the EIR country reports of 3 February 2017 on [http://ec.europa.eu/environment/eir/index\\_en.htm](http://ec.europa.eu/environment/eir/index_en.htm)

<sup>7</sup> [http://ec.europa.eu/smart-regulation/roadmaps/docs/2013\\_env\\_013\\_access\\_to\\_justice\\_en.pdf](http://ec.europa.eu/smart-regulation/roadmaps/docs/2013_env_013_access_to_justice_en.pdf)

<sup>8</sup> See footnote 1 above

- insufficient involvement of the citizens and lack of adequate complaint handling mechanisms;
- insufficient transparency on organisation, functioning and outcomes of compliance assurance activities and lack of public confidence;
- lack of proper evaluation of effectiveness of national compliance assurance systems

Many of the responsible national authorities (which include local authorities, environmental and other specialist agencies, police, customs and prosecution services) are small and/or have limited resources and expertise. This makes it difficult for them to individually acquire all the relevant knowledge and tools. Practitioners – inspectors, police, prosecutors, judges and auditors – have all formed separate networks at European level to try to share knowledge and experience and develop practical tools, but these have limitations in terms of membership, scope of work and capacity. At EU level, there are a few binding inspection requirements and recommendations, but these do not cover the full range of duty holders nor address all the above problems and challenges.

The EIR has highlighted the need to do more to meet environmental objectives agreed at EU level to protect air, water and biodiversity. The above problems and challenges, if insufficiently addressed, will make it more difficult for public authorities to help duty-holders such as businesses and farmers to comply with rules underpinning those objectives, tackle unfair competition and economic harm, and address a lack of public confidence in the effectiveness of EU laws, reflected in the high numbers of environmental complaints (600 or so per annum) and petitions calling for Commission intervention. For example, in terms of economic harm, the monetary value of all environmental crime has been estimated at several billions of EUR each year, making it the 4<sup>th</sup> largest international crime<sup>9</sup>.

### **Subsidiarity check**

Poor implementation of environmental legislation in some Member States leads to negative impacts from a deteriorated environment also in other Member States. These trans-boundary impacts can be caused by many factors and compliance assurance can play an important role to prevent it, e.g. pollution incidence can happen unnoticed if appropriate inspections have not taken place at the source of the pollution. To ensure a high level of protection of the environment, the compliance assurance systems of the Member States should follow a minimum level and quality. In addition, to make the Single Market a reality, administrative practices on compliance assurance need to converge. Otherwise, there is a risk of unfair competition between economic operators. Moreover, administrative cooperation is considered as a matter of common interest (Article 197 TFEU), while the Charter of Fundamental Rights foresees the right to good administration (Article 41).

The envisaged actions aim at supporting Member States' authorities through initiatives taken at EU level, in particular where there exist means (such as the sharing of best practices) that can be used to improve the capacity and performance of national authorities in the field of environmental compliance assurance.

## **B. What does the initiative aim to achieve and how**

The Commission will prepare an action plan with a view to improve duty-holder compliance, which will lead to a more level playing field for businesses and improved trust amongst Member States, EU institutions, the public and business in how compliance is secured. The objective of the Action Plan is to significantly increase the rate of compliance with EU environmental law. The Commission will explore the following means to achieve this:

- Identify, develop and share good practices in environmental compliance assurance;
- Help duty holders, such as businesses, farmers or administrations, to reach good levels of compliance with environmental legislation and facilitate its integrated application;
- Strengthen the cooperation and co-ordination of actors in the compliance assurance chain (i.e. inspectors, law enforcement bodies, prosecutors, judges and auditors) through working with, amongst others, the European networks of environmental inspectors (IMPEL), prosecutors (ENPE), judges (EUFJE) and police officers (EnviCrimeNet) and ensure effective inter-network co-operation on cross-cutting issues (e.g. on waste and wildlife crime);
- Strengthen how national authorities engage with the public, including on environmental complaints;
- Improve understanding of the strengths and weakness of environmental compliance assurance in the EU Member States and monitor progress (notably through the EIR).

The Action Plan will take account of how non-compliance can reflect a spectrum of behaviours (from lack of awareness to organised crime) and can take different forms (from known breaches to unknown ones). The Action Plan will encourage risk assessment to identify the likelihood, nature and impact of the most serious forms of non-compliance and the best mix of interventions.

<sup>9</sup> Combined estimates based on data from the OECD, the UN Office on Drugs and Crime (UNODC), United Nations Environmental Programme and INTERPOL were between \$70 and \$213 billion per year.

The key actions will include development of a number of guidance documents, promotion and sharing of good practices. Moreover, the Action Plan will develop further the assessment and monitoring framework to identify strengths and weaknesses of Member States' environmental compliance assurance efforts. This will feed into the second round of the Environmental Implementation Review (EIR) since the current country reports were only able to make a general analysis of the situation on a few issues<sup>10</sup>.

The Action plan will also promote and coordinate the many activities and projects going on in various policy domains and ensure that best use is made from projects and initiatives which are co-financed through EU funding. This includes the closer collaboration of the relevant EU networks (see above), the regular exchanges between experts from Member States, e.g. through the establishment of an information exchange platform.

## C. Better regulation

### Consultation strategy

No new open public consultation will be carried out as part of this initiative. Instead, the online public consultation<sup>11</sup> and regular exchanges with stakeholders and networks which have taken place within the last four years will be considered since the feedback is still relevant for this initiative. Moreover, a close collaboration with the 'Make it Work' project initiated by a group of Member States led by the Netherlands, United Kingdom and Germany led to the finalisation of drafting principles which provide a useful input for this initiative. However further consultation is planned to engage with national experts, EU networks and EU bodies (mainly the Committee of the Regions) to identify those support EU actions with the most added value for Member States. The consultation will focus on national administrations at all levels. It will be carried out through a Stakeholder Conference, dedicated consultations and involvement of the relevant EU networks (such as IMPEL, ENPE, EUFJE and EnviCrimeNet as well as "Make It Work") and requests for input from other stakeholders. The webpage<sup>12</sup> will also be used to communicate the aims of the initiative and receive input and suggestions from all interested stakeholders.

### Impact assessment

An Impact Assessment will not be necessary for the Action Plan because its purpose is limited to setting out practical guidance and support on how to improve compliance and compliance assurance without imposing new requirements. These are based on good practices on how to better target compliance assurance work and make it more effective without imposing additional administrative burden and costs.

### Evaluations and fitness checks

No specific evaluation or fitness check has been carried out for this exercise. However, a large amount of material has been compiled and analysed to ensure a robust evidence base on compliance problems and compliance assurance approaches, and extensive consultations took place (see above). Moreover, evidence from several recent evaluations in other areas such as the Nature Fitness Check point to implementation gaps and the important role that compliance assurance can play in order to address these gaps.

<sup>10</sup> See EIR country reports of 3 February 2017 on [http://ec.europa.eu/environment/eir/index\\_en.htm](http://ec.europa.eu/environment/eir/index_en.htm)

<sup>11</sup> <http://ec.europa.eu/environment/legal/law/inspections.htm>

<sup>12</sup> <http://ec.europa.eu/environment/legal/law/inspections.htm>